



DRUG OVERDOSE PREVENTION
FACT SHEET

Texas Overdose Prevention Legislation

Background

Drug overdose is a nationwide epidemic that claims the lives of over 43,000 Americans every year.¹ Texas is not immune to its effects. Over six hundred Texans were confirmed to have been killed by opioids in 2013, but recent reports suggest that this is a vast undercount, with nearly 800 prescription-drug related deaths reported by medical examiners in just 17 of the state's 254 counties.² Over 1,200 people died of accidental overdoses between 2006 and 2010 in Harris County alone.³

Naloxone, a medication that blocks the effects of opioids like oxycodone and heroin, can reverse opioid overdose in most cases if it is given in time.⁴ However, existing medical practice laws typically permit prescribers to prescribe naloxone only to their own patients, and not to the friends, family members, and other people who are may be in a position to use it to save a life. Existing law can also discourage those witnessing an overdose from calling 911 to report the emergency.⁵ Additionally, many of the first responders dispatched to assist overdose victims typically do not carry naloxone and are not trained in its use. The majority of states have now amended their laws to address these problems and increase access to this life-saving medication.⁶

In 2015, Texas joined these states with the enactment of Senate Bill 1462, which contains a number of provisions designed to make it more likely that naloxone will be available when and where it is needed. The law, which passed unanimously, was signed by the Governor on June 18, 2015 and goes into effect on September 1, 2015.⁷ As explained in more detail below, the law expands access to naloxone in several ways.

Prescribing and dispensing of naloxone

The new law contains a number of provisions that will expand access to naloxone. First, it permits any person otherwise authorized to prescribe naloxone to prescribe it not only to a person at risk of overdose, but also to a family member, friend, or other person in a position to assist such a person.⁸ Notably, this prescription can come in the form of a standing order, in which the prescriber issues a prescription for the medication to be dispensed to any person who meets criteria specified by the prescriber, as opposed to a named individual. Under the new law, any prescription for naloxone is considered to be issued for a legitimate medical purpose in the usual course of professional practice. The law also explicitly states that a pharmacist is permitted to dispense naloxone under any prescription that is authorized under the law.

The law also provides both the prescriber and dispenser with protection from criminal and civil liability as well as professional disciplinary action, so long as they act in good faith and with reasonable care, for either prescribing or not



prescribing naloxone, and filling or not filling the prescription.⁹ This protection applies to any outcomes resulting from the eventual administration of the medication as well.

Distribution, possession, and administration of naloxone

The law also addresses several other barriers to naloxone access. First, it permits any person or organization acting under a standing order issued by a prescriber to store and distribute naloxone as long as they don't seek or receive compensation for those actions. This provision permits groups such as nonprofits, drug treatment centers, and other organizations to distribute naloxone to those who might be able to use it to save lives. The law also permits any person to possess naloxone, even if they don't have a prescription for it.¹⁰ Finally, the law permits any person who acts in good faith and with reasonable care to administer naloxone to a person who he or she believes is suffering an opioid-related overdose. Anyone who does so is immune from criminal prosecution, civil liability, and sanction under professional licensing statutes.¹¹

The law also permits emergency services personnel - which includes firefighters, emergency services personnel, emergency room personnel, and other individuals who, either as part of their jobs or as volunteers, provide services for the benefit of the general public during emergencies – to administer naloxone to any person who appears to be suffering an opioid-related overdose.

Conclusion

With the passage of Senate Bill 1462, Texas joins the majority of states that have taken legislative action to increase access to emergency medical care for drug overdose.¹² While it is too early to tell whether this law will reduce overdose deaths, initial data from other states are encouraging. A recent evaluation of a naloxone distribution program in Massachusetts, which trained over 2,900 potential overdose bystanders, reported that opioid overdose death rates were significantly reduced in communities in which the program was implemented compared to those in which it was not.¹³

Evidence from other states suggests that additional action to encourage overdose bystanders to call 911 in the event of an overdose by providing limited criminal immunity to such “Good Samaritans” might prove useful as well. In Washington state, which passed such a law in 2010, 88 percent of people who use drugs surveyed indicated that they would be more likely to summon emergency personnel during an overdose as a result of the legal change.¹⁴ To date, over 30 other states have also passed such laws.



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References

¹ Chen LH, Hedegaard H, Warner M. *QuickStats: Rates of deaths from drug poisoning and drug poisoning involving opioid analgesics—United States, 1999–2013*. 64 MORBIDITY AND MORTALITY WEEKLY REPORT 32 (2015), available at <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6401a10.htm>.

² Olsen, L & Roser M. *Prescription drug deaths in Texas vastly undercounted*, Houston Chronicle (April 25, 2015), available at <http://www.houstonchronicle.com/news/houston-texas/houston/article/Prescription-drug-deaths-in-Texas-vastly-6222850.php>.

³ Olsen, L. *Feds are slow to react to rapid rise in Texas overdoses* (February 7, 2011), available at <http://www.chron.com/news/houston-texas/article/Feds-are-slow-to-react-to-rapid-rise-in-Texas-1691395.php>.

⁴ See C. Baca, et al., *Take-home Naloxone to Reduce Heroin Death*, 100 ADDICTION 1823 (2005); Centers for Disease Control and Prevention, *Community-Based Opioid Overdose Prevention Programs Providing Naloxone – United States*, 2010, 61 MORBIDITY AND MORTALITY WEEKLY REPORT 101 (2012).

⁵ See Davis CS, Webb D, Burris S. *Changing Law from Barrier to Facilitator of Opioid Overdose Prevention*, 41 JOURNAL OF LAW, MEDICINE AND ETHICS 33 (2013).

⁶ For a comprehensive list of other state efforts, see NETWORK FOR PUBLIC HEALTH LAW, LEGAL INTERVENTIONS TO REDUCE OVERDOSE MORTALITY: NALOXONE ACCESS AND GOOD SAMARITAN LAWS (2015), available at http://www.networkforphl.org/_asset/qz5pvn/network-naloxone-10-4.pdf.

⁷ The bill will be codified at Tex. Health & Saf. § 483.101 et seq. The text of the law is available at <https://legiscan.com/TX/text/SB1462/id/1240565>.

⁸ The first provision is unnecessary; a prescriber is permitted under existing law to prescribe naloxone to his or her own patient if he or she believes the prescription is medically indicated.

⁹ The second component is unusual, and was presumably added to clarify that a prescriber or dispenser does not have a legal duty to prescribe or dispense naloxone, and cannot be held liable for failing to do so. It is not clear how this provision would further public health.

¹⁰ In Texas, as in most states, it is a crime to possess a prescription medication unless it was issued to the person who possesses it under a valid prescription. Tex. Health & Saf. § 483.041(a).

¹¹ As with prescribing and dispensing, the immunity also applies to persons who choose not to administer the medication.

¹² For a comprehensive list of other state efforts, see NETWORK FOR PUBLIC HEALTH LAW, LEGAL INTERVENTIONS TO REDUCE OVERDOSE MORTALITY: NALOXONE ACCESS AND GOOD SAMARITAN LAWS (2015), available at http://www.networkforphl.org/_asset/qz5pvn/network-naloxone-10-4.pdf.

¹³ Alex Walley, et al., *Opioid overdose rates and implementation of overdose education and nasal naloxone distribution in Massachusetts: interrupted time series analysis*, 346 BMJ f174 (2013).

¹⁴ Banta-Green, C. *Washington's 911 Good Samaritan Overdose Law: Initial Evaluation Results* (Nov. 2011), available at <http://adai.uw.edu/pubs/infobriefs/ADAI-IB-2011-05.pdf>