

H. B. 2044

(By Delegates Perdue, Fleischauer, Eldridge, Cowles, Miller Border,
Rowan and Ellington)

[Introduced January 14, 2015; referred to the

Committee on Health and Human Resources then the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §16-4C-24 and §16-4C-25; and to amend and reenact §30-1-7a of said code, all relating generally to administration of an opioid antagonist; allowing State Police, police, sheriffs and fire and emergency service personnel to possess naloxone or other approved opioid antagonist to administer in opioid drug overdoses; defining terms; providing for training; establishing training requirements for first responders who may administer opioid antagonists; establishing criteria under which a first responder may administer an opioid antagonist; granting immunity to health care providers who prescribe, dispense or distribute naloxone or other approved opioid antagonist related to a training program; granting immunity to initial responders who administer or fail to administer an opioid antagonist; providing for data gathering and reporting; allowing a prescription for an opioid antagonist in certain circumstances; establishing responsibility of licensed prescribers; providing for patient, family, caregiver or designee education; requiring continuing education of licensed

1 prescribers for administration of an opioid antagonist; and authorizing emergency and
2 legislative rulemaking.

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

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

7 **CHAPTER 16. PUBLIC HEALTH.**

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

9 **§16-4C-24. Administration of an opioid antidote in an emergency situation.**

10 (a) For purposes of this section:

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

14 (2) "Licensed health care provider" means a person, partnership, corporation, professional
15 limited liability company, health care facility or institution licensed by or certified in this state to
16 provide health care or professional health care services, including, but not limited to, a physician,
17 osteopathic physician, hospital or emergency medical service agency.

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

21 (4) "Opioid overdose prevention and treatment training program" or "program" means any
22 program operated or approved by the Office of Emergency Medical Services as set forth in rules

1 promulgated pursuant to subsection (f) of this section.

2 (b) A licensed health care provider who is permitted by law to prescribe an opioid may, if
3 acting with reasonable care, prescribe and subsequently dispense or distribute an opioid antagonist
4 in conjunction with an opioid overdose prevention and treatment training program without being
5 subject to any violation of any professional licensing statute, civil liability or criminal prosecution
6 unless the act was the result of the licensed health care provider's gross negligence or willful
7 misconduct. This immunity applies only to the licensed health care provider even when the opioid
8 antagonist is administered by and to someone other than the person to whom it is prescribed.

9 (c) An initial responder who is not otherwise authorized to administer an opioid antagonist
10 may administer an opioid antagonist in an emergency situation if:

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

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

19 (d) An initial responder who meets the requirements of subsection (c) of this section, if acting
20 with reasonable care, is not, as a result of his or her actions or omissions, liable for any violation of
21 any professional licensing statute, subject to criminal prosecution arising from or relating to the
22 unauthorized practice of medicine or the possession of an opioid antagonist or subject to any civil

1 liability with respect to the administration of or failure to administer the opioid antagonist unless the
2 act or failure to act was the result of the initial responder's gross negligence or willful misconduct.

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

7 (1) The number of training programs operating in an Office of Emergency Medical Services-
8 designated training center;

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

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

11 (4) The number of individuals who received the opioid antagonist who were not revived; and

12 (5) The number of adverse events associated with an opioid overdose prevention and
13 treatment program, including a description of the adverse events.

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

20 **§16-4C-25. Offer of emergency aid medication to patients prescribed opiates.**

21 (a) All prescribers in the course of their professional practice may offer to patients to whom
22 they also prescribe opiates for chronic pain or patients engaged in methadone or suboxone treatment

1 programs a prescription for an opioid antagonist such as Naloxone.

2 (b) All prescribers who may offer an opioid antagonist to their patients under this section
3 shall make information and education available to patients, a family member, caregiver or designee
4 on the beneficial and proper use of the opioid antagonist.

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

9 **CHAPTER 30. PROFESSIONS AND OCCUPATIONS.**

10 **ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO ALL STATE BOARDS OF**
11 **EXAMINATION OR REGISTRATION REFERRED TO IN CHAPTER.**

12 **§30-1-7a. Continuing education.**

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

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

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

11 (1) Notwithstanding any other provision of this code or the provision of any rule to the
12 contrary, the West Virginia Board of Medicine, the West Virginia Board of Dental Examiners, the
13 West Virginia Board of Optometry, the West Virginia Board of Pharmacy, the West Virginia Board
14 of Examiners for Registered Professional Nurses, the West Virginia State Board of Examiners for
15 Licensed Practical Nurses and the West Virginia Board of Osteopathy shall establish continuing
16 education requirements and criteria appropriate to their respective discipline on the subject of drug
17 diversion training ~~and~~ best practice prescribing of controlled substances training and prescribing and
18 the administration of an opioid antagonist training for each person issued a license or certificate by
19 their respective board who prescribes, administers or dispenses a controlled substance, as that term
20 is defined in section one hundred one, article one, chapter sixty-a of this code, and shall develop a
21 certification form pursuant to subdivision (b)(2) of this section.

22 (2) Each person who receives his or her initial license or certificate from any of the boards

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

12 (c) Notwithstanding any other provision of this code or the provision of any rule to the
13 contrary, each person licensed to practice registered professional nursing or licensed as an advanced
14 nurse practitioner by the West Virginia Board of Examiners for Registered Professional Nurses, each
15 person licensed as a licensed practical nurse by the West Virginia State Board of Examiners for
16 Licensed Practical Nurses, each person issued a license to practice midwifery as a nurse-midwife by
17 the West Virginia Board of Examiners for Registered Professional Nurses, each person issued a
18 license to practice chiropractic by the West Virginia Board of Chiropractic, each person licensed to
19 practice psychology by the board of Examiners of Psychologists, each person licensed to practice
20 social work by the West Virginia Board of Social Work, and each person licensed to practice
21 professional counseling by the West Virginia Board of Examiners in Counseling, shall complete two
22 hours of continuing education for each reporting period on mental health conditions common to

1 veterans and family members of veterans, as the continuing education is established or approved by
2 his or her respective licensing board. The two hours shall be part of the total hours of continuing
3 education required by each board and not two additional hours.

4 (1) Notwithstanding any other provision of this code or the provision of any rule to the
5 contrary, on or before July 1, 2015, the boards referred to in this subsection shall establish continuing
6 education requirements and criteria and approve continuing education coursework appropriate to
7 their respective discipline on the subject of mental health conditions common to veterans and family
8 members of veterans, in cooperation with the Secretary of the Department of Veterans Assistance.
9 The continuing education shall include training on inquiring about whether the patients are veterans
10 or family members of veterans, and screening for conditions such as post-traumatic stress disorder,
11 risk of suicide, depression and grief, and prevention of suicide.

12 (2) On or after July 1, 2017, each person licensed by any of the boards set forth in this
13 subsection shall complete the continuing education described herein as a prerequisite to his or her
14 next license renewal.

NOTE: The purpose of this bill is to allow police, fire and emergency service providers, to possess Naloxone to administer in suspected narcotic drug overdoses.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

§16-4C-24 and §16-4C-25 are new; therefore, it has been completely underscored.

This bill was recommended for introduction and passage during the 2015 Regular Session of the Legislature by the Joint Committee on Health.