CHAPTER 130

South Carolina Overdose Prevention Act

**SECTION 44‑130‑10.** Short title.

 This chapter may be cited as the "South Carolina Overdose Prevention Act".

HISTORY: 2015 Act No. 54 (H.3083), Section 1, eff June 3, 2015.

**SECTION 44‑130‑20.** Definitions.

 For purposes of this chapter:

 (1) "Caregiver" means a person who is not at risk of an opioid overdose but who, in the judgment of a physician, may be in a position to assist another individual during an overdose and who has received patient overdose information as required by Section 44‑130‑30 on the indications for and administration of an opioid antidote.

 (2) "Community distributor" means an organization, either public or private, which provides substance use disorder assistance and services, such as counseling, homeless services, advocacy, harm reduction, alcohol and drug screening, and treatment to individuals at risk of experiencing an opioid‑related overdose.

 (3) "Department" means the Department of Health and Environmental Control.

 (4) "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 substance or other substance with which a controlled substance was combined and that a layperson would reasonably believe to require medical assistance.

 (5) "First responder" means an emergency medical services provider, a law enforcement officer, or a fire department worker directly engaged in examining, treating, or directing persons during an emergency.

 (6) "Medical assistance" means professional medical services that are provided to a person experiencing a drug overdose.

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

 (8) "Pharmacist" means an individual licensed pursuant to Chapter 43, Title 40 to engage in the practice of pharmacy.

 (9) "Prescriber" means a physician licensed pursuant to Chapter 47, Title 40, an advanced practice registered nurse licensed pursuant to Chapter 33, Title 40 and prescribing in accordance with the requirements of that chapter, and a physician assistant licensed pursuant to Article 7, Chapter 47, Title 40 and prescribing in accordance with the requirements of that article.

HISTORY: 2015 Act No. 54 (H.3083), Section 1, eff June 3, 2015; 2018 Act No. 169 (H.4600), Section 2, eff May 3, 2018.

Effect of Amendment

2018 Act No. 169, Section 2, inserted (2), relating to the definition of "Community distributor", and redesignated (2) to (8) as (3) to (9).

**SECTION 44‑130‑30.** Prescriber may issue written prescription for opioid antidote; overdose information; standing order for first responder; immunity.

 (A) A prescriber acting in good faith and exercising reasonable care as a prescriber may issue a written prescription for an opioid antidote to:

 (1) a person who is at risk of experiencing an opioid‑related overdose; or

 (2) a caregiver for a person who is at risk of experiencing an opioid overdose whom the prescriber has not personally examined.

 (B)(1) The prescriber must provide to the person or the caregiver overdose information addressing the following:

 (a) opioid overdose prevention and recognition;

 (b) opioid antidote dosage and administration;

 (c) the importance of calling 911 emergency telephone service for medical assistance with an opioid overdose; and

 (d) care for an overdose victim after administration of the opioid antidote.

 (2) The prescriber must document in the medical record that the opioid overdose information required by this subsection has been provided to the person or the caregiver.

 (C) A prescriber acting in good faith and exercising reasonable care may issue a standing order for a first responder to possess an opioid antidote for administration to a person whom the first responder believes to be experiencing an opioid‑related overdose.

 (D) A prescriber who issues a written prescription or a standing order for an opioid antidote in accordance with the provisions of this section is not as a result of an act or omission subject to civil or criminal liability or to professional disciplinary action.

HISTORY: 2015 Act No. 54 (H.3083), Section 1, eff June 3, 2015.

**SECTION 44‑130‑40.** Pharmacist may dispense opioid antidote; written joint protocol; immunity; report on cannabis issues.

 (A) A pharmacist acting in good faith and exercising reasonable care as a pharmacist may dispense an opioid antidote pursuant to a written prescription or standing order by a prescriber.

 (B)(1) A pharmacist acting in good faith and exercising reasonable care as a pharmacist may dispense an opioid antidote pursuant to a written joint protocol issued by the Board of Medical Examiners and the Board of Pharmacy.

