



LEGAL INTERVENTIONS TO REDUCE OVERDOSE MORTALITY: NALOXONE ACCESS AND OVERDOSE GOOD SAMARITAN LAWS

Background

Drug overdose is a nationwide epidemic that claims the lives of over 52,000 Americans every year.¹ Opioids, both prescription painkillers and illegal drugs such as heroin and illicitly manufactured fentanyl, are responsible for most of these deaths – over 33,000 in 2015 alone.² Opioids also cause hundreds of thousands of non-fatal overdoses and an incalculable amount of emotional suffering and preventable health care expenses each year.

Many of these negative outcomes are preventable. Opioid overdose is reversible through the timely administration of the medication naloxone and, where needed, the provision of other emergency care.³ However, community access to naloxone was historically limited by laws and regulations that pre-date the overdose epidemic. In an attempt to reverse the unprecedented increase in preventable overdose deaths, all fifty states and the District of Columbia have now modified their laws to increase access to naloxone, the standard first-line treatment for opioid overdose.

Law as both problem and solution

Although naloxone is a prescription drug, it is not a controlled substance and has no abuse potential.⁴ It is regularly utilized by medical first responders and can be administered by ordinary citizens with little or no formal training.⁵ Yet, it is often not available when and where it is needed. Because opioid overdose often occurs when the victim is with friends or family members, those people are often the best situated to act to save his or her life by administering naloxone. Unfortunately, in many cases neither the victim nor his or her companions have the medication on hand.

Law is at least partially responsible for this lack of access. State practice laws generally prohibit the prescription of medications to a person other than the one to whom they will be administered (a process referred to as third-party prescription) or to a person with whom the prescriber does not have a prescriber-patient relationship (a process referred to as prescription via standing order).⁶ Additionally, some medical professionals are wary of prescribing or dispensing naloxone because of liability fears, despite the fact that there is rarely a legal basis for such concerns.⁷ Compounding the problem, people who witness an overdose may be afraid to call for help for fear of being prosecuted for possession of illegal drugs, drug paraphernalia, or other crimes.⁸

At the urging of organizations including the U.S. Conference of Mayors, the American Medical Association, the American Public Health Association, and the National Association of Boards of Pharmacy, all states have removed some legal barriers to the seeking of emergency medical care and the timely administration of naloxone.⁹ These changes come in two general varieties. The first improves the availability of naloxone, typically by permitting it to be prescribed to people other than the person at risk of overdose or otherwise removing the need for a person to see a prescriber before obtaining the medication. The second encourages bystanders to become “Good Samaritans” by summoning emergency responders without fear of arrest or other negative legal consequences.

Overview of naloxone access and Good Samaritan laws

By May 15, 2017, all 50 states and the District of Columbia had passed legislation designed to improve layperson naloxone access.¹⁰ Table 1 displays characteristics of these laws. The columns first display whether the law provides civil, criminal, and disciplinary immunity for medical professionals who prescribe or dispense naloxone, as well as laypeople who administer it.¹¹ The columns then display whether the law permits organizations that are not otherwise permitted to dispense naloxone, such as non-profits and syringe access programs, to distribute the medication, and whether laypeople are permitted to possess naloxone without a prescription. Finally, the columns display whether naloxone is permitted to be prescribed to third parties - that is, to a person other than the person at risk of overdose -- and whether it may be prescribed via a standing order.

As of May 15, 2017, 40 states and the District of Columbia have passed an overdose Good Samaritan law that provides some protection from arrest or prosecution for individuals who report an overdose in good faith.¹² Table 2 displays characteristics of these laws. First, the columns display whether the law provides protection from arrest, charge, and prosecution for both controlled substance possession and paraphernalia possession. The columns then display whether the law provides protection from protective or restraining orders, probation or parole violations, and other crimes. Finally, the columns display whether the law provides that reporting an overdose can be a mitigating factor in sentencing for crimes for which immunity is not provided, and whether the law provides protection from civil forfeiture.¹³

Note that these tables cover only laws that were passed specifically to address drug overdose. That does not necessarily mean the activities covered by the laws in these tables are not permitted in other states, only that they are not explicitly authorized by laws created for that purpose. The categories listed were chosen because of their prevalence in existing laws and may not necessarily reflect best practices.¹⁴

Conclusion

Opioid overdose kills tens of thousands of Americans every year. Many of those deaths are preventable through the timely provision of a relatively cheap, safe and effective drug and the summoning of emergency responders. As with most public health problems, there is no magic bullet to preventing overdose deaths. A comprehensive solution that includes reductions in inappropriate opioid prescribing, increased access to evidence-based treatment and de-stigmatization and de-criminalization of addiction is likely necessary to create large-scale, lasting change. Rigorous evaluation of these changes should be a priority to ensure that legal changes have the intended effect and to suggest additional amendments.¹⁵

Largely because of these legal changes, over 150,000 laypeople had received training and naloxone kits as of 2014, and naloxone program participants reported reversing more than 26,000 overdoses.¹⁶ A recent paper from the National Bureau of Economic Research found that the adoption of a naloxone access law is associated with a 9 to 11 percent decrease in the opioid-related deaths in a state, a relatively dramatic change. The authors also found that overdose Good Samaritan laws were associated with a similar reduction, although that change was not statistically significant. Neither law was associated with an increase in non-medical use of prescription painkillers.¹⁷

These findings are consistent with results from specific areas. For example, a recent evaluation of one naloxone 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.¹⁸ Similarly, 88 percent of people who use drugs surveyed in Washington state indicated that they would be more likely to summon emergency personnel during an overdose as a result of the adoption of an overdose Good Samaritan law in that state.¹⁹

Since both naloxone access and overdose Good Samaritan laws have few if any foreseeable negative effects, can be implemented at little or no cost, and will likely save both lives and resources, they may represent some of the lowest-hanging public health fruit available to policymakers today.

