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HOUSE BILL 1039

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State of Washington

66th Legislature

2019 Regular Session

By Representatives Pollet, Cody, Slatter, Leavitt, Callan, Senn, and Lekanoff

Prefiled 12/10/18.

1 AN ACT Relating to opioid overdose medication at kindergarten  
2 through twelfth grade schools and higher education institutions;  
3 amending RCW 28A.210.260 and 28A.210.270; adding new sections to  
4 chapter 28A.210 RCW; adding a new section to chapter 28B.10 RCW; and  
5 creating a new section.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

8 (a) According to the centers for disease control and prevention,  
9 the United States is in the midst of an opioid overdose epidemic;

10 (b) In 2017, opioids, including prescription opioids, heroin, and  
11 fentanyl, killed more than forty-nine thousand people in the United  
12 States. In 2017, opioids killed six hundred ninety-three people in  
13 Washington and caused over one thousand six hundred hospitalizations  
14 for opioid overdose;

15 (c) One way to prevent opioid overdose deaths is to expand access  
16 to and use of nonaddictive, opioid overdose medications, such as  
17 naloxone, that can reverse the effects of an opioid overdose when  
18 administered in time;

19 (d) The centers for disease control and prevention indicates that  
20 access to naloxone can be expanded through: Standing orders at  
21 pharmacies; distribution through local, community-based

1 organizations; access to and use by law enforcement officials; and  
2 training for basic emergency medical service staff on how to  
3 administer the drug;

4 (e) In 2016, syringe service programs in Washington distributed  
5 three thousand six hundred forty naloxone kits and reported six  
6 hundred ninety overdose reversals; and

7 (f) It is unknown: How many opioid overdose incidents occur on  
8 the property of kindergarten through twelfth grade schools and higher  
9 education institutions each year; whether these schools and  
10 institutions maintain opioid overdose medication through a standing  
11 order for the purpose of assisting a person at risk of experiencing  
12 an opioid-related overdose; or whether these schools and institutions  
13 train staff to administer opioid overdose medication.

14 (2) The legislature recognizes that it has taken steps to respond  
15 to the opioid overdose epidemic, including: (a) Permitting health  
16 care practitioners to administer, prescribe, and dispense opioid  
17 overdose medication to any person who may be present at an overdose;  
18 (b) permitting people who may be present at an opioid overdose to  
19 possess and administer opioid overdose medication prescribed by an  
20 authorized health care practitioner; (c) limiting the liability of  
21 practitioners, pharmacists, and other people who possess and  
22 administer naloxone; and (d) limiting the liability of people  
23 experiencing a drug-related overdose who are in need of medical  
24 assistance and people acting in good faith to seek medical assistance  
25 for someone experiencing a drug-related overdose.

26 (3) Using its general police power to prescribe laws tending to  
27 promote the health and welfare of the people of the state, the  
28 legislature intends to increase access to opioid overdose medication  
29 at kindergarten through twelfth grade schools and higher education  
30 institutions.

31 NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.210  
32 RCW to read as follows:

33 (1) For the purposes of this section:

34 (a) "High school" means a school enrolling students in any of  
35 grades nine through twelve;

36 (b) "Opioid overdose medication" has the meaning provided in RCW  
37 69.41.095;

38 (c) "Opioid-related overdose" has the meaning provided in RCW  
39 69.41.095;

1 (d) "School" means a public school, school district, or  
2 educational service district with any of grades kindergarten through  
3 twelve; and

4 (e) "Standing order" has the meaning provided in RCW 69.41.095.

5 (2)(a) For the purpose of assisting a person at risk of  
6 experiencing an opioid-related overdose, a school may obtain and  
7 maintain opioid overdose medication through a standing order  
8 prescribed and dispensed in accordance with RCW 69.41.095.

9 (b) Opioid overdose medication may be obtained from donation  
10 sources, but must be maintained and administered in a manner  
11 consistent with a standing order issued in accordance with RCW  
12 69.41.095.

13 (c) A school district with two thousand or more students must  
14 obtain and maintain at least one set of opioid overdose medication  
15 doses in each of its high schools as provided in (a) and (b) of this  
16 subsection.

