SENATE BILL 516

J1 5lr1588
CF HB 745

By: **Senators Klausmeier, Currie, Eckardt, Ferguson, Madaleno, ~~and Middleton~~ Middleton, Astle, Benson, Feldman, Hershey, Jennings, Kelley, Mathias, Pugh, and Reilly**

Introduced and read first time: February 6, 2015
Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 19, 2015

CHAPTER _____

AN ACT concerning

Public Health – Overdose Response Program

FOR the purpose of authorizing certain advanced practice nurses, in addition to certain nurse practitioners and pharmacists to conduct certain overdose prevention educational training programs; altering the circumstances under which certain employees or volunteers may conduct the training programs; authorizing certain advanced practice nurses~~, in addition to certain nurse practitioners,~~ to prescribe and dispense naloxone to certain certificate holders; authorizing certain licensed physicians and advanced practice nurses to prescribe and dispense naloxone to certain certificate holders ~~directly or under~~ by issuing a certain standing order under certain circumstances; authorizing certain licensed health care providers to prescribe naloxone to certain patients under certain circumstances; authorizing a pharmacist to dispense naloxone in accordance with a certain therapy management contract; providing that certain individuals who administer naloxone or provide naloxone to certain certificate holders under certain circumstances may not be considered to be practicing certain health occupations; providing that an advanced practice nurse who prescribes or dispenses naloxone to a certificate holder in a certain manner may not be subject to certain disciplinary actions; providing immunity from liability for certain persons under certain circumstances; exempting certain persons who are authorized to dispense naloxone from certain prescription drug dispensing permit requirements; providing for the construction of this Act; defining certain terms; making clarifying and conforming changes; and generally relating to the Overdose Response Program.

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets**]** indicate matter deleted from existing law.
Underlining indicates amendments to bill.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 13–3101, 13–3104, 13–3107, 13–3108, and 13–3109
Annotated Code of Maryland
(2009 Replacement Volume and 2014 Supplement)

BY adding to
Article – Health – General
Section 13–3110 and 13–3111
Annotated Code of Maryland
(2009 Replacement Volume and 2014 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health – General

13–3101.

(a) In this subtitle the following words have the meanings indicated.

(B) "ADVANCED PRACTICE NURSE" HAS THE MEANING STATED IN § 8–101 OF THE HEALTH OCCUPATIONS ARTICLE.

[(b)**] (C)** "Certificate" means a certificate issued by a private or public entity to administer naloxone.

(D) "LICENSED PHYSICIAN" HAS THE MEANING STATED IN § 14–101 OF THE HEALTH OCCUPATIONS ARTICLE.

(E) "PHARMACIST" HAS THE MEANING STATED IN § 12–101 OF THE HEALTH OCCUPATIONS ARTICLE.

[(c)**] (F)** "Private or public entity" means a health care provider, local health department, community–based organization, substance abuse treatment organization, or other person that addresses medical or social issues related to drug addiction.

[(d)**] (G)** "Program" means an Overdose Response Program.

(H) "STANDING ORDER" MEANS A WRITTEN INSTRUCTION FOR THE PRESCRIBING AND DISPENSING OF NALOXONE TO A CERTIFICATE HOLDER IN ACCORDANCE WITH § 13–3108 OF THIS SUBTITLE.

13–3104.

(a) To qualify for a certificate, an individual shall meet the requirements of this section.

(b) The applicant shall be at least 18 years old.

(c) The applicant shall have, or reasonably expect to have, as a result of the individual's occupation or volunteer, family, or social status, the ability to assist an individual who is experiencing an opioid overdose.

(d) (1) The applicant shall successfully complete an educational training program offered by a private or public entity authorized by the Department.

(2) An educational training program required under this subsection shall:

(i) Be conducted by:

1. A **LICENSED** physician **[**licensed to practice medicine under Title 14 of the Health Occupations Article**]**;

2. **[**A nurse practitioner licensed to practice registered nursing under Title 8 of the Health Occupations Article and certified as a nurse practitioner by the State Board of Nursing**] AN ADVANCED PRACTICE NURSE**; **[**or**]**

3. A PHARMACIST; OR

[3.**] 4.** An employee or a volunteer of a private or public entity **[**that maintains**] WHO IS SUPERVISED IN ACCORDANCE WITH** a written agreement **[**with**] BETWEEN THE PRIVATE OR PUBLIC ENTITY AND** a supervisory **LICENSED** physician**, [**or nurse practitioner**] ADVANCED PRACTICE NURSE, OR PHARMACIST** that includes:

A. Procedures for providing patient overdose information;

B. Information as to how the employee or volunteer providing the information will be trained; and

C. Standards for documenting the provision of patient overdose information to patients; and

(ii) Include training in:

1. The recognition of the symptoms of opioid overdose;

2. The proper administration of naloxone;

3. The importance of contacting emergency medical services;

4. The care of an individual after the administration of naloxone; and

5. Any other topics required by the Department.

13–3107.