Table 1: Characteristics of state naloxone access laws

As of May 15, 2017

| State | Cite | Has law | Most recent change | Immunity: Prescribers | | | Immunity: Dispensers | | | Immunity: Lay administrators | | Lay distribution and possession | | Prescribing permitted | |
|-------|--|---------|-----------------------------|-----------------------|----------|--------------|----------------------|-------------------|-------------------|------------------------------|----------|---------------------------------|--------------|-----------------------|----------------|
| | | | | Civil | Criminal | Disciplinary | Civil | Criminal | Disciplinary | Civil | Criminal | Lay distribution | Poss. w/o Rx | 3 rd Party | Standing order |
| AL | <u>Ala. Code § 20-2-280</u> | Yes | May 10, 2016 | Yes | Yes | - | Yes | Yes | - | Yes | Yes | - | - | Yes | Yes |
| AK | <u>Alaska Stat. Ann. § 09.65.340; Alaska Stat. Ann § 17.20.085</u> | Yes | Mar. 15, 2016 | Yes | - | - | Yes | - | - | Yes | - | Yes | - | Yes | Yes |
| AZ | <u>Ariz. Rev. Stat. Ann. § 32-1979; Ariz. Rev. Stat. Ann § 36-2266; Ariz. Rev. Stat. Ann. § 36-22667</u> | Yes | Aug. 6, 2016 | - | Yes | Yes | - | Yes | Yes | Yes | - | ²⁰ | - | Yes | Yes |
| AR | <u>Ark. Code. Ann. § 20-13-1801 et. seq.</u> | Yes | July 22, 2015 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | ²¹ | - | Yes | Yes |
| CA | <u>Cal. Civ. Code § 1714.22; Cal. Bus. & Prof. Code § 4052.01</u> | Yes | Jan. 1, 2014; Jan. 1, 2015 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | - | Yes | Yes |
| CO | <u>Colo. Rev. Stat. Ann. § 12-36-117.7; Colo. Rev. Stat. Ann. § 12-42.5-120</u> | Yes | Apr. 3, 2015 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | - | Yes | Yes |
| CT | <u>Conn. Gen. Stat. Ann. § 17a-714a</u> | Yes | May 27, 2016 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | - | - | Yes | - |
| DC | <u>D.C. Code § 7-403(f)</u> | Yes | Mar. 19, 2013 | - | - | - | - | - | - | Yes | Yes | - | Yes | - | - |
| DE | <u>Del. Code Ann. tit. 16, § 138; Del. Code Ann. tit. 16, § 3001G</u> | Yes | June 25, 2014; Aug. 4, 2014 | Yes | Yes | Yes | Yes ²² | Yes ²³ | Yes ²⁴ | - | - | - | - | Yes ²⁵ | Yes |

| State | Cite | Has law | Most recent change | Immunity: Prescribers | | | Immunity: Dispensers | | | Immunity: Lay administrators | | Lay distribution and possession | | Prescribing permitted | |
|-------|---|---------|----------------------------|-----------------------|----------|-----------------|----------------------|----------|-------------------|------------------------------|-------------------|---------------------------------|--------------|-----------------------|--------------------|
| | | | | Civil | Criminal | Disciplinary | Civil | Criminal | Disciplinary | Civil | Criminal | Lay distribution | Poss. w/o Rx | 3 rd Party | Standing order |
| FL | <u>Fla. Stat. Ann. § 381.887</u> | Yes | July 1, 2016 | Yes ²⁶ | Yes | Yes | Yes | Yes | Yes | Yes | - | - | - | Yes | Yes ²⁷ |
| GA | <u>Ga. Code Ann. § 26-4-116.2</u> | Yes | Apr. 18, 2017 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes ^{*28} | - | Yes | Yes ²⁹ |
| HI | <u>Haw. Rev. Stat. §§ 329E-1 – 329E-7</u> | Yes | June 16, 2016 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| IA | <u>Iowa Code Ann. §§ 147A.18; 135.190</u> | Yes | Apr. 6, 2016 | Yes | - | - | - | - | - | Yes | - | - | Yes | Yes | Yes ^{*30} |
| ID | <u>Idaho Code Ann. § 54-1733B</u> | Yes | July 1, 2015 | Yes | Yes | Yes | - | - | - | Yes | Yes | - | - | Yes | - |
| IL | <u>20 Ill. Comp. Stat. Ann. 301/5-23</u> | Yes | July 28, 2016 | - | Yes | Yes | - ³¹ | Yes | Yes | Yes | Yes | - | - | Yes | Yes |
| IN | <u>Ind. Code Ann. § 16-42-27-2; 3;</u> | Yes | July 1, 2016 | Yes | - | - | Yes ³² | - | - | - ³³ | - | Yes | - | Yes | Yes ³⁴ |
| KS | <u>HB 2217 (2017)</u> | Yes | Apr. 7, 2017 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | - | - | - | Yes ^{*35} |
| KY | <u>Ky. Rev. Stat. Ann. § 217.186; 201 Ky. Admin. Regs. 2:360</u> | Yes | Sept. 4, 2015 | - | - | Yes | - | - | Yes | Yes | Yes | - | - | Yes | Yes |
| LA | <u>La. Rev. Stat. Ann. § 40:978.2</u> | Yes | June 6, 2016 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes ³⁶ | Yes | Yes | Yes | Yes |
| MA | <u>Mass. Gen. Laws Ann. ch. 94c, § 19(d); Mass. Gen. Laws Ann. 94C § 19B; Mass. Gen. Laws Ann. ch. 94c, § 34A</u> | Yes | Aug. 2, 2012; July 1, 2014 | - | - | - ³⁷ | - | - | - | - | Yes | - | Yes | Yes | Yes |
| MD | <u>Md. Code Ann., Health-Gen. §§ 13-3108; 13-3110</u> | Yes | Oct. 1, 2015 | Yes | - | Yes | Yes | - | Yes ³⁸ | Yes | Yes | Yes | - | Yes | Yes |
| ME | <u>Me. Rev. Stat. Ann. tit. 22, § 2353</u> | Yes | July 29, 2016 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | - | Yes | Yes |

| State | Cite | Has law | Most recent change | Immunity: Prescribers | | | Immunity: Dispensers | | | Immunity: Lay administrators | | Lay distribution and possession | | Prescribing permitted | |
|-------|--|---------|--------------------|-----------------------|----------|-------------------|----------------------|-------------------|--------------|------------------------------|-------------------|---------------------------------|--------------|-----------------------|-------------------|
| | | | | Civil | Criminal | Disciplinary | Civil | Criminal | Disciplinary | Civil | Criminal | Lay distribution | Poss. w/o Rx | 3 rd Party | Standing order |
| MI | <u>Mich. Comp. Laws Ann. §§ 691.1503; 333.17744b</u> | Yes | March 29, 2017 | Yes | - | - | Yes | - | - | Yes | - | Yes | Yes | Yes | - |
| MN | <u>Minn. Stat. Ann. § 604A.04</u> | Yes | May 10, 2014 | Yes | Yes | - | Yes ³⁹ | Yes ⁴⁰ | - | Yes | Yes | - | - | - | Yes |
| MO | <u>Mo. Ann. Stat. §§ 195.206; 338.205</u> | Yes | Aug. 28, 2016 | Yes | Yes | Yes ⁴¹ | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes* | Yes ⁴² |
| MS | <u>Miss. Code Ann. § 41-29-319</u> | Yes | March 15, 2017 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | - | - | Yes | Yes |
| MT | <u>HB 333 (2017)</u> | Yes | May 4, 2017 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | - | Yes | Yes |
| NC | <u>N.C. Gen. Stat. Ann. § 90-12.7</u> | Yes | June 20, 2016 | Yes | Yes | - | Yes ⁴³ | Yes ⁴⁴ | - | Yes | Yes | - | - | Yes | Yes |
| ND | <u>N.D. Cent. Code Ann. § 23-01-42</u> | Yes | Aug. 1, 2015 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | - | Yes | Yes | Yes |
| NE | <u>Neb. Rev. Stat. Ann. § 28-470</u> | Yes | May 28, 2015 | - | Yes | Yes | - | Yes | Yes | - ⁴⁵ | Yes ⁴⁶ | - | - | Yes | - |
| NH | <u>N.H. Rev. Stat. Ann. § 318-B:15</u> | Yes | June 2, 2015 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | - | Yes | Yes |
| NJ | <u>N.J. Stat. Ann. § 24:6J-4</u> | Yes | Feb. 5, 2015 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes ⁴⁷ | - | Yes | Yes |
| NM | <u>N.M. Stat. Ann. § 24-23-1</u> | Yes | Mar. 4, 2016 | - | - | - | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| NV | <u>Nev. Rev. Stat. Ann. §§ 453c.100 – 453c.110</u> | Yes | Oct. 1, 2015 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| NY | <u>N.Y. Pub. Health Law § 3309</u> | Yes | June 22, 2016 | - | - | - | - | - | - | Yes | Yes ⁴⁸ | Yes | - | Yes | Yes |

