

**OPIATE OVERDOSE RESPONSE ACT -- PILOT PROGRAM
AND OTHER AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike K. McKell

Senate Sponsor: _____

LONG TITLE

General Description:

This bill renames the Emergency Administration of Opiate Antagonist Act as the Opiate Overdose Response Act, amends the act, and makes related amendments.

Highlighted Provisions:

This bill:

- ▶ renames the Emergency Administration of Opiate Antagonist Act as the Opiate Overdose Response Act;
- ▶ amends definitions;
- ▶ amends liability provisions;
- ▶ creates the Opiate Overdose Outreach Pilot Program within the Department of Health;
- ▶ authorizes grants from the program;
- ▶ specifies how grants may be used;
- ▶ requires annual reporting by grantees;
- ▶ requires rulemaking by the Department of Health;
- ▶ requires annual reporting on the program by the Department of Health;
- ▶ designates program funding as nonlapsing; and
- ▶ makes technical changes.

Money Appropriated in this Bill:



28 This bill appropriates:

29 ▶ to Department of Health -- Disease Control and Prevention, as an ongoing
30 appropriation:

31 • from the General Fund, \$500,000, for the newly created Opiate Overdose
32 Outreach Pilot Program; and

33 ▶ to Department of Health -- Disease Control and Prevention, as a one-time
34 appropriation:

35 • from the General Fund, \$500,000, for the newly created Opiate Overdose
36 Outreach Pilot Program.

37 **Other Special Clauses:**

38 None

39 **Utah Code Sections Affected:**

40 AMENDS:

41 **26-55-101**, as enacted by Laws of Utah 2014, Chapter 130

42 **26-55-102**, as enacted by Laws of Utah 2014, Chapter 130

43 **26-55-104**, as enacted by Laws of Utah 2014, Chapter 130

44 **58-17b-507**, as enacted by Laws of Utah 2014, Chapter 130

45 **58-31b-703**, as enacted by Laws of Utah 2014, Chapter 130

46 **58-67-702**, as enacted by Laws of Utah 2014, Chapter 130

47 **58-68-702**, as enacted by Laws of Utah 2014, Chapter 130

48 **58-70a-505**, as enacted by Laws of Utah 2014, Chapter 130

49 **63J-1-602.1**, as last amended by Laws of Utah 2015, Chapters 136 and 180

50 ENACTS:

51 **26-55-105**, Utah Code Annotated 1953



53 *Be it enacted by the Legislature of the state of Utah:*

54 Section 1. Section **26-55-101** is amended to read:

55 **CHAPTER 55. OPIATE OVERDOSE RESPONSE ACT**

56 **26-55-101. Title.**

57 This chapter is known as the "[~~Emergency Administration of~~] Opiate [~~Antagonist~~]
58 Overdose Response Act."

59 Section 2. Section **26-55-102** is amended to read:

60 **26-55-102. Definitions.**

61 As used in this chapter:

62 (1) "Controlled substance" means the same as that term is defined in Title 58, Chapter
 63 37, Utah Controlled Substances Act.

64 ~~[(1)]~~ (2) "Health care facility" means a hospital, a hospice inpatient residence, a
 65 nursing facility, a dialysis treatment facility, an assisted living residence, an entity that provides
 66 home- and community-based services, a hospice or home health care agency, or another facility
 67 that provides or contracts to provide health care services, which facility is licensed under
 68 Chapter 21, Health Care Facility Licensing and Inspection Act.

69 ~~[(2)]~~ (3) "Health care provider" means:

70 (a) a physician, as defined in Section [58-67-102](#);

71 (b) an advanced practice registered nurse, as defined in Subsection [58-31b-102](#)(13); or

72 (c) a physician assistant, as defined in Section [58-70a-102](#).

73 (4) "Increased risk" means risk exceeding the risk typically experienced by an
 74 individual who is not using, and is not likely to use, an opiate.

75 ~~[(3)]~~ (5) "Opiate" ~~[is]~~ means the same as that term is defined in Section [58-37-2](#).

76 ~~[(4)]~~ (6) "Opiate antagonist":

77 (a) means naloxone hydrochloride or any similarly acting drug that is not a controlled
 78 substance and that is approved by the federal Food and Drug Administration for the treatment
 79 of ~~[a]~~ an opiate-related drug overdose[-] event; and

80 (b) includes paraphernalia required to administer the drug.

81 ~~[(5)]~~ (7) "Opiate-related drug overdose event" means an acute condition, including a
 82 decreased level of consciousness or respiratory depression resulting from the consumption or
 83 use of a controlled substance, or another substance with which a controlled substance was
 84 combined, and that a person would reasonably believe to require medical assistance.

