CHAPTER 10

AN ACT concerning overdose prevention and sterile syringe access programs, and amending P.L.2006, c.99 and P.L.2013, c.46.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 3 of P.L.2013, c.46 (C.24:6J-3) is amended to read as follows:

C.24:6J-3 Definitions relative to overdose prevention.

3. As used in this act:

"Commissioner" means the Commissioner of Human Services.

"Drug overdose" means an acute condition including, but not limited to, physical illness, coma, mania, hysteria, or death resulting from the consumption or use of a controlled dangerous substance or another substance with which a controlled dangerous substance was combined and that a layperson would reasonably believe to require medical assistance.

“Emergency medical response entity” means an organization, company, governmental entity, community-based program, or healthcare system that provides pre-hospital emergency medical services and assistance to opioid or heroin addicts or abusers in the event of an overdose.

“Emergency medical responder” means a person, other than a health care practitioner, who is employed on a paid or volunteer basis in the area of emergency response, including, but not limited to, an emergency medical technician acting in that person’s professional capacity.

“Health care practitioner” means a prescriber, pharmacist, or other individual whose professional practice is regulated pursuant to Title 45 of the Revised Statutes, and who, in accordance with the practitioner’s scope of professional practice, prescribes or dispenses an opioid antidote.

"Medical assistance" means professional medical services that are provided to a person experiencing a drug overdose by a health care practitioner, acting within the practitioner’s scope of professional practice, including professional medical services that are mobilized through telephone contact with the 911 telephone emergency service.

"Opioid antidote" means naloxone hydrochloride, or any other similarly acting drug approved by the United States Food and Drug Administration for the treatment of an opioid overdose.

"Patient" means a person who is at risk of an opioid overdose or a person who is not at risk of an opioid overdose who, in the person’s individual capacity, obtains an opioid antidote from a health care practitioner, professional, or professional entity for the purpose of administering that antidote to another person in an emergency, in accordance with subsection c. of section 4 of P.L.2013, c.46 (C.24:6J-4). “Patient” includes a professional who is acting in that professional’s individual capacity, but does not include a professional who is acting in a professional capacity.

“Prescriber” means a health care practitioner authorized by law to prescribe medications who, acting within the practitioner’s scope of professional practice, prescribes an opioid antidote. “Prescriber” includes, but is not limited to, a physician, physician assistant, or advanced practice nurse.

“Professional” means a person, other than a health care practitioner, who is employed on a paid basis or is engaged on a volunteer basis in the areas of substance abuse treatment or therapy, criminal justice, or a related area, and who, acting in that person’s professional or volunteer capacity, obtains an opioid antidote from a health care practitioner for the purposes

of dispensing or administering that antidote to other parties in the course of business or volunteer activities. "Professional" includes, but is not limited to, a sterile syringe access program employee, or a law enforcement official.

"Professional entity" means an organization, company, governmental entity, community-based program, sterile syringe access program, or any other organized group that employs two or more professionals who engage, during the regular course of business or volunteer activities, in direct interactions with opioid or heroin addicts or abusers or other persons susceptible to opioid overdose, or with other persons who are in a position to provide direct medical assistance to opioid or heroin addicts or abusers in the event of an overdose.

"Recipient" means a patient, professional, professional entity, emergency medical responder, or emergency medical response entity who is prescribed or dispensed an opioid antidote in accordance with section 4 of P.L.2013, c.46 (C.24:6J-4).

2. Section 4 of P.L.2013, c.46 (C.24:6J-4) is amended to read as follows:

C.24:6J-4 Immunity from liability for certain prescribers, practitioners, dispensers.