| State | Cite | Has law | Most recent change | Immunity: Prescribers | | | Immunity: Dispensers | | | Immunity: Lay administrators | | Lay distribution and possession | | Prescribing permitted | |
|-------|--|---------|----------------------------|-----------------------|----------|--------------|----------------------|----------|--------------|------------------------------|-------------------|---------------------------------|-------------------|-----------------------|--------------------|
| | | | | Civil | Criminal | Disciplinary | Civil | Criminal | Disciplinary | Civil | Criminal | Lay distribution | Poss. w/o Rx | 3 rd Party | Standing order |
| OH | <u>Ohio Rev. Code Ann. § 4731.94; Ohio Rev. Code Ann. § 4729.44; Ohio Rev. Code Ann. § 2925.61</u> | Yes | April 6, 2017 | Yes | Yes | Yes | Yes | Yes | Yes | - | Yes** | Yes | - | Yes | Yes* ⁴⁹ |
| OK | <u>Okla. Stat. Ann. tit. 63, § 1-2506.2; Ok. Stat. Ann. tit. 63 § 2-312.2</u> | Yes | Nov. 1, 2013; Nov. 1, 2014 | - | - | - | - | - | - | - | - | - | - | Yes ⁵⁰ | Yes ^{51*} |
| OR | <u>Or. Rev. Stat. Ann. § 689.681</u> | Yes | April 4, 2016 | - | - | - | - | - | - | Yes ⁵² | - | Yes ⁵³ | - | Yes | - |
| PA | <u>35 Pa. Cons. Stat. Ann. § 780-113.8</u> | Yes | Dec. 1, 2014 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes ⁵⁴ | - | Yes | Yes |
| RI | <u>31-2-9 R.I. Code R. §§ 1.0-5.1; R.I. Gen. Laws Ann. § 21-28.9-1 to -5</u> | Yes | Jan. 27, 2016 | - | - | Yes | - | - | Yes | Yes | Yes | Yes ⁵⁵ | Yes | Yes | Yes |
| SC | <u>S.C. Code Ann. §§ 44-130-10 – 44-130-60</u> | Yes | June 5, 2016 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | - | - | Yes | Yes ⁵⁶ |
| SD | <u>S.D. Codified Laws §§ 34-20a-103 – 34-20a-108</u> | Yes | July 1, 2016 | Yes | Yes | Yes | Yes | Yes | Yes | - | - | - | - | Yes | Yes |
| TN | <u>Tenn. Code Ann. § 63-1-152</u> | Yes | July 1, 2015 | Yes | - | Yes | Yes | - | Yes | Yes | - | - | - | Yes | Yes |
| TX | <u>Tex. Health & Safety Code Ann. § 483.101 et. seq.</u> | Yes | Sept. 1, 2015 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| UT | <u>Utah Code Ann. § 26-55-101 et. seq.</u> | Yes | March 21, 2017 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | - | Yes | - | Yes | Yes |
| VA | <u>VA Code Ann. §§ 8.01-225(A)(16); 54.1-3408(X)</u> | Yes | Apr. 15, 2015 | Yes | - | - | Yes | - | - | Yes | Yes ⁵⁷ | - | - | - | Yes |
| VT | <u>Vt. Stat. Ann. tit. 18, § 4240; Vt. Stat. Ann. tit. 26, § 2080</u> | Yes | May 28, 2015 | Yes | Yes | - | Yes | Yes | - | Yes | Yes | Yes* ⁵⁸ | Yes ⁵⁹ | Yes | Yes |

| State | Cite | Has law | Most recent change | Immunity: Prescribers | | | Immunity: Dispensers | | | Immunity: Lay administrators | | Lay distribution and possession | | Prescribing permitted | |
|--------------|--|---------|--------------------|-----------------------|----------|--------------|----------------------|----------|--------------|------------------------------|----------|---------------------------------|--------------|-----------------------|----------------|
| | | | | Civil | Criminal | Disciplinary | Civil | Criminal | Disciplinary | Civil | Criminal | Lay distribution | Poss. w/o Rx | 3 rd Party | Standing order |
| WA | <u>Wash. Rev. Code Ann. § 69.41.095</u> | Yes | July 24, 2015 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes* | Yes | Yes | |
| WI | <u>Wis. Stat. Ann. § 441.18; Wis. Stat. Ann. § 448.037; Wis. Stat. Ann. § 450.11(1i)</u> | Yes | April 1, 2016 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | |
| WV | <u>W. Va. Code. Ann. § 16-46-1 – 16-46-6</u> | Yes | June 10, 2016 | Yes | Yes | - | Yes | Yes | - | Yes | Yes | - | Yes | Yes ^{*60} | |
| WY | <u>Senate File 42 (2017)</u> | Yes | July 1, 2017 | Yes | Yes | Yes | - | - | - | Yes | Yes | - | - | Yes ⁶¹ | |
| Total | | 51 | | 40 | 36 | 35 | 38 | 35 | 34 | 44 | 40 | 23, 3* | 15, 2* | 46, 1* | 40, 5* |

