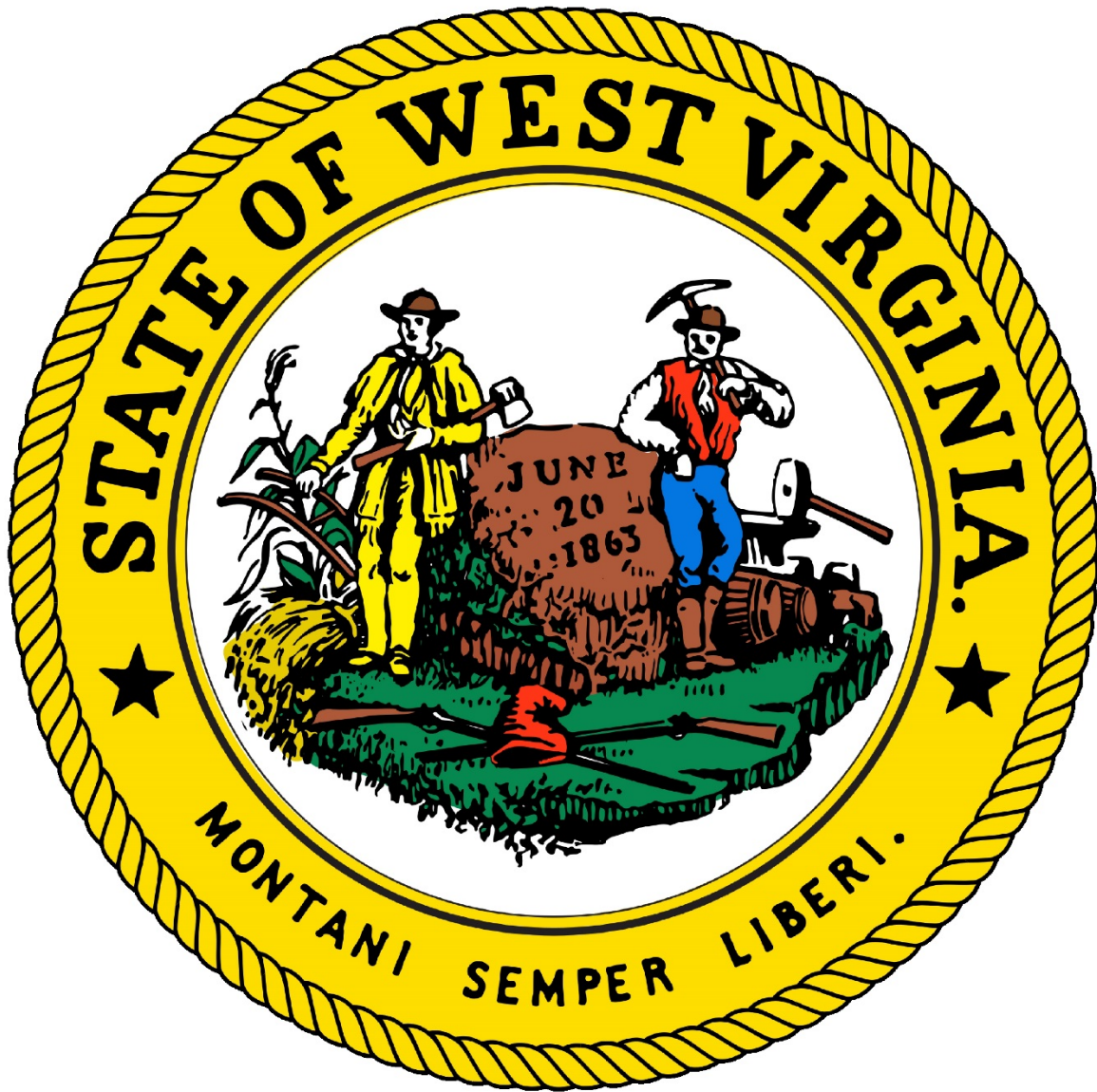


Access to Opioid Antagonists Act



Senate Bill 335

ARTICLE 46. ACCESS TO OPIOID ANTAGONISTS ACT.

§16-46-1. Purpose and findings.

(a) The purpose of this article is to prevent deaths in circumstances involving individuals who have overdosed on opiates.

(b) The Legislature finds that permitting licensed health care providers to prescribe opioid antagonists to initial responders as well as individuals at risk of experiencing an overdose, their relatives, friends or caregivers may prevent accidental deaths as a result of opiate-related overdoses.

§16-46-2. Definitions.

As used in this article:

(1) "Initial responder" means emergency medical service personnel, as defined in subdivision (g), section three, article four-c of this chapter, including, but not limited to, a member of the West Virginia State Police, a sheriff, a deputy sheriff, a municipal police officer, a volunteer or paid firefighter and any other person acting under color of law who responds to emergencies.

(2) "Licensed health care provider" means a person, partnership, corporation, professional limited liability company, health care facility or institution licensed by or certified in this state to provide health care or professional health care services. This includes, but is not limited to, medical physicians, allopathic and osteopathic physicians, pharmacists, physician assistants or osteopathic physician assistants who hold a certificate to prescribe drugs, advanced nurse practitioners who hold a certificate to prescribe drugs, hospitals, emergency service agencies and others as allowed by law to prescribed drugs.

(3) "Opiates" or "opioid drugs" means drugs that are members of the natural and synthetic opium family, including, but not limited to, heroin, morphine, codeine, methadone, oxycodone, hydrocodone, fentanyl and hydromorphone.