4. a. (1) A prescriber or other health care practitioner, as appropriate, may prescribe or dispense an opioid antidote:

(a) directly or through a standing order, to any recipient who is deemed by the health care practitioner to be capable of administering the opioid antidote to an overdose victim in an emergency;

(b) through a standing order, to any professional or emergency medical responder who is not acting in a professional or volunteer capacity for a professional entity, or an emergency medical response entity, but who is deemed by the health care practitioner to be capable of administering opioid antidotes to overdose victims, as part of the professional's regular course of business or volunteer activities;

(c) through a standing order, to any professional who is not acting in a professional or volunteer capacity for a professional entity, but who is deemed by the health care practitioner to be capable of dispensing opioid antidotes to recipients, for administration thereby, as part of the professional's regular course of business or volunteer activities;

(d) through a standing order, to any professional entity or any emergency medical response entity, which is deemed by the health care practitioner to employ professionals or emergency medical responders, as appropriate, who are capable of administering opioid antidotes to overdose victims as part of the entity's regular course of business or volunteer activities;

(e) through a standing order, to any professional entity which is deemed by the health care practitioner to employ professionals who are capable of dispensing opioid antidotes to recipients, for administration thereby, as part of the entity's regular course of business or volunteer activities.

(2) (a) For the purposes of this subsection, whenever the law expressly authorizes or requires a certain type of professional or professional entity to obtain a standing order for opioid antidotes pursuant to this section, such professional, or the professionals employed or engaged by such professional entity, as the case may be, shall be presumed by the prescribing or dispensing health care practitioner to be capable of administering or dispensing the opioid antidote, consistent with the express statutory requirement.

(b) For the purposes of this subsection, whenever the law expressly requires a certain type of emergency medical responder or emergency medical response entity to obtain a standing order for opioid antidotes pursuant to this section, such emergency medical

responder, or the emergency medical responders employed or engaged by such emergency medical response entity, as the case may be, shall be presumed by the prescribing or dispensing health care practitioner to be capable of administering the opioid antidote, consistent with the express statutory requirement.

(3) (a) Whenever a prescriber or other health care practitioner prescribes or dispenses an opioid antidote to a professional or professional entity pursuant to a standing order issued under paragraph (1) of this subsection, the standing order shall specify whether the professional or professional entity is authorized thereby to directly administer the opioid antidote to overdose victims; to dispense the opioid antidote to recipients, for their administration to third parties; or to both administer and dispense the opioid antidote. If a standing order does not include a specification in this regard, it shall be deemed to authorize the professional or professional entity only to administer the opioid antidote with immunity, as provided by subsection c. of this section, and it shall not be deemed to authorize the professional or professional entity to engage in the further dispensing of the antidote to recipients, unless such authority has been granted by law, as provided by subparagraph (b) of this paragraph.

(b) Notwithstanding the provisions of this paragraph to the contrary, if the law expressly authorizes or requires a certain type of professional, professional entity, emergency medical responder, or emergency medical response entity to administer or dispense opioid antidotes pursuant to a standing order issued hereunder, the standing order issued pursuant to this section shall be deemed to grant the authority specified by the law, even if such authority is not expressly indicated on the face of the standing order.

(4) Any prescriber or other health care practitioner who prescribes or dispenses an opioid antidote in good faith, and in accordance with the provisions of this subsection, shall not, as a result of the practitioner’s acts or omissions, be subject to any criminal or civil liability, or any professional disciplinary action under Title 45 of the Revised Statutes for prescribing or dispensing an opioid antidote in accordance with P.L.2013, c.46 (C.24:6J-1 et seq.).

b. (1) Any professional or professional entity that has obtained a standing order, pursuant to subsection a. of this section, for the dispensing of opioid antidotes, may dispense an opioid antidote to any recipient who is deemed by the professional or professional entity to be capable of administering the opioid antidote to an overdose victim in an emergency.

(2) Any professional or professional entity that dispenses an opioid antidote in accordance with paragraph (1) of this subsection, in good faith, and pursuant to a standing order issued under subsection a. of this section, shall not, as a result of any acts or omissions, be subject to any criminal or civil liability or any professional disciplinary action for dispensing an opioid antidote in accordance with P.L.2013, c.46 (C.24:6J-1 et seq.).

c. (1) Any emergency medical responder or emergency medical response entity that has obtained a standing order, pursuant to subsection a. of this section, for the administration of opioid antidotes, may administer an opioid antidote to overdose victims.