* = Implied by statutory text

** = Limited to violations of medical practice code

Table 2: Characteristics of state overdose Good Samaritan laws

As of May 15, 2017

| State | Cite | Eff. Date | Has Law | Immunity: Controlled Substance Possession | | | Immunity: Paraphernalia | | | Immunity: Other Violations | | | Other Protections | |
|-------|---|------------------------------|-------------------|---|--------|-------------|-------------------------|--------|-------------|---------------------------------|---|-------------------|-----------------------------|------------------|
| | | | | Arrest | Charge | Prosecution | Arrest | Charge | Prosecution | Protective or Restraining Order | Pretrial, Probation, or Parole Violations | Other CS Crimes | Reporting Mitigating Factor | Civil Forfeiture |
| AL | Ala. Code § 20-2-281 | June 5, 2015 | Yes ⁶² | - | - | Yes | - | - | Yes | - | - | Yes ⁶³ | - | - |
| AK | Alaska Stat. Ann. § 12.55.155 ; Alaska Stat. Ann. § 11.71.311 | Sept. 8, 2008; July 12, 2016 | Yes ⁶⁴ | - | - | Yes | *** ⁶⁵ | *** | *** | - | - | - | Yes | - |
| AZ | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| AR | Ark. Code Ann. § 20-13-1701 et. seq. | July 22, 2015 | Yes | Yes | Yes | Yes | - | - | - | Yes | Yes | - | - | - |
| CA | CA Health & Safety Code § 11376.5 | Jan. 1, 2013 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | - | - | - | - | - |
| CO | Colo. Rev. Stat. Ann. § 18-1-711 | Aug. 10, 2016 | Yes ⁶⁶ | Yes | - | Yes | Yes | - | Yes | - | - | - | - | - |
| CT | Conn. Gen. Stat. Ann. § 21a-267(e) ; Conn. Gen. Stat. Ann. § 21a-279(d) | Oct. 1, 2011 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | - | - | - | - | - |
| D.C. | D.C. Code § 7-403 | Mar. 19, 2013 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | - | Yes | - | Yes | - |

| State | Cite | Eff. Date | Has Law | Immunity: Controlled Substance Possession | | | Immunity: Paraphernalia | | | Immunity: Other Violations | | | Other Protections | |
|-------|--|---------------|-------------------|---|--------|-------------|-------------------------|--------|-------------|---------------------------------|---|-------------------|-----------------------------|------------------|
| | | | | Arrest | Charge | Prosecution | Arrest | Charge | Prosecution | Protective or Restraining Order | Pretrial, Probation, or Parole Violations | Other CS Crimes | Reporting Mitigating Factor | Civil Forfeiture |
| DE | <u>Del. Code Ann. Tit. 16, § 4769</u> | Aug. 31, 2013 | Yes ⁶⁷ | Yes | Yes | Yes | Yes | Yes | Yes | - | Yes | Yes ⁶⁸ | - | - |
| FL | <u>Fla. Stat. Ann. § 893.21; Fla. Stat. Ann. § 921.0026(n)</u> | Oct. 1, 2012 | Yes | - | Yes | Yes | - | - | - | - | - | - | Yes | - |
| GA | <u>Ga. Code Ann § 16-13-5</u> | Apr. 24, 2014 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | - | - | - |
| HI | <u>Haw. Rev. Stat § 329-436.6</u> | July 7, 2015 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | - | Yes | Yes |
| IA | | | | | | | | | | | | | | |
| ID | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| IL | <u>730 Ill. Comp. Stat. Ann. 5/5-5-3.1(14); 720 Ill. Comp. Stat. Ann. 646/115; 720 Ill. Comp. Stat. Ann. 570/414</u> | June. 1, 2012 | Yes | - | Yes | Yes | - | - | - | - | - | - | Yes | - |

| State | Cite | Eff. Date | Has Law | Immunity: Controlled Substance Possession | | | Immunity: Paraphernalia | | | Immunity: Other Violations | | | Other Protections | |
|-------|---|---------------|-------------------|---|--------|-------------|-------------------------|--------|-------------|---------------------------------|---|-----------------|-----------------------------|------------------|
| | | | | Arrest | Charge | Prosecution | Arrest | Charge | Prosecution | Protective or Restraining Order | Pretrial, Probation, or Parole Violations | Other CS Crimes | Reporting Mitigating Factor | Civil Forfeiture |
| IN | <u>Ind. Code Ann. § 35-38-1-7.1(b)(12); Ind. Code Ann. § 16-42-27-2</u> | July 1, 2016 | Yes ⁶⁹ | Yes | - | Yes | Yes ⁷⁰ | - | Yes | - | - | - | Yes | - |
| KS | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| KY | <u>Ky. Rev. Stat. Ann. § 218A.133</u> | Mar. 25, 2015 | Yes | - | Yes | Yes | - | Yes | Yes | - | - | - | - | - |
| LA | <u>La. Rev. Stat. Ann. § 14:403.10</u> | Aug. 1, 2014 | Yes | - | Yes | Yes | - | - | - | - | - | - | - | - |
| MA | <u>Mass. Gen. Laws Ann. ch. 94c, § 34A</u> | Aug. 2, 2012 | Yes | - | Yes | Yes | - | - | - | - | - | - | Yes | - |
| MD | <u>Md. Code Ann., Crim. Proc. § 1-210</u> | Mar. 14, 2016 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | - | Yes | - | Yes | - |
| ME | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| MI | <u>Mich. Comp. Laws Ann. § 333.7403(3)</u> | Jan. 4, 2017 | Yes ⁷¹ | Yes | Yes | Yes | - | - | - | - | - | - | - | - |
| MN | <u>Minn. Stat. Ann. § 604A.05</u> | July 1, 2014 | Yes | - | Yes | Yes | - | Yes | Yes | - | Yes | ⁷² | ⁷³ | - |
| MO | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| MS | <u>Miss. Code Ann. § 41-29-149.1</u> | July 1, 2016 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | - | - | Yes |
| MT | <u>HB 333 (2017)</u> | May 4, 2017 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | - | ⁷⁴ | - |

| State | Cite | Eff. Date | Has Law | Immunity: Controlled Substance Possession | | | Immunity: Paraphernalia | | | Immunity: Other Violations | | | Other Protections | |
|-------|---|----------------|-------------------|---|--------|-------------|-------------------------|--------|-------------|---------------------------------|---|-------------------|-----------------------------|------------------|
| | | | | Arrest | Charge | Prosecution | Arrest | Charge | Prosecution | Protective or Restraining Order | Pretrial, Probation, or Parole Violations | Other CS Crimes | Reporting Mitigating Factor | Civil Forfeiture |
| NC | N.C. Gen. Stat. Ann. § 90-96.2 | Aug. 1, 2015 | Yes ⁷⁵ | - | - | Yes | - | - | Yes | - | Yes | - | - | - |
| ND | N.D. Cent. Code Ann. § 19-03.1-23.4 | April 21, 2017 | Yes ⁷⁶ | - | Yes | Yes | - | Yes | Yes | - | - | Yes ⁷⁷ | - | - |
| NE | LB 487 (2017) | May 2, 2017 | Yes ⁷⁸ | Yes | Yes | Yes | Yes | Yes | Yes | - | - | - | - | - |
| NH | N.H. Rev. Stat. Ann. § 318-B:28-b | Sept. 6, 2015 | Yes | Yes | Yes | Yes | - | - | - | - | - | - | - | - |
| NJ | N.J. Stat. Ann. § 2C:35-30 | July 1, 2013 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | - | Yes | Yes ⁷⁹ | - | - |
| NM | N.M. Stat. Ann. § 30-31-27.1 | June 15, 2007 | Yes | - | Yes | Yes | - | - | - | - | - | - | Yes | - |
| NV | Nev. Rev. Stat. Ann. § 453C.150 | Oct. 1, 2015 | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes ⁸⁰ | Yes | Yes |
| NY | N.Y. Penal Law §§ 220.03; 220.78 | Sept. 18, 2011 | Yes | Yes | Yes | Yes | - | Yes | Yes | - | - | Yes ^{**} | - | - |
| OH | Ohio Rev. Code Ann. § 2925.11 | Sept. 14, 2016 | Yes ⁸¹ | Yes ⁸² | Yes | Yes | - | - | - | - | - | - | Yes | - |
| OK | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| OR | Or. Rev. Stat. Ann. § 475.898 | March 3, 2016 | Yes | Yes | - | Yes | Yes | - | Yes | - | Yes | Yes ⁸³ | - | - |
| PA | 35 Pa. Cons. Stat. Ann. § 780-113.7 | Dec. 1, 2014 | Yes ⁸⁴ | - | Yes | Yes | - | Yes | Yes | - | Yes | Yes ⁸⁵ | - | - |
| RI | R.I. Gen Laws Ann. § 21-28.9-4 | Jan. 27, 2016 | Yes | - | Yes | Yes | - | Yes | Yes | - | Yes | Yes ⁸⁶ | ⁻⁸⁷ | - |

