

Senate Study Bill 1209 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL BY
CHAIRPERSON MATHIS)

A BILL FOR

1 An Act relating to drug overdose prevention, including by
2 limiting criminal and civil liability, and modifying
3 penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 85.27, Code 2015, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 1A. If an employee receives care pursuant
4 to subsection 1 and the treating physician or other health care
5 professional reasonably believes, based on such physician's or
6 other health care professional's professional judgment, that
7 the employee is at risk of an opioid-related overdose due to
8 the work-related injury or the treatment of the work-related
9 injury, the cost of an opioid antagonist shall be paid by the
10 employer or the employer's insurance carrier. For purposes
11 of this subsection, "*opioid antagonist*" and "*opioid-related*
12 *overdose*" mean the same as defined in section 124.418.

13 Sec. 2. NEW SECTION. 124.417 Immunity — persons seeking
14 medical assistance for a drug-related overdose.

15 1. For purposes of this section, "*drug-related overdose*"
16 means a condition of a person for which each of the following
17 is true:

18 a. The person requires medical assistance.

19 b. The person displays symptoms including but not limited to
20 extreme physical illness, pinpoint pupils, decreased level of
21 consciousness including coma, or respiratory depression.

22 c. The person's condition is the result of, or a prudent
23 layperson would reasonably believe the person's condition to be
24 the result of, consumption or use of a controlled substance.

25 2. Notwithstanding any other provision of law to the
26 contrary, a person acting in good faith who seeks medical
27 assistance for another person who is experiencing a
28 drug-related overdose shall not be charged or prosecuted for
29 the possession, sharing, or use of a controlled substance
30 under section 124.401 or 124.407 or possession of drug
31 paraphernalia under section 124.414, if evidence for the charge
32 or prosecution was obtained as a result of the person's seeking
33 medical assistance for another person who is experiencing a
34 drug-related overdose and all of the following are true:

35 a. The other person for whom medical assistance is sought is

1 in need of medical assistance for an immediate health or safety
2 concern.

3 *b.* The person is the first person to seek medical assistance
4 for the person experiencing a drug-related overdose.

5 *c.* The person provides such person's name and contact
6 information.

7 *d.* The person remains on the scene until assistance arrives
8 or is provided.

9 *e.* The person cooperates with law enforcement and medical
10 personnel.

11 3. Notwithstanding any other provision of law to the
12 contrary, a person who experiences a drug-related overdose
13 and is in need of medical assistance shall not be charged or
14 prosecuted for possession, sharing, or use of a controlled
15 substance under section 124.401 or 124.407 or possession of
16 drug paraphernalia under section 124.414 if evidence for
17 the charge or prosecution was obtained as a result of the
18 drug-related overdose and the seeking of medical assistance.

19 4. A person's pretrial release, probation, supervised
20 release, or parole shall not be revoked based on an incident
21 for which the person would be immune from prosecution under
22 this section.

23 5. Notwithstanding any other provision of law to the
24 contrary, the act of providing first aid or other medical
25 assistance to someone who is experiencing a drug-related
26 overdose may be considered by the court as a mitigating factor
27 in a criminal prosecution for which immunity is not provided by
28 this section.

29 6. This section shall not be construed to bar the
30 admissibility of any evidence obtained in connection with the
31 investigation and prosecution of any other crime or violation
32 committed by a person who otherwise qualifies for immunity
33 under this section.

34 7. This section shall not preclude the prosecution of a
35 person on the basis of evidence obtained other than as a result

1 of a person seeking medical assistance.

2 Sec. 3. NEW SECTION. 124.418 Possession of an opioid
3 antagonist.

4 1. For purposes of this section:

5 a. "*Health care professional*" means a physician and surgeon
6 or osteopathic physician and surgeon licensed under chapter
7 148, physician assistant licensed under chapter 148C, advanced
8 registered nurse practitioner licensed under chapter 152 or
9 152E, or pharmacist licensed under chapter 155A.

10 b. "*Opioid antagonist*" means a drug that binds to opioid
11 receptors and blocks or inhibits the effects of opioids acting
12 on those receptors, including but not limited to naloxone
13 hydrochloride or any other similarly acting drug approved by
14 the United States food and drug administration.

15 c. "*Opioid-related overdose*" means a condition of a person
16 for which each of the following is true:

17 (1) The person requires medical assistance.

18 (2) The person displays symptoms including but not limited
19 to extreme physical illness, pinpoint pupils, decreased level
20 of consciousness including coma, or respiratory depression.

21 (3) The person's condition is the result of, or a prudent
22 layperson would reasonably believe the person's condition to
23 be the result of, consumption or use of an opioid or another
24 substance with which an opioid was combined.