(2) Any emergency medical responder or emergency medical response entity that administers an opioid antidote, in good faith, in accordance with paragraph (1) of this subsection, and pursuant to a standing order issued under subsection a. of this section, shall not, as a result of any acts or omissions, be subject to any criminal or civil liability, or any disciplinary action, for administering the opioid antidote in accordance with P.L.2013, c.46 (C.24:6J-1 et seq.)

d. (1) Any person who is the recipient of an opioid antidote, which has been prescribed or dispensed for administration purposes pursuant to subsection a. or b. of this section, and who has received overdose prevention information pursuant to section 5 of P.L.2013, c.46

(C.24:6J-5), may administer the opioid antidote to another person in an emergency, without fee, if the antidote recipient believes, in good faith, that the other person is experiencing an opioid overdose.

(2) Any person who administers an opioid antidote pursuant to paragraph (1) of this subsection shall not, as a result of the person's acts or omissions, be subject to any criminal or civil liability for administering the opioid antidote in accordance with P.L.2013, c.46 (C.24:6J-1 et seq.).

e. In addition to the immunity that is provided by this section for authorized persons who are engaged in the prescribing, dispensing, or administering of an opioid antidote, the immunity provided by section 7 or section 8 of P.L.2013, c.46 (C.2C:35-30 or C.2C:35-31) shall apply to a person who acts in accordance with this section, provided that the requirements of those sections, as applicable, have been met.

3. Section 5 of P.L.2013, c.46 (C.24:6J-5) is amended to read as follows:

C.24:6J-5 Overdose prevention information.

5. a. (1) A prescriber or other health care practitioner who prescribes or dispenses an opioid antidote in accordance with subsection a. of section 4 of P.L.2013, c.46 (C.24:6J-4), shall ensure that overdose prevention information is provided to the antidote recipient. The requisite overdose prevention information shall include, but is not limited to: information on opioid overdose prevention and recognition; instructions on how to perform rescue breathing and resuscitation; information on opioid antidote dosage and instructions on opioid antidote administration; information describing the importance of calling 911 emergency telephone service for assistance with an opioid overdose; and instructions for appropriate care of an overdose victim after administration of the opioid antidote.

(2) A professional or professional entity that dispenses an opioid antidote pursuant to a standing order, in accordance with subsection b. of section 4 of P.L.2013, c.46 (C.24:6J-4), shall ensure that each patient who is dispensed an opioid antidote also receives a copy of the overdose prevention information that has been provided to the professional or professional entity pursuant to paragraph (1) of this subsection.

b. (1) In order to fulfill the information distribution requirements of subsection a. of this section, overdose prevention information may be provided by the prescribing or dispensing health care practitioner, by the dispensing professional or professional entity, or by a community-based organization, or other organization that addresses medical or social issues related to drug addiction, and with which the health care practitioner, professional, or professional entity, as appropriate, maintains a written agreement. Any such written agreement shall incorporate, at a minimum: procedures for the timely dissemination of overdose prevention information; information as to how employees or volunteers providing the information will be trained; and standards for recordkeeping under paragraph (2) of this subsection.

(2) The dissemination of overdose prevention information in accordance with this section, and the contact information for the persons receiving such information, to the extent known, shall be documented by the prescribing or dispensing health care practitioner, professional, or professional entity, as appropriate, in: (a) the patient's medical record, if applicable; or (b) another appropriate record or log, if the patient’s medical record is unavailable or inaccessible, or if the antidote recipient is a professional or professional entity acting in their professional capacity; or (c) any other similar recordkeeping location, as

specified in a written agreement that has been executed pursuant to paragraph (1) of this subsection.

c. In order to facilitate the dissemination of overdose prevention information in accordance with this section, the Commissioner of Human Services, in consultation with Statewide organizations representing physicians, advanced practice nurses, or physician assistants, and organizations operating community-based programs, sterile syringe access programs, or other programs which address medical or social issues related to drug addiction, may develop training materials in video, electronic, or other appropriate formats, and disseminate these materials to health care practitioners; professionals and professional entities that are authorized by standing order to dispense opioid antidotes; and organizations that are authorized to disseminate overdose prevention information under a written agreement executed pursuant to paragraph (1) of subsection b. of this section.

