



# Ohio Legislative Service Commission

## Bill Analysis

Brian D. Malachowsky

### Sub. H.B. 170\*

130th General Assembly

(As Reported by S. Medicaid, Health and Human Services)

**Reps.** Johnson and Stinziano, Amstutz, Antonio, Gonzales, Grossman, Letson, Lynch, Maag, Milkovich, Phillips, Reece, Rogers, Sprague, Stebelton, Ramos, Barnes, Bishoff, Brown, Schuring, Sears, Smith, R. Adams, Anielski, Ashford, Baker, Beck, Blair, Blessing, Boose, Boyd, Buchy, Budish, Burkley, Butler, Carney, Celebrezze, Curtin, Damschroder, Derickson, DeVitis, Dovilla, Driehaus, Fedor, Gerberry, Green, Hackett, C. Hagan, Hall, Hayes, Heard, Henne, Hill, Huffman, Landis, Lundy, Mallory, McClain, Patterson, Perales, Redfern, Rosenberger, Ruhl, Sheehy, Slaby, Strahorn, Terhar, Thompson, Winburn, Young, Batchelder

---

## BILL SUMMARY

### Naloxone access

- Authorizes a physician or other health care professional who is authorized to prescribe drugs to personally furnish naloxone or issue a prescription for the drug to a friend, family member, or other individual in a position to provide assistance to an individual who there is reason to believe is at risk of experiencing an opioid-related overdose.
- Grants a health care professional who in good faith furnishes or issues a prescription for naloxone immunity from criminal or civil liability or professional disciplinary action for the actions or omissions of the individual to whom the drug is furnished or prescription is issued.
- Requires the health care professional to instruct the individual to whom the drug is furnished or prescription issued to summon emergency services immediately before or immediately after administering the naloxone.

---

\* This analysis was prepared before the report of the Senate Medicaid, Health and Human Services Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- Grants immunity from criminal liability to a family member, friend, or other individual (except for certain licensed emergency responders) who administers naloxone obtained pursuant to the bill, if the individual summons emergency services.
- Grants immunity from administrative action and criminal prosecution to a peace officer acting in good faith who administers naloxone if it is obtained from the law enforcement agency that employs the officer and that agency is licensed as a terminal distributor of dangerous drugs.
- Requires wholesale and terminal distributors of dangerous drugs to prioritize the sale, distribution, and delivery of naloxone to hospitals, children's hospitals, emergency medical service organizations, and urgent care centers.

### **Internet-based nurse training**

- Permits certain nurses who held prescriptive authority in other jurisdictions to satisfy certain controlled substance training requirements for prescriptive authority in Ohio through Internet-based study.

### **English proficiency standards**

- Establishes additional ways that English proficiency may be demonstrated to the State Medical Board by an applicant for a certificate to practice Oriental medicine or acupuncture.

### **Emergency clause**

- Declares an emergency.

---

## **CONTENT AND OPERATION**

### **Naloxone - background**

Naloxone hydrochloride, commonly known by the trade name Narcan, is a drug that reverses the effects of opioids (such as oxycodone, hydrocodone, and heroin) on the brain. When an individual overdoses on an opioid, the brain's trigger to breathe is effectively turned off and respiration stops. Naloxone displaces the opioid molecules, causing the individual to return to normal respiration. In the United States, naloxone requires a prescription.

Naloxone has been approved by the federal Food and Drug Administration (FDA) for use by intramuscular, intravenous, and subcutaneous administration to



reverse opioid overdose and for adjunct use in the treatment of septic shock.<sup>1</sup> The bill's provisions apply only to naloxone administered intranasally or through an autoinjector (similar to an EpiPen) in a manufactured dosage form.<sup>2</sup> Administration using a nasal atomizer is a common "off label" use of naloxone; for example, the Scioto County naloxone distribution pilot program uses the nasal spray.<sup>3</sup> No autoinjector form has been approved by the FDA.

## **Exception to personal examination requirement for naloxone prescriptions**

The bill creates a limited exception to the requirement that the treating health care professional personally examine the intended recipient of a prescribed drug. Under the bill, a physician (including a podiatrist) or an advanced practice registered nurse or physician assistant who is authorized to prescribe drugs may prescribe or personally furnish naloxone for administration to an individual at risk of overdosing on opioids.<sup>4</sup> The drug may be furnished or prescribed to a family member, friend, or other individual in a position to assist an individual who there is reason to believe is at risk of an opioid-related overdose. The prescriber is required to instruct the individual to whom the drug is furnished or prescription issued to summon emergency services immediately before or immediately after administering the naloxone.

## **Immunity**

### **Prescribers**

The bill grants to a physician, advanced practice registered nurse, or physician assistant who furnishes or issues a prescription for naloxone in good faith in accordance with the bill immunity from criminal or civil liability or professional disciplinary actions for any action or omission of the individual to whom the drug is furnished or prescription is issued.<sup>5</sup>

---

<sup>1</sup> FDA, "Role of Naloxone in Opioid Overdose Fatality Prevention," available at <<http://www.fda.gov/downloads/Drugs/NewsEvents/UCM318909.pdf>>.