25 2. Notwithstanding the provisions of this chapter or any
26 other law, a person may possess an opioid antagonist if each of
27 the following is true:

28 a. The opioid antagonist is prescribed, dispensed,
29 furnished, distributed, or otherwise provided by a health
30 care professional otherwise authorized to prescribe an opioid
31 antagonist, either directly, by standing order, or through a
32 collaborative agreement.

33 b. The person is a family member or friend of, or
34 other person in a position to assist, a person at risk of
35 experiencing an opioid-related overdose.

1 Sec. 4. NEW SECTION. 135.181 **Standards and reports on**
2 **opioid antagonist use.**

3 1. For purposes of this section:

4 *a. "Emergency medical services"* means the same as defined
5 in section 147A.1.

6 *b. "First responder"* means emergency medical personnel,
7 state and local law enforcement personnel, or fire department
8 personnel who provide emergency medical services.

9 *c. "Health care professional"* means a physician and surgeon
10 or osteopathic physician and surgeon licensed under chapter
11 148, physician assistant licensed under chapter 148C, advanced
12 registered nurse practitioner licensed under chapter 152 or
13 152E, or pharmacist licensed under chapter 155A.

14 *d. "Opioid antagonist"* means the same as defined in section
15 124.418.

16 2. The department shall develop standards for recordkeeping
17 and reporting of opioid antagonist use by first responders in
18 this state, and shall provide an annual report to the general
19 assembly with recommendations regarding the use of opioid
20 antagonists in this state.

21 3. The department shall consult with health care
22 professional organizations, organizations representing first
23 responders, and other groups as determined by the department
24 to develop protocols and instructions for the administration
25 of an opioid antagonist by a person who is not a health care
26 professional or a first responder. The department shall make
27 the protocols and instructions developed pursuant to this
28 subsection publicly available on the department's internet
29 site.

30 Sec. 5. Section 147.107, Code 2015, is amended by adding the
31 following new subsection:

32 NEW SUBSECTION. 5A. *a.* For purposes of this subsection:

33 (1) *"Opioid antagonist"* means the same as defined in section
34 124.418.

35 (2) *"Opioid-related overdose"* means the same as defined in

1 section 124.418.

2 *b.* Notwithstanding subsection 1 or any other provision
3 of law, a health care professional otherwise authorized to
4 prescribe an opioid antagonist may directly, by standing order,
5 or through collaborative agreement, prescribe, dispense,
6 furnish, or otherwise provide an opioid antagonist to a person
7 at risk of experiencing an opioid-related overdose or to a
8 family member or friend of, or other person whom the health
9 care professional believes to be in a position to assist, a
10 person at risk of experiencing an opioid-related overdose.
11 Any such prescription shall be deemed as being issued for a
12 legitimate medical purpose in the usual course of professional
13 practice.

14 *c.* A health care professional who prescribes an opioid
15 antagonist shall document the reasons for the prescription or
16 standing order.

17 *d.* A pharmacist who dispenses, furnishes, or otherwise
18 provides an opioid antagonist pursuant to a valid prescription,
19 standing order, or collaborative agreement shall provide
20 instruction to the recipient in accordance with the protocols
21 and instructions developed by the department of public health
22 under section 135.181.

23 *e.* A health care professional who is licensed to prescribe
24 an opioid antagonist shall not be subject to any disciplinary
25 action or civil or criminal liability for prescribing an opioid
26 antagonist to a person whom the health care professional
27 reasonably believes may be in a position to assist or
28 administer the opioid antagonist to a person at risk of an
29 opioid-related overdose.

30 Sec. 6. Section 147A.10, Code 2015, is amended by adding the
31 following new subsection:

32 NEW SUBSECTION. 4. *a.* For purposes of this subsection:

33 (1) "*Opioid antagonist*" means the same as defined in section
34 124.418.

35 (2) "*Opioid-related overdose*" means the same as defined in

1 section 124.418.

2 **b.** An emergency medical care provider or a law enforcement
3 officer who has been trained in the administration of an opioid
4 antagonist and acts with reasonable care in administering an
5 opioid antagonist to another person who the emergency medical
6 care provider or law enforcement officer believes in good faith
7 to be suffering an opioid-related overdose shall not be subject
8 to civil liability, disciplinary action, or a civil or criminal
9 penalty for an act or omission related to or resulting from the
10 administration.

11 Sec. 7. NEW SECTION. **155A.45 Administration of an opioid**
12 **antagonist.**

13 1. For purposes of this section:

14 **a.** "*Opioid antagonist*" means the same as defined in section
15 124.418.

16 **b.** "*Opioid-related overdose*" means the same as defined in
17 section 124.418.