85 Section 3. Section **26-55-104** is amended to read:

86 **26-55-104. Prescribing, dispensing, and administering an opiate antagonist --**

87 **Immunity from liability.**

88 (1) (a) (i) For purposes of Subsection (1)(a)(ii), "a person other than a health care
 89 facility or health care provider" includes a person described in Subsections [26-55-105](#)(1)(a)(i)

90 through (1)(a)(iv).

91 (ii) Except as provided in Subsection (1)(b), a person other than a health care facility or
92 health care provider who acts in good faith to administer an opiate antagonist to [~~another~~
93 ~~person~~] an individual whom the person believes to be [~~suffering~~] experiencing an opiate-related
94 drug overdose event is not liable for any civil damages [~~or~~] for acts or omissions made as a
95 result of administering the opiate antagonist.

96 (b) A health care provider:

97 (i) does not have immunity from liability under Subsection (1)(a) when the health care
98 provider is acting within the scope of the health care provider's responsibilities or duty of care;
99 and

100 (ii) does have immunity from liability under Subsection (1)(a) if the health care
101 provider is under no legal duty to respond and otherwise complies with Subsection (1)(a).

102 (2) Notwithstanding Sections [58-1-501](#), [58-17b-501](#), and [58-17b-502](#), a health care
103 provider who is licensed to prescribe [~~or dispense~~] an opiate antagonist may[~~, without a~~
104 ~~prescriber-patient relationship,~~] prescribe or dispense an opiate antagonist [~~without liability for~~
105 ~~any civil damages or acts or omissions made as a result of prescribing or dispensing an opiate~~
106 ~~antagonist in good faith, to~~]:

107 (a) (i) to an individual who is at increased risk of experiencing [~~or who is likely to~~
108 ~~experience~~] an opiate-related drug overdose event; or

109 [~~(b)~~] (ii) to a family member of, friend of, or other person, including a person described
110 in Subsections [26-55-105](#)(1)(a)(i) through (1)(a)(iv), who [~~may be~~] is in a position to assist an
111 individual who may be at increased risk of experiencing [~~or who is likely to experience~~] an
112 opiate-related drug overdose event[~~;~~];

113 (b) without a prescriber-patient relationship; and

114 (c) without liability for any civil damages for acts or omissions made as a result of
115 prescribing or dispensing the opiate antagonist in good faith.

116 (3) A [~~person~~] health care provider who [~~prescribes or~~] dispenses an opiate antagonist
117 to an individual under Subsection (2)(a) shall provide education to the individual [~~described in~~
118 ~~Subsection (2)(a) or (b)~~] that includes [~~instructions to take the person who received~~
119 instruction]:

120 (a) on the proper administration of the opiate antagonist; and

121 (b) that the individual to whom the opiate antagonist is dispensed should ensure that
122 the individual to whom the opiate antagonist is administered is taken to an emergency care
123 facility for a medical evaluation immediately following administration of the opiate antagonist.

124 Section 4. Section **26-55-105** is enacted to read:

125 **26-55-105. Opiate Overdose Outreach Pilot Program -- Grants -- Annual**
126 **reporting by grantees -- Rulemaking -- Annual reporting by department.**

127 (1) For purposes of this section, "persons who may be in a position to assist an
128 individual who is at increased risk of experiencing an opiate-related drug overdose event":

129 (a) means the following organizations:

130 (i) a law enforcement agency;

131 (ii) an organization that provides drug or alcohol treatment services;

132 (iii) an organization that provides services to the homeless;

133 (iv) an organization that provides training on the proper administration of an opiate
134 antagonist in response to an opiate-related drug overdose event; or

135 (v) except as provided in Subsection (1)(b), any other organization, as defined by
136 department rule made under Subsection (7)(e), that may be in a position to assist an individual
137 who is at increased risk of experiencing an opiate-related drug overdose event; and

138 (b) does not mean:

139 (i) a person licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

140 (ii) a health care facility; or

141 (iii) an individual.

142 (2) There is created within the department the "Opiate Overdose Outreach Pilot
143 Program."

144 (3) No later than September 1, 2016, and with available funding, the department shall
145 grant funds through the program to persons who may be in a position to assist an individual
146 who is at increased risk of experiencing an opiate-related drug overdose event.

