

SENATE BILL 868

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CF HB 791

By: **Senators Klausmeier, Eckardt, Ferguson, and Middleton**

Introduced and read first time: February 3, 2017

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Overdose Response Program – Prescribing and Dispensing of Naloxone –**
3 **Noncertificate Holders**

4 FOR the purpose of authorizing, notwithstanding certain provisions of law, a certain
5 physician or a certain advanced practice nurse to prescribe and dispense naloxone to
6 certain individuals who have not completed a certain training program; authorizing,
7 notwithstanding certain provisions of law, a certain physician or a certain advanced
8 practice nurse to prescribe and dispense naloxone to certain individuals by issuing a
9 standing order under certain circumstances; authorizing a certain physician or a
10 certain advanced practice nurse who issues a certain standing order to delegate to a
11 certain registered nurse the authority to dispense naloxone to certain individuals;
12 authorizing certain health care providers who have dispensing authority to dispense
13 naloxone to certain individuals in accordance with a certain standing order;
14 prohibiting certain individuals who administer naloxone to a certain individual from
15 being considered to be practicing medicine or registered nursing; prohibiting a
16 certain physician or a certain advanced practice nurse who prescribes or dispenses
17 naloxone to certain individuals in a certain manner from being subject to certain
18 disciplinary action; prohibiting the bringing of a cause of action against certain
19 health care providers for prescribing or dispensing naloxone and certain
20 paraphernalia for the administration of naloxone to certain individuals under a
21 certain provision of law; providing for the construction of certain provisions of law;
22 altering a certain definition; and generally relating to the Overdose Response
23 Program and prescribing and dispensing of naloxone to noncertificate holders.

24 BY repealing and reenacting, with amendments,
25 Article – Health – General
26 Section 13–3101(h), 13–3102, 13–3108, 13–3109, and 13–3110
27 Annotated Code of Maryland
28 (2015 Replacement Volume and 2016 Supplement)

29 BY repealing and reenacting, without amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Health – General
2 Section 13–3104(d)
3 Annotated Code of Maryland
4 (2015 Replacement Volume and 2016 Supplement)

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

7 **Article – Health – General**

8 13–3101.

9 (h) “Standing order” means a written instruction for the prescribing and
10 dispensing of naloxone [to a certificate holder] in accordance with § 13–3108 of this subtitle.

11 13–3102.

12 (A) An Overdose Response Program is a program overseen by the Department for
13 the purpose of providing a means of authorizing certain individuals to administer naloxone
14 to an individual experiencing, or believed to be experiencing, opioid overdose to help
15 prevent a fatality when medical services are not immediately available.

16 (B) **THIS SUBTITLE MAY NOT BE CONSTRUED TO PROHIBIT:**

17 (1) **A LICENSED PHYSICIAN OR AN ADVANCED PRACTICE NURSE WITH**
18 **PRESCRIBING AUTHORITY FROM PRESCRIBING OR DISPENSING NALOXONE TO AN**
19 **INDIVIDUAL WHO IS NOT A CERTIFICATE HOLDER;**

20 (2) **A LICENSED PHARMACIST FROM DISPENSING NALOXONE TO AN**
21 **INDIVIDUAL WHO HAS A PRESCRIPTION BUT WHO IS NOT A CERTIFICATE HOLDER;**
22 **OR**

23 (3) **AN INDIVIDUAL WHO HAS A PRESCRIPTION BUT IS NOT A**
24 **CERTIFICATE HOLDER FROM RECEIVING, POSSESSING, OR ADMINISTERING**
25 **NALOXONE TO AN INDIVIDUAL EXPERIENCING, OR BELIEVED TO BE EXPERIENCING,**
26 **AN OPIOID OVERDOSE.**

27 13–3104.

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

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

31 (i) Be conducted by:

- 1 1. A licensed physician;
- 2 2. An advanced practice nurse;
- 3 3. A pharmacist; or
- 4 4. An employee or a volunteer of a private or public entity
5 who is supervised in accordance with a written agreement between the private or public
6 entity and a supervisory licensed physician, advanced practice nurse, or pharmacist that
7 includes:

8 A. Procedures for providing patient overdose information;

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

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

13 (ii) Include training in:

- 14 1. The recognition of the symptoms of opioid overdose;
- 15 2. The proper administration of naloxone;
- 16 3. The importance of contacting emergency medical services;
- 17 4. The care of an individual after the administration of
18 naloxone; and
- 19 5. Any other topics required by the Department.

20 13–3108.

21 (a) A licensed physician or an advanced practice nurse with prescribing authority
22 may prescribe and dispense naloxone to a certificate holder.

23 (b) A registered nurse may dispense naloxone to a certificate holder in a local
24 health department if the registered nurse complies with:

25 (1) The formulary developed and approved under § 3–403(b) of this article;
26 and

27 (2) The requirements established under § 8–512 of the Health Occupations
28 Article.

1 (c) (1) A licensed physician or an advanced practice nurse with prescribing
2 authority may prescribe and dispense naloxone to a certificate holder by issuing a standing
3 order if the licensed physician or advanced practice nurse:

4 (i) Is employed by the Department or a local health department; or

5 (ii) Supervises or conducts an educational training program under §
6 13–3104(d) of this subtitle.

7 (2) A licensed physician or an advanced practice nurse with prescribing
8 authority who issues a standing order under paragraph (1) of this subsection may delegate
9 to the following persons the authority for dispensing naloxone to a certificate holder:

10 (i) A licensed registered nurse who:

11 1. Is employed by a local health department; and

12 2. Completes a training program approved by the
13 Department; and

14 (ii) An employee or a volunteer of a private or public entity who is
15 authorized to conduct an educational training program in accordance with § 13–3104(d) of
16 this subtitle.