18 2. A person who is not otherwise licensed by an appropriate
19 state board to prescribe, dispense, or administer opioid
20 antagonists to patients may, in an emergency, administer an
21 opioid antagonist to another person if the person believes in
22 good faith that the other person is suffering an opioid-related
23 overdose, and the person shall not be subject to civil
24 liability, disciplinary action, or a civil or criminal penalty
25 for an act or omission related to or resulting from the
26 administration of an opioid antagonist.

27 Sec. 8. Section 249A.20A, Code 2015, is amended by adding
28 the following new subsection:

29 NEW SUBSECTION. 12. **a.** For purposes of this subsection,
30 "*opioid antagonist*" means the same as defined in section
31 124.418.

32 **b.** Notwithstanding anything in this section to the contrary,
33 the department shall include an opioid antagonist, including
34 any device integral to its administration, on the preferred
35 drug list. Reimbursement under the medical assistance program

1 shall be provided through existing resources.

2 c. A prescription for an opioid antagonist shall not be
3 subject to prior authorization or other utilization management
4 if the prescriber deems the opioid antagonist medically
5 necessary.

6 EXPLANATION

7 The inclusion of this explanation does not constitute agreement with
8 the explanation's substance by the members of the general assembly.

9 This bill relates to drug overdose prevention and the
10 prescription and administration of opioid antagonists, and
11 provides immunity from certain criminal offenses for a person
12 who seeks medical assistance for a person experiencing an
13 overdose.

14 The bill defines an "opioid antagonist" as a drug that binds
15 to opioid receptors and blocks or inhibits the effects of
16 opioids acting on those receptors, including but not limited
17 to naloxone hydrochloride or any other similarly acting drug
18 approved by the United States food and drug administration.

19 The bill provides that if an employee is provided care under
20 Code chapter 85 (workers' compensation), and the health care
21 professional providing care believes the employee is at risk of
22 an opioid-related overdose, the cost of a prescription for an
23 opioid antagonist shall be paid by the employer or insurance
24 carrier.

25 The bill provides immunity from certain crimes for persons
26 who seek medical assistance for a drug overdose. If a person
27 seeks medical assistance for another person experiencing a drug
28 overdose, or if a person experiencing a drug overdose seeks
29 medical assistance or is the subject of such a request, the
30 person is immune from prosecution for the possession or use of
31 a controlled substance or possession of drug paraphernalia.
32 Immunity for a person who seeks medical assistance for another
33 is only available if the person provided such person's name and
34 contact information, remained on the scene until assistance
35 arrived or was provided, and cooperated with the authorities.

1 The bill provides that a person who is a friend or family
2 member of, or is otherwise in position to assist, a person
3 at risk of an opioid-related overdose may possess an opioid
4 antagonist.

5 The bill directs the department of public health to develop
6 standards for recordkeeping and reporting of opioid-antagonist
7 use by first responders and to provide an annual report to the
8 general assembly with recommendations regarding the use of
9 opioid antagonists. The bill further directs the department
10 of public health to develop protocols and instructions for the
11 administration of an opioid antagonist and make the protocols
12 and instructions publicly available.

13 The bill provides that a health care professional otherwise
14 authorized to prescribe an opioid antagonist may directly, by
15 standing order, or through collaborative agreement, prescribe
16 or furnish an opioid antagonist to a person at risk of
17 experiencing an opioid-related overdose or to a family member
18 or friend of, or other person in a position to assist, a person
19 at risk of experiencing an opioid-related overdose. The bill
20 provides that a health care professional licensed to prescribe
21 an opioid antagonist is not subject to civil liability,
22 disciplinary action, or a civil or criminal penalty for
23 prescribing an opioid antagonist to a person whom the health
24 care professional reasonably believes may be in a position to
25 assist or administer the opioid antagonist to a person at risk
26 of an opioid-related overdose.

27 The bill provides that an emergency medical care provider
28 or a law enforcement officer who has been trained in the
29 administration of an opioid antagonist and acts with
30 reasonable care in administering an opioid antagonist to
31 another person who the emergency medical care provider or law
32 enforcement officer believes in good faith to be suffering an
33 opioid-related overdose is not subject to civil liability,
34 disciplinary action, or a civil or criminal penalty for an act
35 or omission related to or resulting from the administration.

1 The bill provides that a person who is not licensed to
2 prescribe, dispense, or administer opioid antagonists may, in
3 an emergency, administer an opioid antagonist if the person
4 believes in good faith that the other person is suffering
5 an opioid-related overdose. The bill further provides that
6 the person is not subject to civil liability, disciplinary
7 action, or a civil or criminal penalty for an act or omission
8 related to or resulting from the administration of the opioid
9 antagonist.

10 The bill directs the department of human services to include
11 an opioid antagonist on the medical assistance preferred drug
12 list. The bill provides that, under the medical assistance
13 program, a prescription for an opioid antagonist is not subject
14 to prior authorization or other utilization management if the
15 prescriber deems the opioid antagonist medically necessary.