4. Section 3 of P.L.2006, c.99 (C.26:5C-27) is amended to read as follows:

C.26:5C-27 Demonstration program for operation of sterile syringe access programs.

3. The Commissioner of Health shall establish a demonstration program to permit up to six municipalities to operate a sterile syringe access program in accordance with the provisions of this act. For the purposes of the demonstration program, the commissioner shall prescribe by regulation requirements for a municipality to establish, or otherwise authorize the operation within that municipality of, a sterile syringe access program to provide for the exchange of hypodermic syringes and needles in accordance with the provisions of P.L.2006, c.99 (C.26:5C-25 et seq.).

a. The commissioner shall:

(1) request an application, to be submitted on a form and in a manner to be prescribed by the commissioner, from any municipality that seeks to establish a sterile syringe access program, or from other entities authorized to operate a sterile syringe access program within that municipality as provided in paragraph (2) of subsection a. of section 4 of P.L.2006, c.99 (C.26:5C-28);

(2) approve those applications that meet the requirements established by regulation of the commissioner and contract with the municipalities or entities whose applications are approved to establish a sterile syringe access program as provided in paragraph (2) of subsection a. of section 4 of P.L.2006, c.99 (C.26:5C-28) to operate a sterile syringe access program in any municipality in which the governing body has authorized the operation of sterile syringe access programs within that municipality by ordinance;

(3) support and facilitate, to the maximum extent practicable, the linkage of sterile syringe access programs to: (a) health care facilities and programs that may provide appropriate health care services, including mental health services, medication-assisted drug treatment services, and other substance abuse treatment services to consumers participating in a sterile syringe access program; and (b) housing assistance programs, career and employment-related counseling programs, and education counseling programs that may provide appropriate ancillary support services to consumers participating in a sterile syringe access program;

(4) provide for the adoption of a uniform identification card or other uniform Statewide means of identification for consumers, staff, and volunteers of a sterile syringe access program pursuant to paragraph (9) of subsection b. of section 4 of P.L.2006, c.99 (C.26:5C-28); and

(5) maintain a record of the data reported to the commissioner by sterile syringe access programs pursuant to paragraph (11) of subsection b. of section 4 of P.L.2006, c.99 (C.26:5C-28).

b. The commissioner shall be authorized to accept funding as may be made available from the private sector to effectuate the purposes of P.L.2006, c.99 (C.26:5C-25 et seq.).

5. Section 4 of P.L.2006, c.99 (C.26:5C-28) is amended to read as follows:

C.26:5C-28 Establishment, authorization by municipality of certain programs.

4. a. In accordance with the provisions of section 3 of P.L.2006, c.99 (C.26:5C-27), a municipality may establish or authorize establishment of a sterile syringe access program that is approved by the commissioner to provide for the exchange of hypodermic syringes and needles.

(1) A municipality that establishes a sterile syringe access program, at a fixed location or through a mobile access component, may operate the program directly or contract with one or more of the following entities to operate the program: a hospital or other health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), a federally qualified health center, a public health agency, a substance abuse treatment program, an AIDS service organization, or another nonprofit entity designated by the municipality. These entities shall also be authorized to contract directly with the commissioner in any municipality in which the governing body has authorized the operation of sterile syringe access programs by ordinance pursuant to paragraph (2) of this subsection. The municipality or entity under contract shall implement the sterile syringe access program in consultation with a federally qualified health center and the New Jersey Office on Minority and Multicultural Health in the Department of Health and Senior Services, and in a culturally competent manner.