An individual who is certified may:

(1) On presentment of a certificate, receive from any **LICENSED** physician **[**licensed to practice medicine in the State, or any nurse practitioner licensed to practice nursing in the State,**]** **OR ADVANCED PRACTICE NURSE** **WITH PRESCRIBING AUTHORITY** a prescription for naloxone and the necessary supplies for the administration of naloxone;

(2) Possess prescribed naloxone and the necessary supplies for the administration of naloxone; and

(3) In an emergency situation when medical services are not immediately available, administer naloxone to an individual experiencing or believed by the certificate holder to be experiencing an opioid overdose.

13–3108.

(A) A **LICENSED** physician or **[**nurse practitioner**]** **AN ADVANCED PRACTICE NURSE** **WITH PRESCRIBING AUTHORITY** may prescribe and dispense naloxone to a certificate holder.

~~**(B) A LICENSED PHYSICIAN OR ADVANCED PRACTICE NURSE WHO SUPERVISES OR CONDUCTS AN EDUCATIONAL TRAINING PROGRAM UNDER § 13–3104(D) OF THIS SUBTITLE MAY PRESCRIBE AND DISPENSE NALOXONE TO A CERTIFICATE HOLDER DIRECTLY OR UNDER A STANDING ORDER.**~~

(B) (1) A LICENSED PHYSICIAN OR AN ADVANCED PRACTICE NURSE WITH PRESCRIBING AUTHORITY MAY PRESCRIBE AND DISPENSE NALOXONE TO A CERTIFICATE HOLDER BY ISSUING A STANDING ORDER IF THE LICENSED PHYSICIAN OR ADVANCED PRACTICE NURSE:

(I) IS EMPLOYED BY THE DEPARTMENT OR A LOCAL HEALTH DEPARTMENT; OR

(II) SUPERVISES OR CONDUCTS AN EDUCATIONAL TRAINING PROGRAM UNDER § 13–3104(D) OF THIS SUBTITLE.

(2) A LICENSED PHYSICIAN OR AN ADVANCED PRACTICE NURSE WITH PRESCRIBING AUTHORITY WHO ISSUES A STANDING ORDER UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY DELEGATE TO THE FOLLOWING PERSONS THE AUTHORITY FOR DISPENSING NALOXONE TO A CERTIFICATE HOLDER:

(I) A LICENSED REGISTERED NURSE WHO:

1. IS EMPLOYED BY A LOCAL HEALTH DEPARTMENT; AND

2. COMPLETES A TRAINING PROGRAM APPROVED BY THE DEPARTMENT; AND

(II) AN EMPLOYEE OR A VOLUNTEER OF A PRIVATE OR PUBLIC ENTITY WHO IS AUTHORIZED TO CONDUCT AN EDUCATIONAL TRAINING PROGRAM IN ACCORDANCE WITH § 13–3104(D) OF THIS SUBTITLE.

(3) ANY LICENSED HEALTH CARE PROVIDER WHO HAS DISPENSING AUTHORITY ALSO MAY DISPENSE NALOXONE TO A CERTIFICATE HOLDER IN ACCORDANCE WITH A STANDING ORDER ISSUED BY A LICENSED PHYSICIAN.

(C) ANY LICENSED HEALTH CARE PROVIDER WHO HAS PRESCRIBING AUTHORITY MAY PRESCRIBE NALOXONE TO A PATIENT WHO IS BELIEVED BY THE LICENSED HEALTH CARE PROVIDER TO BE AT RISK OF EXPERIENCING AN OPIOID OVERDOSE OR IN A POSITION TO ASSIST AN INDIVIDUAL AT RISK OF EXPERIENCING AN OPIOID OVERDOSE.

(D) A PHARMACIST MAY DISPENSE NALOXONE IN ACCORDANCE WITH A THERAPY MANAGEMENT CONTRACT UNDER TITLE 12, SUBTITLE 6A OF THE HEALTH OCCUPATIONS ARTICLE.