17 (3)(a) The following personnel may distribute or administer the  
18 school-owned opioid overdose medication to respond to symptoms of an  
19 opioid-related overdose pursuant to a prescription or a standing  
20 order issued in accordance with RCW 69.41.095: (i) A school nurse;  
21 (ii) a health care professional or trained staff person located at a  
22 health care clinic on public school property or under contract with  
23 the school district; or (iii) designated trained school personnel.

24 (b) Opioid overdose medication may be used on school property,  
25 including the school building, playground, and school bus, as well as  
26 during field trips or sanctioned excursions away from school  
27 property. A school nurse or designated trained school personnel may  
28 carry an appropriate supply of school-owned opioid overdose  
29 medication on field trips or sanctioned excursions.

30 (4) Training for school personnel who have been designated to  
31 distribute or administer opioid overdose medication under this  
32 section must meet the requirements for training described in section  
33 3 of this act and any rules or guidelines for such training adopted  
34 by the office of the superintendent of public instruction. Each high  
35 school is encouraged to designate and train at least one school  
36 personnel to distribute and administer opioid overdose medication if  
37 the high school does not have a full-time school nurse or trained  
38 health care clinic staff.

39 (5)(a) The liability of a person or entity who complies with this  
40 section and RCW 69.41.095 is limited as described in RCW 69.41.095.

1 (b) If a student is injured or harmed due to the administration  
2 of opioid overdose medication that a practitioner, as defined in RCW  
3 69.41.095, has prescribed and a pharmacist has dispensed to a school  
4 under this section, the practitioner and pharmacist may not be held  
5 responsible for the injury unless he or she acted with conscious  
6 disregard for safety.

7 NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.210  
8 RCW to read as follows:

9 (1) For the purposes of this section:

10 (a) "Opioid overdose medication" has the meaning provided in RCW  
11 69.41.095; and

12 (b) "Opioid-related overdose" has the meaning provided in RCW  
13 69.41.095.

14 (2)(a) To prevent opioid-related overdoses and respond to medical  
15 emergencies resulting from overdoses, by the 2019-20 school year, the  
16 office of the superintendent of public instruction, in consultation  
17 with the department of health, shall develop opioid-related overdose  
18 policy guidelines and training requirements for public schools and  
19 school districts.

20 (b)(i) The opioid-related overdose policy guidelines and training  
21 requirements must include information about: The identification of  
22 opioid-related overdose symptoms; how to obtain and maintain opioid  
23 overdose medication on school property issued through a standing  
24 order in accordance with section 2 of this act; the distribution and  
25 administration of opioid overdose medication by designated trained  
26 school personnel; and sample standing orders for opioid overdose  
27 medication.

28 (ii) The opioid-related overdose policy guidelines may: Include  
29 recommendations for the storage and labeling of opioid overdose  
30 medications that are based on input from relevant health agencies or  
31 experts; and allow for opioid-related overdose medications to be  
32 obtained, maintained, distributed, and administered by health care  
33 professionals and trained staff located at a health care clinic on  
34 public school property or under contract with the school district.

35 (c) In addition to being offered by the school, training on the  
36 distribution or administration of opioid overdose medication that  
37 meets the requirements of this subsection (2) may be offered by  
38 nonprofit organizations, higher education institutions, and local  
39 public health organizations.

1 (3) Beginning January 1, 2020, the following school districts  
2 must adopt a policy that meets the requirements of subsection (2) of  
3 this section: (a) School districts with a school that obtains,  
4 maintains, distributes, or administers opioid overdose medication  
5 under section 2 of this act; and (b) school districts with two  
6 thousand or more students.

7 (4) Subject to the availability of amounts appropriated for this  
8 specific purpose, the office of the superintendent of public  
9 instruction shall develop and administer a grant program to provide  
10 funding to public schools with any of grades kindergarten through  
11 twelve and public higher education institutions to train personnel on  
12 the administration of opioid overdose medication to respond to  
13 symptoms of an opioid-related overdose. The office must publish on  
14 its web site a list of annual grant recipients, including award  
15 amounts.