147 (4) Funds granted by the program:

148 (a) may be used by a grantee to:

149 (i) pay for the purchase by the grantee of an opiate antagonist; or

150 (ii) pay for the grantee's cost of providing training on the proper administration of an
151 opiate antagonist in response to an opiate-related drug overdose event; and

152 (b) may not be used:
153 (i) to pay for costs associated with the storage or dispensing of an opiate antagonist; or
154 (ii) for any other purposes.
155 (5) Grantees shall report annually to the department on the use of granted funds in
156 accordance with department rules made under Subsection (7)(d).
157 (6) The department may not use funds appropriated to it for the program to pay for
158 costs associated with administering the program.
159 (7) No later than July 1, 2016, the department shall, in accordance with Title 63G,
160 Chapter 3, Utah Administrative Rulemaking Act, make rules specifying:
161 (a) how to apply for a grant from the program;
162 (b) the criteria used by the department to determine whether a grant request is
163 approved, including criteria providing that:
164 (i) grants are awarded to areas of the state, including rural areas, that would benefit
165 most from the grant; and
166 (ii) no more than 15% of the total amount granted by the program is used to pay for
167 grantees' costs of providing training on the proper administration of an opiate antagonist in
168 response to an opiate-related drug overdose event;
169 (c) the criteria used by the department to determine the amount of a grant;
170 (d) the information a grantee shall report annually to the department under Subsection
171 (4), including:
172 (i) the amount of opiate antagonist purchased and dispensed by the grantee during the
173 reporting period;
174 (ii) the names of the individuals to whom the opiate antagonist was dispensed by the
175 grantee;
176 (iii) the number of lives known to have been saved during the reporting period as a
177 result of opiate antagonist dispensed by the grantee; and
178 (iv) the manner in which the grantee shall record, preserve, and make available for
179 audit by the department the information described in Subsections (7)(d)(i) through (7)(d)(iii);
180 and
181 (e) as required by Subsection (1)(a)(v), any other organization that may be in a position
182 to assist an individual who is at increased risk of experiencing an opiate-related drug overdose

183 event.

184 (8) The department shall report to the Legislature's Social Services Appropriations
 185 Subcommittee no later than September 1 of each year on the outcomes of the Opiate Overdose
 186 Outreach Pilot Program.

187 Section 5. Section **58-17b-507** is amended to read:

188 **58-17b-507. Opiate antagonist -- Immunity from liability -- Exclusion from**
 189 **unlawful or unprofessional conduct.**

190 (1) As used in this section:

191 (a) "Opiate antagonist" means the same as that term is defined in Section 26-55-102.

192 (b) "Opiate-related drug overdose event" means the same as that term is defined in
 193 Section 26-55-102.

194 ~~[(1)]~~ (2) A person licensed under this chapter who dispenses an opiate antagonist [as
 195 ~~defined in Section 26-55-102]~~ to an individual with a prescription for an opiate antagonist is
 196 not liable for any civil damages resulting from the outcomes that result from the eventual
 197 administration of the opiate antagonist to ~~[a person]~~ an individual who another ~~[person]~~
 198 individual believes is ~~[suffering]~~ experiencing an opiate-related drug overdose ~~[as defined in~~
 199 ~~Section 26-55-102]~~ event.

200 ~~[(2)]~~ (3) The provisions of this section and Title 26, Chapter 55, Opiate Overdose
 201 Response Act, do not establish a duty or standard of care in the prescribing, dispensing, or
 202 administration of an opiate antagonist.

203 ~~[(3)]~~ (4) It is not unprofessional conduct or unlawful conduct for a licensee under this
 204 chapter to dispense an opiate antagonist to a person, including a person described in
 205 Subsections 26-55-105(1)(a)(i) through (1)(a)(iv), on behalf of [another person] an individual if
 206 the person obtaining the opiate antagonist has a prescription for the opiate antagonist from a
 207 licensed prescriber.

208 Section 6. Section **58-31b-703** is amended to read:

209 **58-31b-703. Opiate antagonist -- Exclusion from unprofessional or unlawful**
 210 **conduct.**

211 ~~[(1) Title 26, Chapter 55, Emergency Administration of Opiate Antagonist Act, applies~~
 212 ~~to a licensee under this chapter.]~~

213 (1) As used in this section:

214 (a) "Dispensing" means the same as that term is defined in Section [58-17b-102](#).
215 (b) "Increased risk" means the same as that term is defined in Section [26-55-102](#).
216 (c) "Opiate antagonist" means the same as that term is defined in Section [26-55-102](#).
217 (d) "Opiate-related drug overdose event" means the same as that term is defined in
218 Section [26-55-102](#).

219 (e) "Prescribing" means the same as that term is defined in Section [58-17b-102](#).