<sup>2</sup> R.C. 4723.488(A)(3), 4730.431(A)(3), and 4731.94(B)(3).

<sup>3</sup> Ohio Department of Health, "Project D.A.W.N. (Deaths Avoided With Naloxone) Overdose Reversal Project," available at <<http://www.odh.ohio.gov/sitecore/content/HealthyOhio/default/vipp/data/~~/media/B2D270008F0047739D60B10F0151FCE8.ashx>>.

<sup>4</sup> R.C. 4723.488, 4730.431, and 4731.94.

<sup>5</sup> R.C. 4723.488, 4730.431, and 4731.94.



## **Peace officers**

The bill grants immunity from administrative action and criminal prosecution for the unauthorized practice of medicine and certain drug offenses to a peace officer who does all of the following:<sup>6</sup>

(1) Acts in good faith;

(2) Obtains naloxone from a law enforcement agency licensed as a terminal distributor of dangerous drugs that employs the peace officer;

(3) Administers naloxone to an individual who is apparently experiencing an opioid-related overdose.

## **Other individuals**

The bill grants immunity from criminal prosecution for the unauthorized practice of medicine and certain drug offenses to a family member, friend, or other individual who is in a position to assist an individual who is apparently experiencing or at risk of experiencing an opioid-related overdose if all of the following apply:

(1) The individual acts in good faith;

(2) The individual obtains naloxone or a prescription for naloxone from a licensed health professional;

(3) The individual summons emergency services either immediately before or after administering the naloxone to the individual who is apparently experiencing an opioid-related overdose.<sup>7</sup>

The bill's criminal immunity applies to first responders, but not to emergency medical technicians.<sup>8</sup>

## **Naloxone distribution priority**

The bill requires wholesale and terminal distributors of dangerous drugs, including retail pharmacies, to prioritize the sale, distribution, and delivery of naloxone to the following entities: hospitals, children's hospitals, emergency medical service

---

<sup>6</sup> R.C. 2925.61(D).

<sup>7</sup> R.C. 2925.61(B)

<sup>8</sup> R.C. 2925.61(C).



organizations, and urgent care centers.<sup>9</sup> The bill specifies that it does not establish levels of priority among the prioritized entities.<sup>10</sup> If a naloxone distributor complies with the priority requirements in good faith, the distributor is immune from damages in a civil action, criminal prosecution, and professional disciplinary action.<sup>11</sup>

### **Internet-based nurse training**

Under law unchanged by the bill, a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who has held prescriptive authority in another jurisdiction or for the federal government for at least one year during the three years immediately preceding the application is relieved from the externship training requirement for nurses who have never held prescriptive authority.<sup>12</sup> If such a nurse does not have the recent prescriptive authority experience needed to be exempt from the externship, current law requires that the nurse apply for prescriptive authority in Ohio through the regular process. Under this process, the nurse must show evidence of completing certain advanced pharmacology training.<sup>13</sup> That training must include instruction specific to schedule II controlled substances.<sup>14</sup>

The bill permits these nurses to take the schedule II controlled substance training through an Internet-based course of study.<sup>15</sup> Current law requires that the training be conducted through planned classroom and clinical instruction.<sup>16</sup>

### **English proficiency**

Under current law, an applicant for a certificate to practice Oriental medicine or acupuncture must submit evidence to the State Medical Board of understanding spoken English.<sup>17</sup> The bill adds two additional ways an applicant may demonstrate English language proficiency. It allows an applicant to submit evidence of having successfully completed in English the examination required by the National Certification

---

<sup>9</sup> R.C. 4729.511(B)(1).

<sup>10</sup> R.C. 4729.511(B)(2).

<sup>11</sup> R.C. 4729.511(C).

<sup>12</sup> R.C. 4723.48 (not in the bill).

<sup>13</sup> R.C. 4723.482(A)(2).

<sup>14</sup> R.C. 4723.482(B)(5)(d).

<sup>15</sup> R.C. 4723.482(E).

<sup>16</sup> R.C. 4723.482(B)(2).

<sup>17</sup> R.C. 4762.03(B)(4).



Commission for Acupuncture and Oriental medicine.<sup>18</sup> The bill also allows an Oriental medicine practitioner applicant to submit evidence of previously holding an Ohio certificate to practice acupuncture.<sup>19</sup>

### Emergency clause

The bill declares an emergency.

---

## HISTORY

ACTION	DATE
Introduced	05-21-13
Reported, H. Health & Aging	09-30-13
Passed House (96-0)	10-16-13
Reported, S. Medicaid, Health & Human Services	-----

H0170-RS-130.docx/emr

---

<sup>18</sup> R.C. 4762.03(B)(4)(c).

<sup>19</sup> R.C. 4762.03(B)(4)(d).