17 (3) Any licensed health care provider who has dispensing authority also
18 may dispense naloxone to a certificate holder in accordance with a standing order issued
19 by a licensed physician.

20 (d) (1) Any licensed health care provider who has prescribing authority may
21 prescribe naloxone to a patient who is believed by the licensed health care provider to be at
22 risk of experiencing an opioid overdose or in a position to assist an individual at risk of
23 experiencing an opioid overdose.

24 (2) A patient who receives a naloxone prescription under paragraph (1) of
25 this subsection is not subject to the training requirements under § 13–3104(d) of this
26 subtitle.

27 (e) A pharmacist may dispense naloxone in accordance with a therapy
28 management contract under Title 12, Subtitle 6A of the Health Occupations Article.

29 **(F) (1) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION:**

30 **(I) A LICENSED PHYSICIAN OR AN ADVANCED PRACTICE NURSE**
31 **WITH PRESCRIBING AUTHORITY MAY PRESCRIBE AND DISPENSE NALOXONE TO AN**
32 **INDIVIDUAL WHO HAS NOT COMPLETED THE TRAINING PROGRAM UNDER §**
33 **13–3104(D) OF THIS SUBTITLE; AND**

1 **(II) A LICENSED PHYSICIAN OR AN ADVANCED PRACTICE NURSE**
2 **WITH PRESCRIBING AUTHORITY WHO IS EMPLOYED BY A LOCAL HEALTH**
3 **DEPARTMENT MAY PRESCRIBE AND DISPENSE NALOXONE TO AN INDIVIDUAL WHO**
4 **HAS NOT COMPLETED THE TRAINING PROGRAM UNDER § 13-3104(D) OF THIS**
5 **SUBTITLE BY ISSUING A STANDING ORDER.**

6 **(2) (I) A LICENSED PHYSICIAN OR AN ADVANCED PRACTICE NURSE**
7 **WITH PRESCRIBING AUTHORITY WHO ISSUES A STANDING ORDER UNDER**
8 **PARAGRAPH (1)(II) OF THIS SUBSECTION MAY DELEGATE TO A LICENSED**
9 **REGISTERED NURSE WHO IS EMPLOYED BY A LOCAL HEALTH DEPARTMENT THE**
10 **AUTHORITY TO DISPENSE NALOXONE TO AN INDIVIDUAL WHO HAS NOT COMPLETED**
11 **THE TRAINING PROGRAM UNDER § 13-3104(D) OF THIS SUBTITLE.**

12 **(II) ANY LICENSED HEALTH CARE PROVIDER WHO HAS**
13 **DISPENSING AUTHORITY MAY DISPENSE NALOXONE TO AN INDIVIDUAL WHO HAS**
14 **NOT COMPLETED THE TRAINING REQUIREMENTS UNDER § 13-3104(D) OF THIS**
15 **SUBTITLE IN ACCORDANCE WITH A STANDING ORDER ISSUED BY A LICENSED**
16 **PHYSICIAN.**

17 13-3109.

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

22 (i) Medicine for the purposes of Title 14 of the Health Occupations
23 Article; or

24 (ii) Registered nursing for the purposes of Title 8 of the Health
25 Occupations Article.

26 (2) An employee or volunteer of a private or public entity who, in
27 accordance with this subtitle, provides naloxone to a certificate holder in accordance with
28 a standing order may not be considered to be practicing:

29 (i) Medicine for the purposes of Title 14 of the Health Occupations
30 Article;

31 (ii) Registered nursing for the purposes of Title 8 of the Health
32 Occupations Article; or

33 (iii) Pharmacy for the purposes of Title 12 of the Health Occupations
34 Article.

1 (b) (1) A licensed physician who prescribes or dispenses naloxone to a
2 certificate holder **OR AN INDIVIDUAL WHO HAS NOT COMPLETED THE TRAINING**
3 **PROGRAM UNDER § 13-3104(D) OF THIS SUBTITLE** in a manner consistent with the
4 protocol established by the authorized private or public entity may not be subject to any
5 disciplinary action under Title 14 of the Health Occupations Article solely for the act of
6 prescribing or dispensing naloxone to the certificate holder **OR INDIVIDUAL**.

7 (2) An advanced practice nurse with prescribing authority who prescribes
8 or dispenses naloxone to a certificate holder **OR AN INDIVIDUAL WHO HAS NOT**
9 **COMPLETED THE TRAINING PROGRAM UNDER § 13-3104(D) OF THIS SUBTITLE** in a
10 manner consistent with the protocol established by the authorized private or public entity
11 may not be subject to any disciplinary action under Title 8 of the Health Occupations Article
12 solely for the act of prescribing or dispensing naloxone to the certificate holder **OR**
13 **INDIVIDUAL**.

14 13-3110.

15 (a) An individual who administers naloxone to an individual who is or in good
16 faith is believed to be experiencing an opioid overdose shall have immunity from liability
17 under §§ 5-603 and 5-629 of the Courts and Judicial Proceedings Article.

18 (b) A cause of action may not arise against any licensed physician, advanced
19 practice nurse with prescribing authority, or pharmacist for any act or omission when the
20 physician, advanced practice nurse with prescribing authority, or pharmacist in good faith
21 prescribes or dispenses naloxone and the necessary paraphernalia for the administration
22 of naloxone to a certificate holder, [or] patient, **OR ANY OTHER INDIVIDUAL** under §
23 13-3108 of this subtitle.

24 (c) This subtitle may not be construed to create a duty on any individual to:

25 (1) Obtain a certificate under this subtitle, and an individual may not be
26 held civilly liable for failing to obtain a certificate under this subtitle; or

27 (2) Administer naloxone to an individual who is experiencing or believed
28 by the individual to be experiencing an opioid overdose.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2017.