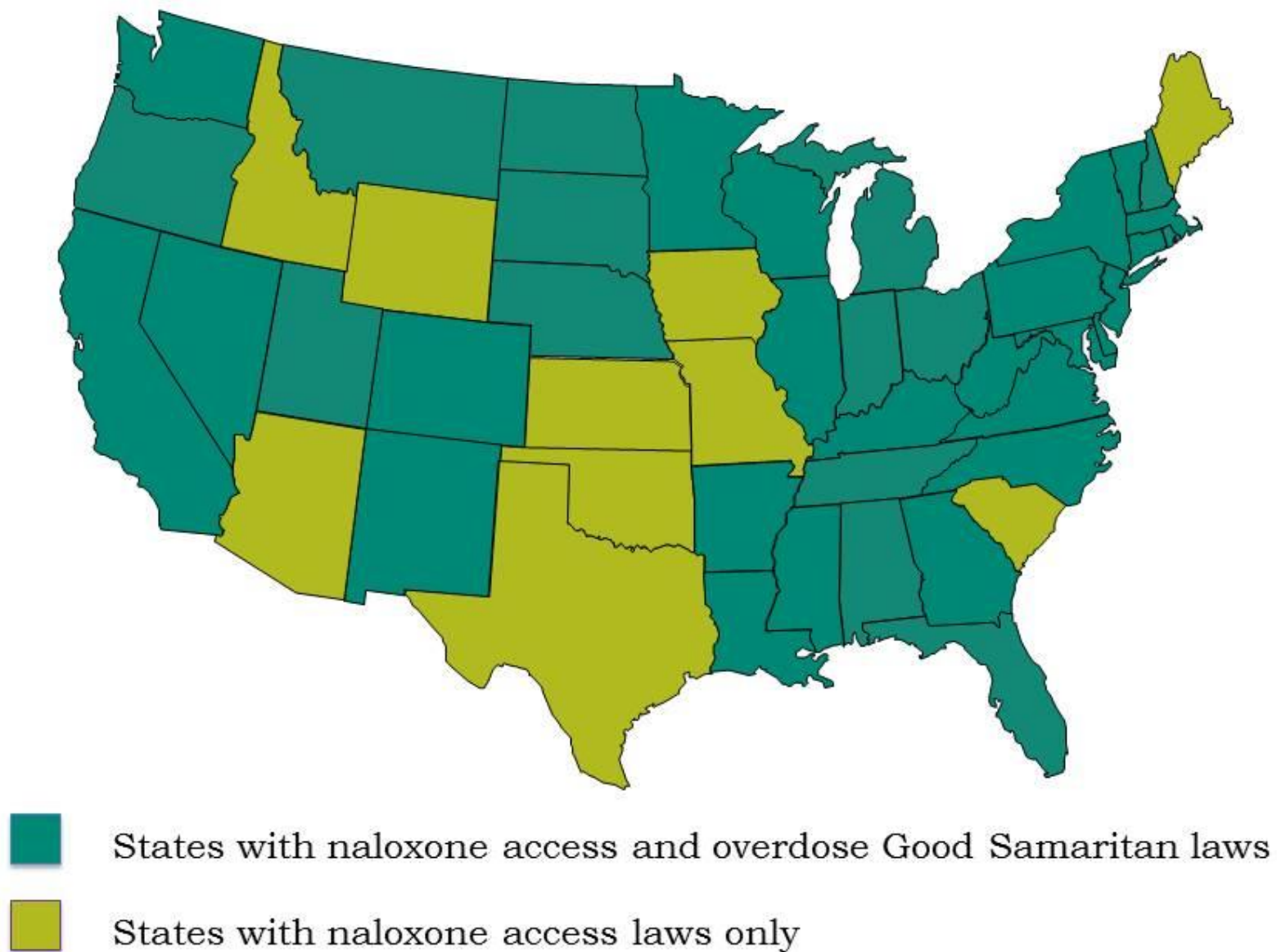
| State | Cite | Eff. Date | Has Law | Immunity: Controlled Substance Possession | | | Immunity: Paraphernalia | | | Immunity: Other Violations | | | Other Protections | |
|--------------|---|------------------------------|-------------------|---|-------------------|-------------|-------------------------|--------|-------------|---------------------------------|---|-----------------|-----------------------------|------------------|
| | | | | Arrest | Charge | Prosecution | Arrest | Charge | Prosecution | Protective or Restraining Order | Pretrial, Probation, or Parole Violations | Other CS Crimes | Reporting Mitigating Factor | Civil Forfeiture |
| SC | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| SD | HB 1082 (2017) | March 27, 2017 | Yes ⁸⁸ | Yes ⁸⁹ | - | Yes | - | - | - | - | - | - | - | ._90 |
| TN | Tenn. Code Ann. § 63-1-156 | July 1, 2015 | Yes ⁹¹ | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | ._92 | - |
| TX | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| UT | Utah Code Ann. §§ 58-37-8(16); 76-3-203.11 | Mar. 20, 2014 | Yes ⁹³ | - | - | Yes** | - | - | Yes** | - | - | - | Yes ⁹⁴ | - |
| VA | Va. Code Ann. § 18.2-251.03 | July 1, 2015 | Yes ⁹⁵ | - | - | Yes** | - | - | Yes** | - | - | - | - | - |
| VT | Vt. Stat. Ann. tit. 18, § 4254 | June 5, 2013 | Yes | Yes | - | Yes | *** ⁹⁶ | *** | *** | Yes | Yes | Yes | Yes | Yes |
| WA | Wash. Rev. Code Ann. § 69.50.315; Wash. Rev. Code Ann. § 9.94A.535(i) | June 10, 2010; July 24, 2015 | Yes | - | Yes | Yes | - | - | - | - | - | - | Yes | - |
| WI | Wis. Stat. Ann. § 961.443 | Apr. 9, 2014 | Yes | - | - | Yes | - | - | Yes | - | - | - | - | - |
| WV | W. Va. Code Ann. § 16-47-4 | June 12, 2015 | Yes | - | Yes ⁹⁷ | Yes* | - | - | - | - | Yes | - | Yes | - |
| WY | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Total | | | 41 | 23 | 29, 1* | 31, 1*, 2** | 16 | 19 | 25, 2** | 8 | 18 | 10, 1** | 15 | 4 |

* = Implied by statutory text

** = Affirmative defense only

*** Alaska does not criminalize the possession, sale, or manufacture of drug paraphernalia. Vermont does not criminalize the possession of drug paraphernalia.