16 **Sec. 4.** RCW 28A.210.260 and 2017 c 186 s 2 are each amended to  
17 read as follows:

18 (1) Public school districts and private schools which conduct any  
19 of grades kindergarten through the twelfth grade may provide for the  
20 administration of oral medication, topical medication, eye drops, ear  
21 drops, or nasal spray, of any nature to students who are in the  
22 custody of the school district or school at the time of  
23 administration, but are not required to do so by this section,  
24 subject to the following conditions:

25 ~~((1))~~ (a) The board of directors of the public school district  
26 or the governing board of the private school or, if none, the chief  
27 administrator of the private school shall adopt policies which  
28 address the designation of employees who may administer oral  
29 medications, topical medications, eye drops, ear drops, or nasal  
30 spray to students, the acquisition of parent requests and  
31 instructions, and the acquisition of requests from licensed health  
32 professionals prescribing within the scope of their prescriptive  
33 authority and instructions regarding students who require medication  
34 for more than fifteen consecutive school days, the identification of  
35 the medication to be administered, the means of safekeeping  
36 medications with special attention given to the safeguarding of  
37 legend drugs as defined in chapter 69.41 RCW, and the means of  
38 maintaining a record of the administration of such medication;

1        ~~((2))~~ (b) The board of directors shall seek advice from one or  
2 more licensed physicians or nurses in the course of developing the  
3 foregoing policies;

4        ~~((3))~~ (c) The public school district or private school is in  
5 receipt of a written, current and unexpired request from a parent, or  
6 a legal guardian, or other person having legal control over the  
7 student to administer the medication to the student;

8        ~~((4))~~ (d) The public school district or the private school is  
9 in receipt of ~~((a))~~: (i) A written, current and unexpired request  
10 from a licensed health professional prescribing within the scope of  
11 his or her prescriptive authority for administration of the  
12 medication, as there exists a valid health reason which makes  
13 administration of such medication advisable during the hours when  
14 school is in session or the hours in which the student is under the  
15 supervision of school officials~~((r))~~; and ~~((b))~~ (ii) written,  
16 current and unexpired instructions from such licensed health  
17 professional prescribing within the scope of his or her prescriptive  
18 authority regarding the administration of prescribed medication to  
19 students who require medication for more than fifteen consecutive  
20 workdays;

21        ~~((5))~~ (e) The medication is administered by an employee  
22 designated by or pursuant to the policies adopted pursuant to (a) of  
23 this subsection ~~((1) of this section)~~ and in substantial compliance  
24 with the prescription of a licensed health professional prescribing  
25 within the scope of his or her prescriptive authority or the written  
26 instructions provided pursuant to (d) of this subsection ~~((4) of~~  
27 ~~this section)~~. If a school nurse is on the premises, a nasal spray  
28 that is a legend drug or a controlled substance must be administered  
29 by the school nurse. If no school nurse is on the premises, a nasal  
30 spray that is a legend drug or a controlled substance may be  
31 administered by a trained school employee or parent-designated adult  
32 who is not a school nurse. The board of directors shall allow school  
33 personnel, who have received appropriate training and volunteered for  
34 such training, to administer a nasal spray that is a legend drug or a  
35 controlled substance. After a school employee who is not a school  
36 nurse administers a nasal spray that is a legend drug or a controlled  
37 substance, the employee shall summon emergency medical assistance as  
38 soon as practicable;

39        ~~((6))~~ (f) The medication is first examined by the employee  
40 administering the same to determine in his or her judgment that it

1 appears to be in the original container and to be properly labeled;  
2 and

3 ~~((7))~~ (g) The board of directors shall designate a professional  
4 person licensed pursuant to chapter 18.71 RCW or chapter 18.79 RCW as  
5 it applies to registered nurses and advanced registered nurse  
6 practitioners, to delegate to, train, and supervise the designated  
7 school district personnel in proper medication procedures;

8 ~~((8)(a) For the purposes of this section, "parent-designated  
9 adult" means a volunteer, who may be a school district employee, who  
10 receives additional training from a health care professional or  
11 expert in epileptic seizure care selected by the parents, and who  
12 provides care for the child consistent with the individual health  
13 plan.~~

14 ~~(b))~~ (h) To be eligible to be a parent-designated adult, a  
15 school district employee not licensed under chapter 18.79 RCW must  
16 file, without coercion by the employer, a voluntary written, current,  
17 and unexpired letter of intent stating the employee's willingness to  
18 be a parent-designated adult. If a school employee who is not  
19 licensed under chapter 18.79 RCW chooses not to file a letter under  
20 this section, the employee shall not be subject to any employer  
21 reprisal or disciplinary action for refusing to file a letter;