 (2) Not later than six months after passage of this act, the Board of Medical Examiners and the Board of Pharmacy must issue a written joint protocol to authorize a pharmacist to dispense an opioid antidote without a patient‑specific written order or prescription to a person at risk of experiencing an opioid‑related overdose or to a caregiver of such a person.

 (3) The protocol must address, at a minimum, the following:

 (a) the information that the pharmacist must provide to a person at risk or to a caregiver including, but not limited to, the information required by Section 44‑130‑30(B)(1);

 (b) the documentation that the pharmacist must maintain regarding the dispensing of the opioid antidote and confirming that the required information was provided to the person at risk or to the caregiver;

 (c) notification of the person's designated physician or primary care provider that an opioid antidote has been dispensed to that person;

 (d) any education or training requirements that the Board of Medical Examiners and the Board of Pharmacy determine to be necessary for a pharmacist to dispense an opioid antidote pursuant to the joint protocol;

 (e) guidelines for determining whether an individual is in a position to assist another individual during an overdose and thus may function as a caregiver; and

 (f) any other provisions determined by the Board of the Medical Examiners and the Board of Pharmacy to be necessary or appropriate for inclusion in the protocol, including any reporting requirements.

 (4) A pharmacist may not delegate the dispensing of an opioid antidote pursuant to this subsection to a pharmacy intern or a pharmacy technician.

 (5)(a) All records required by this subsection must be maintained in the pharmacy for a period of at least ten years from the date that the opioid antidote was last dispensed.

 (b) All documentation, records, and copies required by this subsection may be stored electronically.

 (6) A pharmacist dispensing an opioid antidote pursuant to this subsection must maintain a current copy of the protocol at the pharmacy where the opioid antidote is dispensed.

 (7) The Board of Medical Examiners and the Board of Pharmacy may appoint an advisory committee of healthcare professionals licensed in this State to advise and assist in the development of the joint protocol for their consideration.

 (8) For purposes of this subsection, "caregiver" means a person who is not at risk of an opioid overdose but who, in the judgment of the pharmacist, may be in a position to assist another individual during an overdose and who has received patient overdose information as required by the joint protocol.

 (C) A pharmacist dispensing an opioid antidote in accordance with the provisions of this section is not as a result of an act or omission subject to civil or criminal liability or to professional disciplinary action.

 (D) The Veterans Equal Access Amendment to the Military Construction and Veterans Affairs Appropriations passed by the United States Congress provides that: "Notwithstanding any other provision of law, the Secretary of Veterans Affairs shall authorize physicians and other health care providers employed by the Department of Veterans Affairs to provide recommendations and opinions to veterans who are residents of states with state marijuana programs regarding the participation of veterans in such state marijuana programs." The Department of Health and Environmental Control is directed to study: (1) the possibility that a person experiencing an opioid‑related overdose would be decreased if access to cannabis was legally permitted; and (2) the extent to which states have latitude by federal law for a Veterans Affairs' physician licensed in the State of South Carolina to provide a written certification that a veteran would benefit from the use of marijuana for medicinal purposes rather than being prescribed opioids. DHEC shall provide the General Assembly a report on the findings by January 1, 2017.

HISTORY: 2015 Act No. 54 (H.3083), Section 1, eff June 3, 2015; 2016 Act No. 247 (H.5193), Section 1, eff June 5, 2016.

**SECTION 44‑130‑50.** Caregiver may administer opioid antidote; immunity.

 (A) A caregiver may in an emergency administer, without fee, an opioid antidote to a person whom the caregiver believes in good faith is experiencing an opioid overdose if the caregiver has received the opioid overdose information provided for in Section 44‑130‑30.

 (B) A caregiver who administers an opioid antidote in accordance with the provisions of this section is not subject to civil or criminal liability.

HISTORY: 2015 Act No. 54 (H.3083), Section 1, eff June 3, 2015.