Status of relevant laws as of May 15, 2017



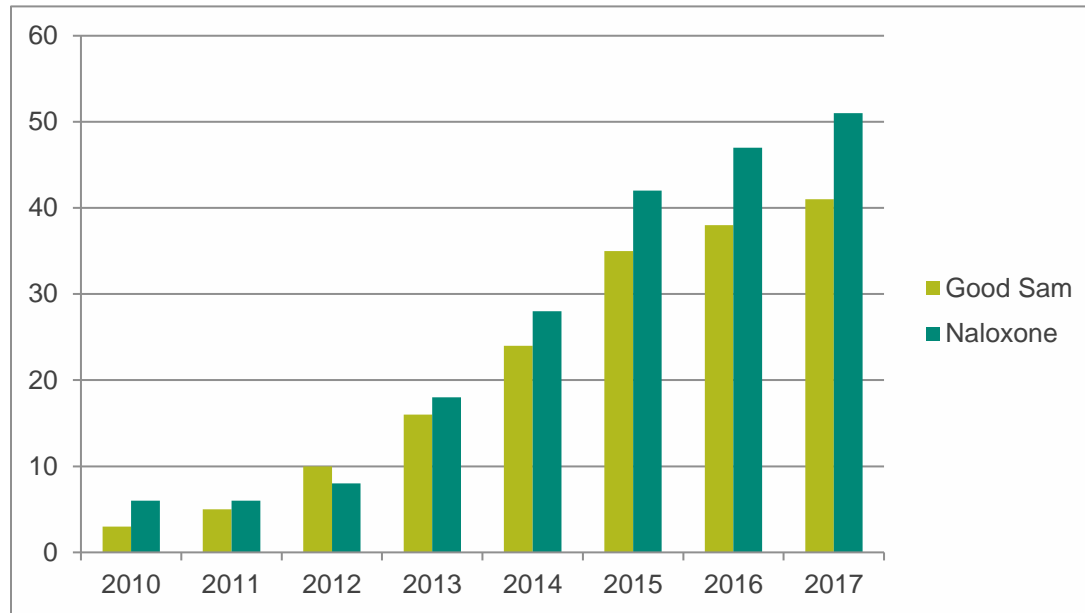


Figure 2: Adoption of naloxone access and overdose Good Samaritan laws over time

Supporters



Robert Wood Johnson Foundation

The Network for Public Health Law is a national initiative of the Robert Wood Johnson Foundation.

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J.D., M.P.H. The Network for Public Health Law provides information and technical assistance on issues related to public health. The legal information and assistance provided in this document does not constitute legal advice or legal representation. For legal advice, please consult specific legal counsel.

References

- ¹ Rudd RA, Seth P, David F, Scholl L. Increases in Drug and Opioid-Involved Overdose Deaths - United States, 2010-2015. *MMWR Morb Mortal Wkly Rep* 2016;65:1445-52.
- ² *Id.*
- ³ Opioid overdose is caused by excessive depression of the respiratory and central nervous systems. Naloxone, a κ - and δ , and μ -opioid receptor competitive antagonist, works by displacing opioids from these receptors, thereby reversing their depressant effect. See J. M. Chamberlain & B. L. Klein, *A comprehensive review of naloxone for the emergency physician*, 12 *AM J EMERG MED* (1994).
- ⁴ See 21 U.S.C. § 801, 21 CFR § 1308.
- ⁵ E. Wheeler, et al., *Opioid Overdose Prevention Programs Providing Naloxone to Laypersons - United States, 2014*, 64 *MMWR MORB MORTAL WKLY REP* (2015); M. Doe-Simkins, et al., *Overdose rescues by trained and untrained participants an change in opioid use among substance-using participants in overdose education and naloxone distribution programs: a retrospective cohort study*, 14 *BMC Public Health* 297 (2014).
- ⁶ For simplicity, this fact sheet refers to all mechanisms by which medications can be dispensed without the recipient seeing the prescriber (the other important one being via a collaborative practice agreement) as standing orders. For a full explanation of the various mechanisms by which naloxone may be dispensed via pharmacies without a patient-specific order, see C. Davis & D. Carr, *State legal innovations to encourage naloxone dispensing*, 57 *J AM PHARM ASSOC* (2003) (2017).
- ⁷ See Leo Beletsky, et al., *Physicians' knowledge of and willingness to prescribe naloxone to reverse accidental opiate overdose: challenges and opportunities*, 84 *Journal of Urban Health* 126 (2007); C. S. Davis, et al., *Co-prescribing naloxone does not increase liability risk*, 37 *SUBST ABUS* (2016).
- ⁸ Karin Tobin, et al., *Calling emergency medical services during drug overdose: an examination of individual, social and setting correlates*, 100 *Addiction* 397 (2005); Robin A. Pollini, et al., *Response to Overdose Among Injection Drug Users*, 31 *American Journal of Preventive Medicine* 261 (2006).
- ⁹ See U.S. Conference of Mayors, 2008 Adopted Resolutions – Saving Lives, Saving Money: City-Coordinated Drug Overdose Prevention, available at http://www.usmayors.org/resolutions/76th_conference/chhs_16.asp; American Medical Association, *AMA Adopts New Policies at Annual Meeting*, available at <http://www.ama-assn.org/ama/pub/news/news/2012-06-19-ama-adopts-new-policies.page>; American Public Health Association, *Prevention Overdose Through Education and Naloxone Distribution*, available at <http://www.apha.org/NR/rdonlyres/D13CCF7A-1E17-4954-BB28-EAEB7D6E261E/0/LB2Naloxone.pdf>. A number of other organizations, including the National Association of Drug Diversion Investigators and the Office of National Drug Control Policy also support policy changes to increase access to naloxone. See National Association of Drug Diversion Investigators, *NADDI Supports Nasal Naloxone*, available at http://naddi.org/aws/NADDI/pt/sd/news_article/62028/_PARENT/layout_details/false
- ¹⁰ For further background on these laws, please see Davis, C.S., Carr, D., 2015. *Legal changes to increase access to naloxone for opioid overdose reversal in the United States*. *Drug Alcohol Depend* 157, 112-120.
- ¹¹ These tables are limited to laws that increase access to naloxone among non-professional responders, and so may not capture states that have expanded access only to professional responders such as police, firefighters, and EMS personnel.
- ¹² For a graphical representation of these laws, please see the relevant LawAtlas map at <http://www.lawatlas.org/preview?dataset=good-samaritan-overdose-laws>.
- ¹³ Note that the “Mitigating factor” column is coded as a “Yes” only if the law provides mitigation for the act of reporting an overdose, not simply responding.
- ¹⁴ For additional thoughts on legal approaches to reducing opioid overdose deaths, see Davis CS, Webb D, Burris S. *Changing Law from Barrier to Facilitator of Opioid Overdose Prevention*, 41 *J. of Law, Med. & Ethics* 33-36 (2013).
- ¹⁵ For example, existing laws typically do not include funding for education on the use and provision of naloxone. They also tend to limit criminal immunity to drug-related crimes, which may limit their effect.
- ¹⁶ E. Wheeler, et al., *Opioid Overdose Prevention Programs Providing Naloxone to Laypersons - United States, 2014*, 64 *MMWR MORB MORTAL WKLY REP* (2015).
- ¹⁷ D. Rees, et al. *With a Little Help from My Friends: The Effects of Naloxone Access and Good Samaritan Laws on Opioid-Related Deaths*. (2017).
- ¹⁸ 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).
- ¹⁹ 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>
- ²⁰ State law permits naloxone to be prescribed to “a community organization that provides services to persons who are at risk of an opioid-related overdose” but does not permit those organizations to further distribute the medication. *Ariz. Rev. Stat. Ann.* § 36-2266(A).
- ²¹ State law permits naloxone to be prescribed and dispensed to pain management clinics and harm reduction organizations, but does not explicitly permit those organizations to further distribute the medication. *Ark. Code. Ann.* § 20-13-1804.