22 ~~((9))~~ (i) The board of directors shall designate a professional  
23 person licensed under chapter 18.71, 18.57, or 18.79 RCW as it  
24 applies to registered nurses and advanced registered nurse  
25 practitioners, to consult and coordinate with the student's parents  
26 and health care provider, and train and supervise the appropriate  
27 school district personnel in proper procedures for care for students  
28 with epilepsy to ensure a safe, therapeutic learning environment.  
29 Training may also be provided by an epilepsy educator who is  
30 nationally certified. Parent-designated adults who are school  
31 employees are required to receive the training provided under this  
32 subsection. Parent-designated adults who are not school employees  
33 must show evidence of comparable training. The parent-designated  
34 adult must also receive additional training as established in  
35 subsection ~~((8)(a))~~ (2) of this section for the additional care the  
36 parents have authorized the parent-designated adult to provide. The  
37 professional person designated under this subsection is not  
38 responsible for the supervision of the parent-designated adult for  
39 those procedures that are authorized by the parents;

1        ~~((10))~~ (j) This section does not apply to topical sunscreen  
2 products regulated by the United States food and drug administration  
3 for over-the-counter use. Provisions related to possession and  
4 application of topical sunscreen products are in RCW 28A.210.278; and  
5        (k) This section does not apply to opioid overdose medication.  
6 Provisions related to maintenance and administration of opioid  
7 overdose medication are in section 2 of this act.

8        (2) For the purposes of this section, "parent-designated adult"  
9 means a volunteer, who may be a school district employee, who  
10 receives additional training from a health care professional or  
11 expert in epileptic seizure care selected by the parents, and who  
12 provides care for the child consistent with the individual health  
13 plan.

14        **Sec. 5.** RCW 28A.210.270 and 2013 c 180 s 2 are each amended to  
15 read as follows:

16        (1) In the event a school employee administers oral medication,  
17 topical medication, eye drops, ear drops, or nasal spray to a student  
18 pursuant to RCW 28A.210.260 in substantial compliance with the  
19 prescription of the student's licensed health professional  
20 prescribing within the scope of the professional's prescriptive  
21 authority or the written instructions provided pursuant to RCW  
22 28A.210.260~~((4))~~ (1)(d), and the other conditions set forth in RCW  
23 28A.210.260 have been substantially complied with, then the employee,  
24 the employee's school district or school of employment, and the  
25 members of the governing board and chief administrator thereof shall  
26 not be liable in any criminal action or for civil damages in their  
27 individual or marital or governmental or corporate or other  
28 capacities as a result of the administration of the medication.

29        (2) The administration of oral medication, topical medication,  
30 eye drops, ear drops, or nasal spray to any student pursuant to RCW  
31 28A.210.260 may be discontinued by a public school district or  
32 private school and the school district or school, its employees, its  
33 chief administrator, and members of its governing board shall not be  
34 liable in any criminal action or for civil damages in their  
35 governmental or corporate or individual or marital or other  
36 capacities as a result of the discontinuance of such administration:  
37 PROVIDED, That the chief administrator of the public school district  
38 or private school, or his or her designee, has first provided actual  
39 notice orally or in writing in advance of the date of discontinuance



1 to a parent or legal guardian of the student or other person having  
2 legal control over the student.

3 NEW SECTION. **Sec. 6.** A new section is added to chapter 28B.10  
4 RCW to read as follows:

5 (1) For the purposes of this section:

6 (a) "Opioid overdose medication" has the meaning provided in RCW  
7 69.41.095; and

8 (b) "Opioid-related overdose" has the meaning provided in RCW  
9 69.41.095.

10 (2) By the beginning of the 2019-20 academic year, a public  
11 institution of higher education with a residence hall housing at  
12 least one hundred students must develop a plan: (a) For the  
13 maintenance and administration of opioid overdose medication in and  
14 around the residence hall; and (b) for the training of designated  
15 personnel to administer opioid overdose medication to respond to  
16 symptoms of an opioid-related overdose. The plan may identify: The  
17 ratio of residents to opioid overdose medication doses; the  
18 designated trained personnel, who may include residence hall  
19 advisers; and whether the designated trained personnel covers more  
20 than one residence hall.

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