

CHAPTER 106

AN ACT concerning the emergency administration of opioid antidotes in schools, supplementing chapter 40 of Title 18A of the New Jersey Statutes, and amending P.L.2013, c.46.

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

C.18A:40-12.23 Definitions relative to the emergency administration of opioid antidotes in schools.

1. As used in this act:

“Opioid antidote” means any drug, regardless of dosage amount or method of administration, which has been approved by the United States Food and Drug Administration (FDA) for the treatment of an opioid overdose. “Opioid antidote” includes, but is not limited to, naloxone hydrochloride, in any dosage amount, which is administered through nasal spray or any other FDA-approved means or methods.

“Opioid overdose” means an acute condition including, but not limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma, or death resulting from the consumption or use of an opioid drug or another substance with which an opioid drug was combined, and that a layperson would reasonably believe to require medical assistance.

“School-sponsored function” means any activity, event, or program occurring on or off school grounds, whether during or outside of regular school hours, that is organized or supported by the school.

C.18A:40-12.24 Development of school policy for emergency administration of opioid antidotes.

2. a. Each board of education, board of trustees of a charter school, and chief school administrator of a nonpublic school shall develop a policy, in accordance with guidelines established by the Department of Education pursuant to section 3 of this act, for the emergency administration of an opioid antidote to a student, staff member, or other person who is experiencing an opioid overdose. The policy shall:

(1) require each school that includes any of the grades nine through 12, and permit any other school, to obtain a standing order for opioid antidotes pursuant to section 4 of the “Overdose Prevention Act,” P.L.2013, c.46 (C.24:6J-4), and to maintain a supply of opioid antidotes under the standing order in a secure but unlocked and easily accessible location; and

(2) permit the school nurse, or a trained employee designated pursuant to subsection c. of this section, to administer an opioid antidote to any person whom the nurse or trained employee in good faith believes is experiencing an opioid overdose.

b. (1) Opioid antidotes shall be maintained by a school pursuant to paragraph (1) of subsection a. of this section in quantities and types deemed adequate by the board of education, board of trustees of a charter school, or chief school administrator of a nonpublic school, in consultation with the Department of Education and the Department of Human Services.

(2) The opioid antidotes shall be accessible in the school during regular school hours and during school-sponsored functions that take place in the school or on school grounds adjacent to the school building. A board of education, board of trustees of a charter school, or chief school administrator of a nonpublic school may, in its discretion, make opioid antidotes accessible during school-sponsored functions that take place off school grounds.

c. (1) The school nurse shall have the primary responsibility for the emergency administration of an opioid antidote in accordance with a policy developed under this

section. The board of education, board of trustees of a charter school, or chief school administrator of a nonpublic school shall designate additional employees of the school district, charter school, or nonpublic school who volunteer to administer an opioid antidote in the event that a person experiences an opioid overdose when the nurse is not physically present at the scene. The designated employees shall only be authorized to administer opioid antidotes after receiving the training required under subsection b. of section 3 of this act.

(2) In the event that a licensed athletic trainer volunteers to administer an opioid antidote pursuant to this act, it shall not constitute a violation of the “Athletic Training Licensure Act,” P.L.1984, c.203 (C.45:9-37.35 et seq.).

d. A policy developed pursuant to this section shall require the transportation of an overdose victim to a hospital emergency room by emergency services personnel after the administration of an opioid antidote, even if the person’s symptoms appear to have resolved.

C.18A:40-12.25 Guidelines for development of policy.

3. a. The Department of Education, in consultation with the Department of Human Services and appropriate medical experts, shall establish guidelines for the development of a policy by a school district, charter school, or nonpublic school for the emergency administration of opioid antidotes. Each board of education, board of trustees of a charter school, and chief school administrator of a nonpublic school shall implement the guidelines in developing a policy pursuant to section 2 of this act.

b. The guidelines shall include a requirement that each school nurse, and each employee designated pursuant to subsection c. of section 2 of this act, receive training on standardized protocols for the administration of an opioid antidote to a person who experiences an opioid overdose. The training shall include the overdose prevention information described in subsection a. of section 5 of the “Overdose Prevention Act,” P.L.2013, c.46 (C.24:6J-5). The guidelines shall specify an appropriate entity or entities to provide the training, and a school nurse shall not be solely responsible to train the employees designated pursuant to subsection c. of section 2 of this act.

