Senate File 410 - Reprinted

SENATE FILE 410
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 1209)

(As Amended and Passed by the Senate March 19, 2015)

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
14 Sec. 2. NEW SECTION. 124.417 Persons seeking medical
15 assistance for drug-related overdose.
16 1. As used in this section, unless the context otherwise
17 requires:
18 a. "Drug-related overdose" means a condition of a person for
19 which each of the following is true:
20 (1) The person is in need of medical assistance.
21 (2) The person displays symptoms including but not limited
22 to extreme physical illness, pinpoint pupils, decreased level
23 of consciousness including coma, or respiratory depression.
24 (3) The person's condition is the result of, or a prudent
25 layperson would reasonably believe such condition to be the
26 result of, the consumption or use of a controlled substance.
27 b. "Overdose patient" means a person who is, or would
28 reasonably be perceived to be, suffering a drug-related
29 overdose.
30 c. "Overdose reporter" means a person who seeks medical
31 assistance for an overdose patient.
32 d. "Protected information" means information or evidence
33 collected or derived as a result of any of the following:
34 (1) An overdose patient's good-faith actions to seek
35 medical assistance while experiencing a drug-related overdose.
36 (2) An overdose reporter's good-faith actions to seek
medical assistance for an overdose patient experiencing a
drug-related overdose if all of the following are true:
(a) The overdose patient is in need of medical assistance
for an immediate health or safety concern.
(b) The overdose reporter is the first person to seek
medical assistance for the overdose patient.
(c) The overdose reporter provides the overdose reporter’s
name and contact information to medical or law enforcement
personnel.
(d) The overdose reporter remains on the scene until
assistance arrives or is provided.
(e) The overdose reporter cooperates with law enforcement
and medical personnel.
2. Protected information shall not be considered to support
probable cause and shall not be admissible as evidence against
an overdose patient or overdose reporter for any of the
following offenses:
a. Violation of section 124.401, subsection 1.
b. Possession of a controlled substance under section
124.401, subsection 5.
c. Violation of section 124.407.
d. Violation of section 124.414.
3. A person’s pretrial release, probation, supervised
release, or parole shall not be revoked based on protected
information.
4. Notwithstanding any other provision of law to the
contrary, the act of providing first aid or other medical
assistance to someone who is experiencing a drug-related
overdose may be considered by a court as a mitigating factor in
a criminal prosecution.
5. This section shall not be construed to limit the use or
admissibility of any evidence in a criminal case other than as
provided in subsection 2.
Sec. 3. NEW SECTION. 124.418 Possession of an opioid
antagonist.
1. For purposes of this section:

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

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

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

      (1) The person requires medical assistance.

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

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

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

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

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

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

1. For purposes of this section:
a. "Emergency medical services" means the same as defined in section 147A.1.

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

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

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

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

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

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

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

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

(2) "Opioid-related overdose" means the same as defined in section 124.418.

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

\[NEW\] Subsection. 4. a. For purposes of this subsection:
(1) "Opioid antagonist" means the same as defined in section 124.418.
(2) "Opioid-related overdose" means the same as defined in 12 section 124.418.

b. An emergency medical care provider or a law enforcement 35 officer who has been trained in the administration of an opioid 36
antagonist and acts with reasonable care in administering an
opioid antagonist to another person who the emergency medical
care provider or law enforcement officer believes in good faith
to be suffering an opioid-related overdose shall not be subject
to civil liability, disciplinary action, or a civil or criminal
penalty for an act or omission related to or resulting from the
administration.

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

1. For purposes of this section:
   a. "Opioid antagonist" means the same as defined in section
      124.418.
   b. "Opioid-related overdose" means the same as defined in
      section 124.418.

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

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

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

b. Notwithstanding anything in this section to the contrary,
   the department shall include an opioid antagonist, including
   any device integral to its administration, on the preferred
   drug list. Reimbursement under the medical assistance program
   shall be provided through existing resources.

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