(4) "Opioid antagonist" means a federal Food and Drug Administration-approved drug for the treatment of an opiate-related overdose, such as naloxone hydrochloride or other substance, that, when administered, negates or neutralizes, in whole or in part, the pharmacological effects of an opioid in the body.

(5) "Opioid overdose prevention and treatment training program" or "program" means any program operated or approved by the Office of Emergency Medical Services as set forth in rules promulgated pursuant to this article.

(6) "Overdose" means an acute condition, including, but not limited to, life-threatening physical illness, coma, mania, hysteria or death, which is the result of the consumption or use of opioid drugs.

(7) "Standing order" means a written document containing rules, policies, procedures, regulations and orders for the conduct of patient care, including the condition being treated, the action to be taken and the dosage and route of administration for the drug prescribed.

§16-46-3. Licensed health care providers may prescribe opioid antagonists to initial responders and certain individuals; required educational materials; limited liability.

(a) All licensed health care providers in the course of their professional practice may offer to initial responders a prescription for opioid antagonists, including a standing order, to be used during the course of their professional duties as initial responders.

(b) All licensed health care providers in the course of their professional practice may offer to a person considered by the licensed health care provider to be at risk of experiencing an opiate-related overdose, or to a relative, friend, caregiver or person in a position to assist a person at risk of experiencing an opiate-related overdose, a prescription for an opioid antagonist.

(c) All licensed health care providers who prescribe an opioid antagonist under this section shall provide educational materials to any person or entity receiving such a prescription on opiate-related overdose prevention and treatment programs, as well as materials on administering the prescribed opioid antagonist.

(d) Any person who possesses an opioid antagonist and administers it to a person whom they believe to be suffering from an opioid-related overdose and who is acting in good faith is not, as a result of his or her actions or omissions, subject to criminal prosecution arising from the possession of an opioid antagonist or subject to any civil liability with respect to the administration of or failure to administer the opioid antagonist unless the act or failure to act was the result of gross negligence or willful misconduct.

(e) Any person who administers an opioid antagonist to a person whom they believe to be suffering from an opioid-related overdose is required to seek additional medical treatment at a medical facility for that person immediately following the administration of the opioid antagonist to avoid further complications as a result of suspected opioid-related overdose.

§16-46-4. Possession and administration of an opioid antagonist by an initial responder; limited liability.

(a) An initial responder who is not otherwise authorized to administer opioid antagonists may possess opioid antagonists in the course of his or her professional duties as an initial responder and administer an opioid antagonist in an emergency situation if:

(1) The initial responder has successfully completed the training required by subsection (b), section six of this article; and

(2) The administration thereof is done after consultation with medical command, as defined in subdivision (k), section three, article four-c of this chapter: *Provided*, That an initial responder may administer an opioid antagonist without consulting medical command if he or she is unable to so consult due to an inability to contact medical command because of circumstances outside the control of the initial responder or if there is insufficient time for the consultation based upon the emergency conditions presented.

(b) An initial responder who meets the requirements of subsection (a) of this section, acting in good faith, is not, as a result of his or her actions or omissions, subject to civil liability or criminal prosecution arising from or relating to the administration of the opioid antagonist unless the actions or omissions were the result of the initial responder's gross negligence or willful misconduct.

§16-46-5. Licensed health care providers' limited liability related to opioid antagonist prescriptions.

(a) A licensed health care provider who is permitted by law to prescribe drugs, including opioid antagonists, may, if acting in good faith, prescribe and subsequently dispense or distribute an opioid antagonist without being subject to civil liability or criminal prosecution unless prescribing the opioid antagonist was the result of the licensed health care provider's gross negligence or willful misconduct.

(b) For purposes of this chapter and chapter sixty-a, any prescription written, as described in section three of this article, shall be presumed as being issued for a legitimate medical purpose in the usual course of professional practice unless the presumption is rebutted by a preponderance of the evidence.

§16-46-6. Data collection and reporting requirements; training.

(a) Beginning March 1, 2016, and annually thereafter the following reports shall be compiled:

(1) The Office of Emergency Medical Services shall collect data regarding each administration of an opioid antagonist by an initial responder. The Office of Emergency Medical Services shall report this information to the Legislative Oversight Commission on Health and Human Resources Accountability and the West Virginia Bureau for Behavioral Health and Health Facilities. The data collected and reported shall include:

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

(B) The number of individuals who received training to administer an opioid antagonist;

(C) The number of individuals who received an opioid antagonist administered by an initial responder;

(D) The number of individuals who received an opioid antagonist administered by an initial responder who were revived;

(E) The number of individuals who received an opioid antagonist administered by an initial responder who were not revived; and

(F) The cause of death of individuals who received an opioid antagonist administered by an initial responder and were not revived.

(2) Each licensed health care provider shall submit data to the West Virginia Board of Pharmacy by February 1 of each calendar year, excluding any personally identifiable information, regarding the number of opioid antagonist prescriptions written in accordance with this article in the preceding calendar year. The licensed health care provider shall indicate whether the prescription was written to an individual in the following categories: An initial responder; an individual at risk of opiate-related overdose; a relative of a person at risk of experiencing an opiate-related overdose; a friend of a person at risk of experiencing an opiate-related overdose; or a caregiver or person in a position to assist a person at risk of experiencing an opiate-related overdose.

(3) The West Virginia Board of Pharmacy shall compile all data described in subdivision (2) of this section and any additional data maintained by the Board of Pharmacy related to prescriptions of opioid antagonists. By March 1 and annually thereafter, the Board of Pharmacy shall provide a report of this information to the Legislative Oversight Commission on Health and Human Resources Accountability and the West Virginia Bureau for Behavioral Health and Health Facilities.

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