**SECTION 44‑130‑60.** First responder may administer opioid antidote; immunity.

 (A) A first responder may administer an opioid antidote in an emergency if the first responder believes in good faith that the person is experiencing an opioid overdose.

 (B) The first responder must comply with all applicable requirements for possession, administration, and disposal of the opioid antidote and administration device. The department may promulgate regulations to implement this section, including appropriate training for first responders who carry or have access to an opioid antidote.

 (C) A first responder who administers an opioid antidote in accordance with the provisions of this section to a person whom the first responder believes in good faith is experiencing an opioid overdose is not by an act or omission subject to civil or criminal liability or to professional disciplinary action.

Text of (D) effective January 1, 2021.

 (D)(1) A first responder who administers an opioid antidote as provided in this section shall report to the department's Bureau of Emergency Medical Services information regarding the opioid antidote administered for inclusion in the prescription monitoring program. The information submitted must include:

 (a) date the opioid antidote was administered; and

 (b) name, address, and date of birth of the person to whom the opioid antidote was administered, if available.

 (2) A first responder shall submit the information required pursuant to item (1) electronically or by facsimile to the Bureau of Emergency Services within thirty days of administration. The Bureau of Emergency Medical Services shall transmit the information to the department's Bureau of Drug Control.

 (3)(a) If a first responder submits the name, address, and date of birth of a person to whom an opioid antidote was administered, Drug Control shall verify whether any prescription history of the person appears in the prescription monitoring program and, if prescription history exists, shall document for review by a practitioner or an authorized delegate the date on which the opioid antidote was administered to the person. If no history exists, then Drug Control shall confirm that the antidote was administered in response to a verified opioid overdose. If the antidote was administered in error, then Drug Control shall document the error.

 (b) Drug Control also shall maintain data on the administering of opioid antidotes by first responders including, but not limited to, the frequency with which first responders administer opioid antidotes by geographic location, first responder, and dispenser.

HISTORY: 2015 Act No. 54 (H.3083), Section 1, eff June 3, 2015; 2019 Act No. 65 (H.3728), Section 2, eff January 1, 2021.

Editor's Note

2019 Act No. 65, preamble, provides as follows:

"Whereas, the South Carolina General Assembly is committed to combatting the opioid epidemic occurring within this State; and

"Whereas, the South Carolina General Assembly has enacted and is working to enact legislation aimed at stemming the misuse of opioids in South Carolina; and

"Whereas, collecting information related to opioid use and misuse helps those working to better understand the complexities of substance abuse disorders and enables those working with patients suffering from this disease to develop strategies for treatment, education, and care; and

"Whereas, the purpose of this legislation is to provide data to health care professionals treating patients who have been diagnosed with an opioid overdose and received an antidote in response to that overdose; and

"Whereas, the South Carolina General Assembly intends for the information collected pursuant to this law to be used by health care professionals to assist patients in getting appropriate treatment including, but not limited to, treatment for substance abuse disorder; and

"Whereas, the General Assembly intends further that the information collected pursuant to this law should not be used as the sole determining factor in a decision regarding whether to treat or refuse to treat a patient suffering from an opioid misuse. Now, therefore, [text of act]."

Effect of Amendment

2019 Act No. 65, Section 2, added (D), requiring first responders to submit certain information to DHEC for inclusion in the prescription monitoring program.

**SECTION 44‑130‑70.** Prescription of opioid antidotes to community distributors.

 (A) A prescriber acting in good faith and exercising reasonable care may directly or by standing order prescribe an opioid antidote to a community distributor for the purpose of distributing the opioid antidote to:

 (1) a person at risk of experiencing an opiate‑related overdose; or

 (2) a caregiver of a person at risk of experiencing an opiate‑related overdose.

 (B) A pharmacist may dispense an opioid antidote to a community distributor pursuant to a prescription or standing order issued in accordance with this section.