220 (2) The prescribing or dispensing of an opiate antagonist [~~as defined in Section~~
221 ~~26-55-102~~] by a licensee under this chapter is not unprofessional or unlawful conduct if the
222 licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

223 (a) [~~a person~~] an individual who is at increased risk of experiencing [~~or who is likely to~~
224 ~~experience~~] an opiate-related drug overdose event [~~as defined in Section 26-55-102~~]; or

225 (b) a family member of, friend of, or other person, including a person described in
226 Subsections 26-55-105(1)(a)(i) through (1)(a)(iv), who is in a position to assist [~~a person~~] an
227 individual who [~~may be~~] is at increased risk of experiencing [~~or who is likely to experience~~] an
228 opiate-related drug overdose event.

229 (3) The provisions of this section and Title 26, Chapter 55, [~~Emergency Administration~~
230 ~~of~~] Opiate [~~Antagonist~~] Overdose Response Act, do not establish a duty or standard of care in
231 the prescribing, dispensing, or administration of an opiate antagonist.

232 Section 7. Section **58-67-702** is amended to read:

233 **58-67-702. Opiate antagonist -- Exclusion from unlawful or unprofessional**
234 **conduct.**

235 [~~(1) Title 26, Chapter 55, Emergency Administration of Opiate Antagonist Act, applies~~
236 ~~to a licensee under this chapter.~~]

237 (1) As used in this section:

238 (a) "Dispensing" means the same as that term is defined in Section [58-17b-102](#).

239 (b) "Increased risk" means the same as that term is defined in Section [26-55-102](#).

240 (c) "Opiate antagonist" means the same as that term is defined in Section [26-55-102](#).

241 (d) "Opiate-related drug overdose event" means the same as that term is defined in
242 Section [26-55-102](#).

243 (e) "Prescribing" means the same as that term is defined in Section [58-17b-102](#).

244 (2) The prescribing or dispensing of an opiate antagonist [~~as defined in Section~~

245 ~~26-55-102~~] by a licensee under this chapter is not unprofessional or unlawful conduct if the
 246 licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

247 (a) ~~[a person]~~ an individual who is at increased risk of experiencing ~~[or who is likely to~~
 248 ~~experience]~~ an opiate-related drug overdose event ~~[as defined in Section 26-55-102]~~; or

249 (b) a family member of, friend of, or other person, including a person described in
 250 Subsections 26-55-105(1)(a)(i) through (1)(a)(iv), who is in a position to assist ~~[a person]~~ an
 251 individual who ~~[maybe]~~ is at increased risk of experiencing ~~[or who is likely to experience]~~ an
 252 opiate-related drug overdose event.

253 (3) The provisions of this section and Title 26, Chapter 55, ~~[Emergency Administration~~
 254 ~~of]~~ Opiate ~~[Antagonist]~~ Overdose Response Act, do not establish a duty or standard of care in
 255 the prescribing, dispensing, or administration of an opiate antagonist.

256 Section 8. Section **58-68-702** is amended to read:

257 **58-68-702. Opiate antagonist -- Exclusion from unlawful or unprofessional**
 258 **conduct.**

259 ~~[(1) Title 26, Chapter 55, Emergency Administration of Opiate Antagonist Act, applies~~
 260 ~~to a licensee under this chapter.]~~

261 (1) As used in this section:

262 (a) "Dispensing" means the same as that term is defined in Section 58-17b-102.

263 (b) "Increased risk" means the same as that term is defined in Section 26-55-102.

264 (c) "Opiate antagonist" means the same as that term is defined in Section 26-55-102.

265 (d) "Opiate-related drug overdose event" means the same as that term is defined in
 266 Section 26-55-102.

267 (e) "Prescribing" means the same as that term is defined in Section 58-17b-102.

268 (2) The prescribing or dispensing of an opiate antagonist ~~[as defined in Section~~
 269 ~~26-55-102]~~ by a licensee under this chapter is not unprofessional or unlawful conduct if the
 270 licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

271 (a) ~~[a person]~~ an individual who is at increased risk of experiencing ~~[or who is likely to~~
 272 ~~experience]~~ an opiate-related drug overdose event ~~[as defined in Section 26-55-102]~~; or

273 (b) a family member of, friend of, or other person, including a person described in
 274 Subsections 26-55-105(1)(a)(i) through (1)(a)(iv), who is in a position to assist ~~[a person]~~ an
 275 individual who ~~[maybe]~~ is at increased risk of experiencing ~~[or who is likely to experience]~~ an

276 opiate-related drug overdose event.