C.18A:40-12.26 Immunity from liability.

4. No school employee, including a school nurse, or any other officer or agent of a board of education, charter school, or nonpublic school, or a prescriber of opioid antidotes for a school through a standing order, shall be held liable for any good faith act or omission consistent with the provisions of this act. Good faith shall not include willful misconduct, gross negligence, or recklessness.

C.18A:40-12.27 Shared services arrangement.

5. A school district may enter into a shared services arrangement with another school district for the provision of opioid antidotes pursuant to section 2 of this act if the arrangement will result in cost savings for the districts.

C.18A:40-12.28 Funds used for compliance by nonpublic schools.

6. Notwithstanding any law to the contrary, funds appropriated or otherwise made available pursuant to P.L.1991, c.226 (C.18A:40-23 et seq.) may be used to comply with the requirements of section 2 of this act in nonpublic schools.

7. 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 response entity" includes, but is not limited to, a first aid, rescue and ambulance squad or other basic life support (BLS) ambulance provider; a mobile intensive care provider or other advanced life support (ALS) ambulance provider; an air medical service provider; or a fire-fighting company or organization, which squad, provider, company, or organization is qualified to send paid or volunteer emergency medical responders to the scene of an emergency.

"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, a mobile intensive care paramedic, or a fire fighter, 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 any drug, regardless of dosage amount or method of administration, which has been approved by the United States Food and Drug Administration (FDA) for the treatment of an opioid overdose. "Opioid antidote includes, but is not limited to, naloxone hydrochloride, in any dosage amount, which is administered through nasal spray or any other FDA-approved means or methods.

"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, emergency medical response entity, school, school district, or school nurse who is prescribed or dispensed an opioid antidote in accordance with section 4 of P.L.2013, c.46 (C.24:6J-4).

8. 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;

(f) through a standing order, to a school, school district, or school nurse pursuant to the provisions of section 2 of P.L.2018, c.106 (C.18A:40-12.24).

(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.

(c) For the purposes of this subsection, whenever the law expressly authorizes or requires a school or school district to obtain a standing order for opioid antidotes pursuant to this section, the school nurses employed or engaged by the school or school district 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, emergency medical response entity, school, school district, or school nurse 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.

f. Any school, school district, school nurse, school employee, or any other officer or agent of a board of education, charter school, or nonpublic school who administers, or permits the administration of, an opioid antidote in good faith in accordance with the provisions of section 2 of P.L.2018, c.106 (C.18A:40-12.24), 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, or for permitting the administration of, the opioid antidote in accordance with P.L.2013, c.46 (C.24:6J-1 et seq.).

g. Notwithstanding the provisions of any law, rule, regulation, ordinance, or institutional or organizational directive to the contrary, any person or entity authorized to administer an opioid antidote pursuant to this section, may administer to an overdose victim, with full immunity:

(1) a single dose of any type of opioid antidote that has been approved by the United States Food and Drug Administration for use in the treatment of opioid overdoses; and

(2) up to three doses of an opioid antidote that is administered through an intranasal application, or through an intramuscular auto-injector, as may be necessary to revive the overdose victim. Prior consultation with, or approval by, a third-party physician or other medical personnel shall not be required before an authorized person or entity may administer up to three doses of an opioid antidote, as provided in this paragraph, to the same overdose victim.

h. No later than 45 days after the effective date of P.L.2017, c.381 the Commissioner of Health shall provide written notice to all emergency medical response entities affected by subsection g. of this section notifying them of the provisions of subsection g. of this section.

9. This act shall take effect on the first day of the fourth month next following the date of enactment, except the Department of education may take any anticipatory administrative action in advance as shall be necessary for the implementation of this act.

Approved August 24, 2018.