(2) Pursuant to paragraph (2) of subsection a. of section 3 of P.L.2006, c.99 (C.26:5C-27), a municipality whose governing body has authorized the operation of sterile syringe access programs within the municipality may require within the authorizing ordinance that an entity as described in paragraph (1) of this subsection obtain approval from the municipality, in a manner prescribed by the authorizing ordinance, to operate a sterile syringe access program prior to obtaining approval from the commissioner to operate such a program, or may permit the entity to obtain approval to operate such a program by application directly to the commissioner without obtaining prior approval from the municipality.

(3) Two or more municipalities may jointly establish or authorize establishment of a sterile syringe access program that operates within those municipalities pursuant to adoption of an ordinance by each participating municipality pursuant to this section.

b. A sterile syringe access program shall comply with the following requirements:

(1) Sterile syringes and needles shall be provided at no cost to consumers 18 years of age and older;

(2) Program staff shall be trained and regularly supervised in: harm reduction; substance abuse, medical and social service referrals; and infection control procedures, including universal precautions and needle stick injury protocol; and programs shall maintain records of staff and volunteer training and of hepatitis C and tuberculosis screening provided to volunteers and staff;

(3) The program shall offer information about HIV, hepatitis C and other bloodborne pathogens and prevention materials at no cost to consumers, and shall seek to educate all consumers about safe and proper disposal of needles and syringes;

(4) The program shall provide information and referrals to consumers, including HIV testing options, access to medication-assisted drug abuse treatment programs and other substance abuse treatment programs, and available health and social service options relevant to the consumer's needs. The program shall encourage consumers to receive an HIV test, and shall, when appropriate, develop an individualized drug abuse treatment plan for each participating consumer;

(5) The program shall screen out consumers under 18 years of age from access to syringes and needles, and shall refer them to drug abuse treatment and other appropriate programs for youth;

(6) The program shall develop a plan for the handling and disposal of used syringes and needles in accordance with requirements set forth at N.J.A.C.7:26-3A.1 et seq. for regulated medical waste disposal pursuant to the "Comprehensive Regulated Medical Waste Management Act," P.L.1989, c.34 (C.13:1E-48.1 et al.), and shall also develop and maintain protocols for post-exposure treatment;

(7) (a) The program may obtain a standing order, pursuant to the “Overdose Prevention Act,” P.L.2013, c.46 (C.24:6J-1 et seq.), authorizing program staff to carry and dispense naloxone hydrochloride or another opioid antidote to consumers and the family members and friends thereof;

(b) The program shall provide overdose prevention information to consumers, the family members and friends thereof, and other persons associated therewith, as appropriate, in accordance with the provisions of section 5 of the “Overdose Prevention Act,” P.L.2013, c.46 (C.24:6J-5);

(8) The program shall maintain the confidentiality of consumers by the use of confidential identifiers, which shall consist of the first two letters of the first name of the consumer's mother and the two-digit day of birth and two-digit year of birth of the consumer, or by the use of such other uniform Statewide mechanism as may be approved by the commissioner for this purpose;

(9) The program shall provide a uniform identification card that has been approved by the commissioner to consumers and to staff and volunteers involved in transporting, exchanging or possessing syringes and needles, or shall provide for such other uniform Statewide means of identification as may be approved by the commissioner for this purpose;

(10) The program shall provide consumers at the time of enrollment with a schedule of program operation hours and locations, in addition to information about prevention and harm reduction and drug abuse treatment services; and

(11) The program shall establish and implement accurate data collection methods and procedures as required by the commissioner for the purpose of evaluating the sterile syringe access programs, including the monitoring and evaluation on a quarterly basis of:

(a) sterile syringe access program participation rates, including the number of consumers who enter drug abuse treatment programs and the status of their treatment;

(b) the effectiveness of the sterile syringe access programs in meeting their objectives, including, but not limited to, return rates of syringes and needles distributed to consumers and the impact of the sterile syringe access programs on intravenous drug use; and

(c) the number and type of referrals provided by the sterile syringe access programs and the specific actions taken by the sterile syringe access programs on behalf of each consumer.

c. A municipality may terminate a sterile syringe access program established or authorized pursuant to this act, which is operating within that municipality, if its governing body approves such an action by ordinance, in which case the municipality shall notify the commissioner of its action in a manner prescribed by regulation of the commissioner.

