

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 336**

4 (By Senators Stollings, Laird, Boley, Cole, M. Hall,  
5 Kirkendoll, Miller, Palumbo, Plymale, Prezioso,  
6 Tucker, Walters, Yost, Jenkins and Cookman)

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8 [Originating in the Committee on Health and Human Resources;  
9 reported January 31, 2014.]  
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11  
12 A BILL to amend the Code of West Virginia, 1931, as amended, by  
13 adding thereto two new sections, designated §16-4C-24 and §16-  
14 4C-25; and to amend and reenact §30-1-7a of said code, all  
15 relating generally to administration of an opioid antagonist;  
16 allowing State Police, police, sheriffs and fire and emergency  
17 service personnel to possess Naloxone or other approved opioid  
18 antagonist to administer in opioid drug overdoses; defining  
19 terms; providing for training; establishing training  
20 requirements for first responders who may administer opioid  
21 antagonists; establishing criteria under which a first  
22 responder may administer an opioid antagonist; granting  
23 immunity to health care providers who prescribe, dispense or  
24 distribute Naloxone or other approved opioid antagonist  
25 related to a training program; granting immunity to initial  
26 responders who administer or fail to administer an opioid

1 antagonist; providing for data gathering and reporting;  
2 allowing a prescription for an opioid antagonist in certain  
3 circumstances; establishing responsibility of licensed  
4 prescribers; providing for patient family and caregiver  
5 education; requiring continuing education of licensed  
6 prescribers for administration of an opioid antagonist; and  
7 authorizing emergency and legislative rulemaking.

8 *Be it enacted by the Legislature of West Virginia:*

9 That the Code of West Virginia, 1931, as amended, be amended  
10 by adding thereto two new sections, designated §16-4C-24 and §16-  
11 4C-25, and that §30-1-7a of said code be amended and reenacted, all  
12 to read as follows:

13 **ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.**

14 **§16-4C-24. Administration of an opioid antidote in an emergency**  
15 **situation.**

16 (a) For purposes of this section:

17 (1) "Initial responder" means an emergency medical service  
18 personnel covered under this article and a member of the State  
19 Police, a sheriff, a deputy sheriff, a municipal police officer, a  
20 volunteer or paid firefighter and any other similar person who  
21 responds to emergencies.

22 (2) "Licensed health care provider" means a person,  
23 partnership, corporation, professional limited liability company,  
24 health care facility or institution licensed by or certified in  
25 this state to provide health care or professional health care

1 services, including, but not limited to, a physician, osteopathic  
2 physician, hospital or emergency medical service agency.

3 (3) "Opioid antagonist" means naloxone hydrochloride or other  
4 substance that is approved by the federal Food and Drug  
5 Administration for the treatment of a drug overdose by intranasal  
6 administration.

7 (4) "Opioid overdose prevention and treatment training  
8 program" or "program" means any program operated or approved by the  
9 Office of Emergency Medical Services as set forth in rules  
10 promulgated pursuant to subsection (f) of this section.

11 (b) A licensed health care provider who is permitted by law to  
12 prescribe an opioid antagonist may, if acting with reasonable care,  
13 prescribe and subsequently dispense or distribute an opioid  
14 antagonist in conjunction with an opioid overdose prevention and  
15 treatment training program, without being subject to civil  
16 liability or criminal prosecution, unless the act was the result of  
17 the licensed health care provider's gross negligence or willful  
18 misconduct. This immunity applies only to the licensed health care  
19 provider even when the opioid antagonist is administered by and to  
20 someone other than the person to whom it is prescribed.

21 (c) An initial responder who is not otherwise to administer an  
22 opioid antagonist may administer an opioid antagonist in an  
23 emergency situation if:

24 (1) The initial responder has successfully completed the  
25 training required by subdivision (4), subsection (a) of this  
26 section; and

1           (2) The administration of the opioid antagonist is done after  
2 consultation with medical command personnel: *Provided*, That an  
3 initial responder who otherwise meets the qualifications of this  
4 subsection may administer an opioid antagonist without consulting  
5 with medical command if he or she is unable to so consult due to an  
6 inability to contact medical command because of circumstances  
7 outside the control of the initial responder or if there is  
8 insufficient time for the consultation based upon the emergency  
9 conditions presented.

10           (d) An initial responder who meets the requirements of  
11 subsection (c) of this section, acting in good faith, is not, as a  
12 result of his or her actions or omissions, liable for any violation  
13 of any professional licensing statute, subject to criminal  
14 prosecution arising from or relating to the unauthorized practice  
15 of medicine or the possession of an opioid antagonist or subject to  
16 any civil liability with respect to the administration of or  
17 failure to administer the opioid antagonist unless the act or  
18 failure to act was the result of the initial responder's gross  
19 negligence or willful misconduct.

20           (e) Data regarding each opioid overdose prevention and  
21 treatment program that the Office of Emergency Medical Services  
22 operates or recognizes as an approved program shall be collected  
23 and reported by January 1, 2017, to the Legislative Oversight  
24 Commission on Health and Human Resources Accountability. The data  
25 collected and reported shall include:

26           (1) The number of training programs operating in an Office of

1 Emergency Medical Services designated training center;

2 (2) The number of individuals who have received training to  
3 administer an opioid antagonist;

4 (3) The number of individuals who received the opioid  
5 antagonist who were revived;

6 (4) Number of individuals who received the opioid antagonist  
7 who were not revived; and

8 (5) Number of adverse events associated with an opioid  
9 overdose prevention and treatment program, including a description  
10 of the adverse events.