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- ²² Applies only to “[d]octors prescribing naloxone who, acting in good faith, directly or by standing order, prescribe or dispense the drug naloxone to a person who completes an approved-training program...”
- ²³ Applies only to “[d]octors prescribing naloxone who, acting in good faith, directly or by standing order, prescribe or dispense the drug naloxone to a person who completes an approved-training program...”
- ²⁴ Applies only to “[d]octors prescribing naloxone who, acting in good faith, directly or by standing order, prescribe or dispense the drug naloxone to a person who completes an approved-training program...”
- ²⁵ State law creates a Community-Based Naloxone Access Program and permits naloxone to be distributed to “people who complete the requirements set forth for this program.” Del. Code Ann. tit. 16, § 138(3). Further, state law provides immunity to a doctor who prescribes naloxone to “a person who completes an approved-training program who, in the judgment of the health-care provider, is capable of administering the drug for an emergency opioid overdose...” Del. Code Ann. tit. 16, § 3001G(e).
- ²⁶ “A person, including, but not limited to, an authorized health care practitioner, a dispensing health care practitioner, or a pharmacist, who possesses, administers, prescribes, dispenses, or stores an approved emergency opioid antagonist in compliance with this section and” the state Good Samaritan Act (Fla. Stat. § 768.13) is provided the immunity protections under that law. Fla. Stat. Ann. § 381.887(5).
- ²⁷ Applies only to auto-injection delivery systems or intranasal application delivery systems.
- ²⁸ Law permits naloxone to be prescribed to a “harm reduction organization,” but does not explicitly permit those organizations to distribute naloxone. Ga. Code Ann. § 26-4-116.2(b).
- ²⁹ Law refers to “a protocol specified by” the prescriber, but context makes clear that a standing order is intended. In addition, Ga. Code Ann. § 31-1-10(b)(2) permits a statewide naloxone standing order for naloxone. That order is available at https://gdna.georgia.gov/sites/gdna.georgia.gov/files/related_files/press_release/Naloxone%20Standing%20Order%20DPH%2012-14-2016.pdf.
- ³⁰ Iowa law does not clearly permit a prescriber to issue a standing order, but permits a pharmacist to dispense under one.
- ³¹ Pharmacists receive civil immunity when dispensing naloxone pursuant to a statewide protocol or standing order. 745 Ill. Comp. Stat. Ann. 49/36.
- ³² The immunity appears to apply only to “a prescriber who dispenses[...]” and not to a pharmacist. Ind. Code Ann. § 16-42-27-3(a).
- ³³ Under Indiana law, the following persons are immune from civil liability when administering naloxone: advanced emergency medical technicians, emergency medical responders, emergency medical technicians, firefighters and volunteer firefighters, law enforcement officers, and paramedics. Ind. Code Ann. § 16-31-6-2.5.
- ³⁴ Ind. Code Ann. § 16-42-27-2(f) requires the state department to ensure that a statewide standing order for naloxone dispensing is issued.
- ³⁵ State law requires the state board of pharmacy to issue a “statewide opioid antagonist protocol” for naloxone dispensing. HB 2217, Section 1(b). This protocol would be the functional equivalent of a standing order.
- ³⁶ Louisiana also provides immunity to first responders who administer naloxone without a prescription. La. Rev. Stat. Ann. § 14:403.11.
- ³⁷ “[A]ny such prescription shall be regarded as being issued for a legitimate medical purpose in the usual course of professional practice.”
- ³⁸ Applies only to a pharmacist, licensed physician, or advanced practice nurse with prescribing authority.
- ³⁹ Applies only to licensed health care professionals who are permitted by law to prescribe an opiate antagonist.
- ⁴⁰ Applies only to licensed health care professionals who are permitted by law to prescribe an opiate antagonist.
- ⁴¹ Prescriber immunity (criminal, civil, and disciplinary) in Missouri is limited to “protocol physician,” the physician who signs a standing order or protocol for naloxone dispensing. Mo. Rev. Stat. § 195.206(3).
- ⁴² Law uses the term “physician protocol” but context makes clear that a standing order for pharmacy dispensing is intended.
- ⁴³ Applies only to pharmacists who dispense an opioid antagonist in accordance with the naloxone access law.
- ⁴⁴ Applies only to pharmacists who dispense an opioid antagonist in accordance with the naloxone access law.
- ⁴⁵ In May 2017, the Nebraska Legislature amended the statute to provide civil immunity to emergency responders and peace officers who, acting in good faith, administer naloxone to a person experiencing an overdose. See LB 487 (2017).
- ⁴⁶ Lay administrators are immune from criminal liability if the person “obtains naloxone from a health professional or a prescription for naloxone from a health professional and administers the naloxone obtained from the health professional or acquired pursuant to the prescription to a person who is apparently experiencing an opioid-related overdose.” Neb. Rev. Stat. Ann. § 28-470(2).
- ⁴⁷ Law permits dispensing by “any professional entity which is deemed by the health care practitioner to employ professionals who are capable of dispensing opioid antidotes to recipients, for administration thereby, as part of the entity’s regular course of business or volunteer activities.” N.J. Stat. Ann. § 24:6J-4(a)(1)(e).
- ⁴⁸ In addition to the immunity afforded to lay administrators, health care practitioners have disciplinary immunity when administering naloxone in emergency situations. See N.Y. Educ. Law § 6509-d.
- ⁴⁹ Ohio law permits pharmacists and pharmacist interns to dispense naloxone under a protocol developed by the state board of pharmacy. Ohio Rev. Code Ann. § 4729.44(G). This protocol appears to be the functional equivalent of a standing order.
- ⁵⁰ Oklahoma law permits naloxone to be prescribed to an individual for use by that individual “when encountering a family member exhibiting signs of an opiate overdose” if certain information is provided. Okla. Stat. Ann. tit. 63, § 1-2506.2.
- ⁵¹ Oklahoma law permits naloxone to be “dispensed or sold by a pharmacy without a prescription [...]” Ok. Stat. Ann. tit. 63 § 2-312.2. We have interpreted this law to be the functional equivalent of a standing order.
- ⁵² Immunity is only provided to an individual who “has successfully completed the training [...]” described in statute and regulations who has acted “in good faith” and without “wanton misconduct.” Or. Rev. Stat. Ann. § 689.681(4)(b).
- ⁵³ Oregon law permits “any other person designated by the State Board of Pharmacy may distribute unit-of-use packages of naloxone [...]” Or. Rev. Stat. Ann. § 689.681(4). While regulations issued by the Oregon Public Health Authority permit a variety of organizations to conduct overdose prevention training, it does not appear that the Board of Pharmacy has promulgated regulations permitting such organizations to dispense or distribute naloxone.