6. Section 5 of P.L.2006, c.99 (C.26:5C-29) is amended to read as follows:

C.26:5C-29 Reports to Governor, Legislature.

5. a. (1) The Commissioner of Health and Senior Services shall report to the Governor and, pursuant to section 2 of P.L.1991, 164 (C.52:14-19.1), the Legislature, no later than one year after the effective date of P.L.2006, c.99 (C.26:5C-25 et seq.) and biennially thereafter, on the status of sterile syringe access programs established pursuant to sections 3 and 4 of P.L.2006, c.99 (C.26:5C-27 and C.26:5C-28), and shall include in that report the data provided to the commissioner by each sterile syringe access program pursuant to paragraph (11) of subsection b. of section 4 of P.L.2006, c.99 (C.26:5C-28).

(2) For the purpose of each biennial report pursuant to paragraph (1) of this subsection, the commissioner shall:

(a) consult with local law enforcement authorities regarding the impact of the sterile syringe access programs on the rate and volume of crime in the affected municipalities and include that information in the report; and

(b) seek to obtain data from public safety and emergency medical services providers Statewide regarding the incidence and location of needle stick injuries to their personnel and include that information in the report.

b. The commissioner shall report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature, no later than six months after the date that the initial sterile syringe access program, which is approved by the commissioner pursuant to section 3 of P.L.2006, c.99 (C.26:5C-27), commences its operations, and shall include in that report:

(1) an assessment of whether an adequate number of drug abuse treatment program slots is available to meet the treatment needs of persons who have been referred to drug abuse treatment programs by sterile syringe access programs pursuant to paragraph (4) of subsection b. of section 4 of P.L.2006, c.99 (C.26:5C-28); and

(2) a recommendation for such appropriation as the commissioner determines necessary to ensure the provision of an adequate number of drug abuse treatment program slots for those persons.

c. The commissioner shall contract with an entity that is independent of the department to prepare a detailed analysis of the sterile syringe access programs, and to report on the results of that analysis to the Governor, the Governor's Advisory Council on HIV/AIDS and Related Blood-Borne Pathogens, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature, no later than 24 months after the adoption of regulations required pursuant to subsection b. of section 7 of P.L.2006, c.99 (C.26:5C-31) and annually thereafter. The analysis shall include, but not be limited to:

(1) any increase or decrease in the spread of HIV, hepatitis C and other blood-borne pathogens that may be transmitted by the use of contaminated syringes and needles;

(2) the number of exchanged syringes and needles and an evaluation of the disposal of syringes and needles that are not returned by consumers;

(3) the number of consumers participating in the sterile syringe access programs and an assessment of their reasons for participating in the programs;

(4) the number of consumers in the sterile syringe access programs who participated in drug abuse treatment programs; and

(5) the number of consumers in the sterile syringe access programs who benefited from counseling and referrals to programs and entities that are relevant to their health, housing, social service, employment and other needs.

d. Within 90 days after receipt of the third report pursuant to subsection c. of this section, the commissioner shall submit to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature, on a day when both Houses of the Legislature are meeting in the course of a regular or special session, the commissioner's recommendations regarding whether or not to continue the demonstration program established pursuant to this act. The commissioner's recommendations shall be effective unless the Legislature passes a concurrent resolution overriding the commissioner's recommendations no later than the 45th day after its receipt of those recommendations.

7. This act shall take effect immediately.

Approved February 5, 2015.