 (C)(1) A community distributor acting in good faith may distribute an opioid antidote:

 (a) obtained pursuant to a written prescription or standing order issued in accordance with this section; and

 (b) pursuant to a written joint protocol issued by the Board of Medical Examiners and the Board of Pharmacy.

 (2) Not later than six months after passage of this act, the Board of Medical Examiners and the Board of Pharmacy must issue a written joint protocol to authorize a community distributor to distribute an opioid antidote without a patient‑specific written order or prescription to a person at risk of experiencing an opioid‑related overdose or to a caregiver of such a person, and without the requirement for a pharmacist to dispense the opioid antidote.

 (3) The Board of Medical Examiners and the Board of Pharmacy must appoint an advisory committee to advise and assist in the development of the joint protocol for their consideration. The membership of the committee must include, but not be limited to, a representative of the Department of Health and Environmental Control, a representative of the Department of Alcohol and Other Drug Abuse Services, and health care professionals licensed in the State.

 (4) For purposes of this subsection, "caregiver" means a person who is not at risk of an opioid overdose but who, in the judgment of the community distributor, may be in a position to assist another individual during an overdose.

 (D) A community distributor that distributes an opioid antidote in accordance with the provisions of this section is not as a result of an act or omission subject to civil or criminal liability.

HISTORY: 2018 Act No. 169 (H.4600), Section 1, eff May 3, 2018.

**SECTION 44‑130‑80.** Reporting of administered opioid antidote.

Section effective January 1, 2021.

 (A) If a person is administered an opioid antidote in a hospital emergency department or other health care facility and the supervising physician diagnoses the patient as having experienced an opioid overdose, the health care facility, as defined in Section 44‑7‑130, shall report to the department's Bureau of Drug Control information regarding the opioid antidote administered for inclusion in the prescription monitoring program. The information submitted must include:

 (1) date the opioid antidote was administered; and

 (2) name, address, and date of birth of the person to whom the opioid antidote was administered.

 (B) The health care facility, as defined in Section 44‑7‑130, shall submit the information required pursuant to subsection (A) electronically or by facsimile to Drug Control within thirty days after a discharge diagnosis of an opioid overdose and administration of an opioid antidote.

 (C)(1) After a health care facility, as defined in Section 44‑7‑130, submits the name, address, and date of birth of a person to whom an opioid antidote was administered as required by subsection (A), Drug Control shall verify whether any prescription history of the person appears in the prescription monitoring program and, if prescription history exists, shall document for review by a practitioner or an authorized delegate the date on which the opioid antidote was administered to the person.

 (2) Drug Control also shall maintain data on the administering of opioid antidotes as required by this section including, but not limited to, the frequency with which opioid antidotes are administered in hospital emergency departments as required pursuant to subsection (A) and other health care facilities by geographic location.

HISTORY: 2019 Act No. 65 (H.3728), Section 1, eff January 1, 2021.

Editor's Note

2019 Act No. 65, preamble, provides as follows:

"Whereas, the South Carolina General Assembly is committed to combatting the opioid epidemic occurring within this State; and

"Whereas, the South Carolina General Assembly has enacted and is working to enact legislation aimed at stemming the misuse of opioids in South Carolina; and

"Whereas, collecting information related to opioid use and misuse helps those working to better understand the complexities of substance abuse disorders and enables those working with patients suffering from this disease to develop strategies for treatment, education, and care; and

"Whereas, the purpose of this legislation is to provide data to health care professionals treating patients who have been diagnosed with an opioid overdose and received an antidote in response to that overdose; and

"Whereas, the South Carolina General Assembly intends for the information collected pursuant to this law to be used by health care professionals to assist patients in getting appropriate treatment including, but not limited to, treatment for substance abuse disorder; and

"Whereas, the General Assembly intends further that the information collected pursuant to this law should not be used as the sole determining factor in a decision regarding whether to treat or refuse to treat a patient suffering from an opioid misuse. Now, therefore, [text of act]."