13–3109.

(a) **(1)** A certificate holder who, in accordance with this subtitle, is administering naloxone to an individual experiencing or believed by the certificate holder to be experiencing an opioid overdose may not be considered to be practicing**:**

(I) [medicine**] MEDICINE** for the purposes of Title 14 of the Health Occupations Article**; OR**

(II) REGISTERED NURSING FOR THE PURPOSES OF TITLE 8 OF THE HEALTH OCCUPATIONS ARTICLE.

(2) AN EMPLOYEE OR VOLUNTEER OF A PRIVATE OR PUBLIC ENTITY WHO, IN ACCORDANCE WITH THIS SUBTITLE, PROVIDES NALOXONE TO A CERTIFICATE HOLDER IN ACCORDANCE WITH A STANDING ORDER MAY NOT BE CONSIDERED TO BE PRACTICING:

(I) MEDICINE FOR THE PURPOSES OF TITLE 14 OF THE HEALTH OCCUPATIONS ARTICLE;

(II) REGISTERED NURSING FOR THE PURPOSES OF TITLE 8 OF THE HEALTH OCCUPATIONS ARTICLE; OR

(III) PHARMACY FOR THE PURPOSES OF TITLE 12 OF THE HEALTH OCCUPATIONS ARTICLE.

(b) **(1)** A **LICENSED** physician who prescribes or dispenses naloxone to a certificate holder in a manner consistent with the protocol established by the authorized private or public entity may not be subject to any disciplinary action under Title 14 of the Health Occupations Article solely for the act of prescribing or dispensing naloxone to the certificate holder.

(2) AN ADVANCED PRACTICE NURSE WITH PRESCRIBING AUTHORITY WHO PRESCRIBES OR DISPENSES NALOXONE TO A CERTIFICATE HOLDER IN A MANNER CONSISTENT WITH THE PROTOCOL ESTABLISHED BY THE AUTHORIZED PRIVATE OR PUBLIC ENTITY MAY NOT BE SUBJECT TO ANY DISCIPLINARY ACTION UNDER TITLE 8 OF THE HEALTH OCCUPATIONS ARTICLE SOLELY FOR THE ACT OF PRESCRIBING OR DISPENSING NALOXONE TO THE CERTIFICATE HOLDER.

13–3110.

(A) AN INDIVIDUAL WHO ADMINISTERS NALOXONE TO AN INDIVIDUAL WHO IS OR IN GOOD FAITH IS BELIEVED TO BE EXPERIENCING AN OPIOID OVERDOSE SHALL HAVE IMMUNITY FROM LIABILITY UNDER §§ 5–603 AND 5–629 OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE.

(B) A CAUSE OF ACTION MAY NOT ARISE AGAINST ANY LICENSED PHYSICIAN ~~OR~~, ADVANCED PRACTICE NURSE WITH PRESCRIBING AUTHORITY, OR PHARMACIST FOR ANY ACT OR OMISSION WHEN THE PHYSICIAN ~~OR~~, ADVANCED PRACTICE NURSE WITH PRESCRIBING AUTHORITY, OR PHARMACIST IN GOOD FAITH PRESCRIBES OR DISPENSES NALOXONE AND THE NECESSARY PARAPHERNALIA FOR THE ADMINISTRATION OF NALOXONE TO A CERTIFICATE HOLDER OR PATIENT UNDER § 13–3108 OF THIS SUBTITLE.

(C) THIS SUBTITLE MAY NOT BE CONSTRUED TO CREATE A DUTY ON ANY INDIVIDUAL TO:

(1) OBTAIN A CERTIFICATE UNDER THIS SUBTITLE, AND AN INDIVIDUAL MAY NOT BE HELD CIVILLY LIABLE FOR FAILING TO OBTAIN A CERTIFICATE UNDER THIS SUBTITLE; OR

(2) ADMINISTER NALOXONE TO AN INDIVIDUAL WHO IS EXPERIENCING OR BELIEVED BY THE INDIVIDUAL TO BE EXPERIENCING AN OPIOID OVERDOSE.

13–3111.

A PERSON WHO DISPENSES NALOXONE IN ACCORDANCE WITH THIS SUBTITLE IS EXEMPT FROM ANY LAWS THAT REQUIRE A PERSON TO MAINTAIN A PERMIT TO DISPENSE PRESCRIPTION DRUGS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2015.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.