11 (f) To implement the provisions of this section, including  
12 establishing the standards for certification and approval of opioid  
13 overdose prevention and treatment training programs and protocols  
14 regarding a refusal to transport, the Office of Emergency Medical  
15 Services may promulgate emergency and legislative rules pursuant to  
16 the provisions of section fifteen, article three, chapter twenty-  
17 nine-a of this code.

18 **§16-4C-25. Offer of Emergency Aid Medication to Patients**

19 **Prescribed Opiates.**

20 (a) All prescribers in the course of their professional  
21 practice may offer to patients to whom they also prescribe opiates  
22 for chronic pain or patients engaged in methadone or suboxone  
23 treatment programs, a prescription for an opioid antagonist such as  
24 Naloxone.

25 (b) All prescribers who may offer an opioid antagonist to  
26 their patients under this section shall make information and

1 education available to patients, their family members, or  
2 caregivers on the beneficial and proper use of the opioid  
3 antagonist.

4 (c) When a prescription is written to a patient for an opioid  
5 antagonist, or if the patient enters a methadone or suboxone  
6 addiction treatment program, information and education is required  
7 to given to the patient and his or her family or caregiver as a  
8 condition of receiving the prescription or entering an addiction  
9 treatment program.

10 **§30-1-7a. Continuing education.**

11 (a) Each board referred to in this chapter shall establish  
12 continuing education requirements as a prerequisite to license  
13 renewal. Each board shall develop continuing education criteria  
14 appropriate to its discipline, which shall include, but not be  
15 limited to, course content, course approval, hours required and  
16 reporting periods.

17 (b) Notwithstanding any other provision of this code or the  
18 provision of any rule to the contrary, each person issued a license  
19 to practice medicine and surgery or a license to practice podiatry  
20 or licensed as a physician assistant by the West Virginia Board of  
21 Medicine, each person issued a license to practice dentistry by the  
22 West Virginia Board of Dental Examiners, each person issued a  
23 license to practice optometry by the West Virginia Board of  
24 Optometry, each person licensed as a pharmacist by the West  
25 Virginia Board of Pharmacy, each person licensed to practice  
26 registered professional nursing or licensed as an advanced nurse

1 practitioner by the West Virginia Board of Examiners for Registered  
2 Professional Nurses, each person licensed as a licensed practical  
3 nurse by the West Virginia State Board of Examiners for Licensed  
4 Practical Nurses and each person licensed to practice medicine and  
5 surgery as an osteopathic physician and surgeon or licensed or  
6 certified as an osteopathic physician assistant by the West  
7 Virginia Board of Osteopathy shall complete drug diversion  
8 training, ~~and~~ best practice prescribing of controlled substances  
9 training and training on prescribing and administration of an  
10 opioid antagonist, as the trainings are established by his or her  
11 respective licensing board, if that person prescribes, administers,  
12 or dispenses a controlled substance, as that term is defined in  
13 section one hundred one, article one, chapter sixty-a of this code.

14 (1) Notwithstanding any other provision of this code or the  
15 provision of any rule to the contrary, the West Virginia Board of  
16 Medicine, the West Virginia Board of Dental Examiners, the West  
17 Virginia Board of Optometry, the West Virginia Board of Pharmacy,  
18 the West Virginia Board of Examiners for Registered Professional  
19 Nurses, the West Virginia State Board of Examiners for Licensed  
20 Practical Nurses and the West Virginia Board of Osteopathy shall  
21 establish continuing education requirements and criteria  
22 appropriate to their respective discipline on the subject of drug  
23 diversion training, ~~and~~ best practice prescribing of controlled  
24 substances training and prescribing and administration of an opioid  
25 antagonist training for each person issued a license or certificate  
26 by their respective board who prescribes, administers or dispenses

1 a controlled substance, as that term is defined in section one  
2 hundred one, article one, chapter sixty-a of this code, and shall  
3 develop a certification form pursuant to subdivision (b)(2) of this  
4 section.

5       (2) Each person who receives his or her initial license or  
6 certificate from any of the boards set forth in subsection (b)  
7 shall complete the continuing education requirements set forth in  
8 subsection (b) within one year of receiving his or her initial  
9 license from that board and each person licensed or certified by  
10 any of the boards set forth in subsection (b) who has held his or  
11 her license or certificate for longer than one year shall complete  
12 the continuing education requirements set forth in subsection (b)  
13 as a prerequisite to each license renewal: *Provided*, That a person  
14 subject to subsection (b) may waive the continuing education  
15 requirements for license renewal set forth in subsection (b) if he  
16 or she completes and submits to his or her licensing board a  
17 certification form developed by his or her licensing board  
18 attesting that he or she has not prescribed, administered, or  
19 dispensed a controlled substance, as that term is defined in  
20 section one hundred one, article one, chapter sixty-a of this code,  
21 during the entire applicable reporting period.