277 (3) The provisions of this section and Title 26, Chapter 55, [~~Emergency Administration~~
278 ~~of~~] Opiate [~~Antagonist~~] Overdose Response Act, do not establish a duty or standard of care in
279 the prescribing, dispensing, or administration of an opiate antagonist.

280 Section 9. Section **58-70a-505** is amended to read:

281 **58-70a-505. Opiate antagonist -- Exclusion from unlawful or unprofessional**
282 **conduct.**

283 [~~(1) Title 26, Chapter 55, Emergency Administration of Opiate Antagonist Act, applies~~
284 ~~to a licensee under this chapter.~~]

285 (1) As used in this section:

286 (a) "Dispensing" means the same as that term is defined in Section 58-17b-102.

287 (b) "Increased risk" means the same as that term is defined in Section 26-55-102.

288 (c) "Opiate antagonist" means the same as that term is defined in Section 26-55-102.

289 (d) "Opiate-related drug overdose event" means the same as that term is defined in
290 Section 26-55-102.

291 (e) "Prescribing" means the same as that term is defined in Section 58-17b-102.

292 (2) The prescribing or dispensing of an opiate antagonist [~~as defined in Section~~
293 ~~26-55-102~~] by a licensee under this chapter is not unprofessional or unlawful conduct if the
294 licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

295 (a) [~~a person~~] an individual who is at increased risk of experiencing [~~or who is likely to~~
296 ~~experience~~] an opiate-related drug overdose event [~~as defined in Section 26-55-102~~]; or

297 (b) a family member of, friend of, or other person, including a person described in
298 Subsections 26-55-105(1)(a)(i) through (1)(a)(iv), who is in a position to assist [~~a person~~] an
299 individual who [~~maybe~~] is at increased risk of experiencing [~~or who is likely to experience~~] an
300 opiate-related drug overdose event.

301 (3) The provisions of this section and Title 26, Chapter 55, [~~Emergency Administration~~
302 ~~of~~] Opiate [~~Antagonist~~] Overdose Response Act, do not establish a duty or standard of care in
303 the prescribing, dispensing, or administration of an opiate antagonist.

304 Section 10. Section **63J-1-602.1** is amended to read:

305 **63J-1-602.1. List of nonlapsing accounts and funds -- General authority and Title**
306 **1 through Title 30.**

- 307 (1) Appropriations made to the Legislature and its committees.
- 308 (2) The Percent-for-Art Program created in Section 9-6-404.
- 309 (3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in
- 310 Section 9-18-102.
- 311 (4) The LeRay McAllister Critical Land Conservation Program created in Section
- 312 11-38-301.
- 313 (5) An appropriation made to the Division of Wildlife Resources for the appraisal and
- 314 purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.
- 315 (6) Award money under the State Asset Forfeiture Grant Program, as provided under
- 316 Section 24-4-117.
- 317 (7) Funds collected from the program fund for local health department expenses
- 318 incurred in responding to a local health emergency under Section 26-1-38.
- 319 (8) Funds collected from the emergency medical services grant program, as provided in
- 320 Section 26-8a-207.
- 321 (9) The Prostate Cancer Support Restricted Account created in Section 26-21a-303.
- 322 (10) State funds appropriated for matching federal funds in the Children's Health
- 323 Insurance Program as provided in Section 26-40-108.
- 324 (11) The Utah Health Care Workforce Financial Assistance Program created in Section
- 325 26-46-102.
- 326 (12) The primary care grant program created in Section 26-10b-102.
- 327 (13) The Rural Physician Loan Repayment Program created in Section 26-46a-103.
- 328 (14) The Opiate Overdose Outreach Pilot Program created in Section 26-55-105.

329 Section 11. **Appropriation.**

330 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for
331 the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money
332 are appropriated from resources not otherwise appropriated, or reduced from amounts
333 previously appropriated, out of the funds or amounts indicated. These sums of money are in
334 addition to amounts previously appropriated for fiscal year 2017.

335 Item 1. To Department of Health - Disease Control and Prevention

336 From General Fund

\$500,000

337 Schedule of Programs:

338	<u>Opiate Overdose Outreach Pilot Program</u>	<u>\$500,000</u>
339	<u>Item 2. To Department of Health - Disease Control and Prevention</u>	
340	<u>From General Fund, One-time</u>	<u>\$500,000</u>
341	<u>Schedule of Programs:</u>	
342	<u>Opiate Overdose Outreach Pilot Program</u>	<u>\$500,000</u>

Legislative Review Note
Office of Legislative Research and General Counsel