⁵⁴ A “person or organization acting at the direction of a health care professional authorized to prescribe naloxone” is exempt from all provisions of the state Pharmacy Act, so long as they act without charge or compensation. 35 Pa. Cons. Stat. § 780-113.8(d).

⁵⁵ Pursuant to regulations issued by the Rhode Island Department of Health, “Notwithstanding any other law or regulation, a person possessing an order issued by a health care professional who is otherwise authorized to prescribe Naloxone (Narcan) may store and dispense Naloxone (Narcan) regardless of usual drug storage requirements in RIGL Title 21.” 31-2-9 R.I. Code R. § 3.12.

⁵⁶ Law permits standing orders to be issued for naloxone administration by first responders, but not by laypeople. S.C. Code Ann. §§ 44-130-30(C). However, a later added provision permits pharmacists to dispense naloxone pursuant to either a “standing order by a prescriber” or a “written joint protocol issued by the Board of Medical Examiners and the Board of Pharmacy.” S.C. Code Ann. §§ 44-130-40.

⁵⁷ Under Virginia law, “a person may possess and administer naloxone or other opioid antagonist [...]” VA Code. Ann. § 54.1-3408(X).

⁵⁸ Relevant law provides that, “A person acting on behalf of a community-based overdose prevention program [...] shall be immune from civil or criminal liability for providing education on opioid-related overdose prevention or for purchasing, acquiring, distributing, or possessing an opioid antagonist unless the person's actions constituted recklessness, gross negligence, or intentional misconduct.” Vt. Stat. Ann. tit. 18 § 4240(e). This language would appear to implicitly provide authorization for the distribution of naloxone by community-based overdose prevention programs.

⁵⁹ Applies only to “[a] person acting on behalf of a community-based overdose prevention program [...]” Vt. Stat. Ann. tit. 18 § 4240(e).

⁶⁰ West Virginia law permits naloxone to be prescribed via standing order to first responders only. See W. Va. Code Ann. § 16-46-3. However, a separate provision permits pharmacists and pharmacy interns to dispense naloxone “without a prescription” under a protocol developed by the Board of Pharmacy. W. Va. Code Ann. § 16-46-3a. We consider this the functional equivalent of a standing order.

⁶¹ Under Wyoming law, a standing order may only be issued to “an entity that, in the course of the entity’s official duties or business, may be in a position to assist a person experiencing an opiate related drug overdose.” Wyo. Stat. Ann. § 35-4-904(a).

⁶² Under the law, an individual may not be prosecuted for a “misdemeanor controlled substance offense” if the person acted in good faith, upon a reasonable belief that he or she was the first to call for assistance, user his or her own name when contacting authorities, and remained with the individual needing assistance until help arrived. Immunity is not provided to the overdose victim. Ala. Code § 20-2-281(c).

⁶³ The law provides protection from all misdemeanor controlled substance offenses with the exception of driving under the influence. Ala. Code § 20-2-281(b).

⁶⁴ Law provides protection to the caller only if the person summons assistance in good faith, remained at the scene until medical or law enforcement assistance arrived, and “cooperated” with medical or law enforcement personnel, including by providing identification. Alaska Stat. Ann. § 11.71.311.

⁶⁵ Possession of drug paraphernalia is not a crime in Alaska.

⁶⁶ Under the law, an individual is entitled to immunity only if they remain at the scene until a law enforcement or medical responder arrives and identifies him/herself to and “cooperates with” the responding provider. Colo. Rev. Stat. Ann. § 18-1-711(1).

⁶⁷ Immunity provided only if person reporting overdose “provides all relevant medical information as to the cause of the overdose or other life-threatening medical emergency that the person possesses at the scene of the event when a medical provider arrives, or when the person is at the facilities of the medical provider [...]” Del. Code Ann. tit. 16, § 4769(b)(2).

⁶⁸ Immunity is also provided for “all offenses in this chapter that are not class A, B, or C felonies,” including certain offenses concerning underage drinking, as well as “Miscellaneous drug crimes as described in § 4757 (a)(3), (6), and (7) of this Chapter.” Del. Code Ann. tit. 16, § 4769(c).

⁶⁹ Law states that a “law enforcement officer may not take an individual into custody..” if the individual: (1) obtained an overdose intervention drug in accordance with state law; (2) administered the overdose intervention drug in accordance with state law; (3) provided the individual’s full name and any other relevant information requested by the law enforcement officer; (4) remained at the scene with the individual who reasonably appeared to need medical assistance until emergency medical assistance arrived; (5) cooperated with emergency medical assistance personnel and law enforcement officers at the scene; and (6) came into contact with law enforcement because the individual requested emergency medical assistance for another individual who appeared to be experiencing an opioid-related overdose. Ind. Code Ann. § 16-42-27-2(g).

⁷⁰ Law states that a “law enforcement officer may not take an individual into custody “[...]if the individual: (1) obtained an overdose intervention drug in accordance with state law; (2) administered the overdose intervention drug in accordance with state law; (3) provided the individual’s full name and any other relevant information requested by the law enforcement officer; (4) remained at the scene with the individual who reasonably appeared to need medical assistance until emergency medical assistance arrived; (5) cooperated with emergency medical assistance personnel and law enforcement officers at the scene; and (6) came into contact with law enforcement because the individual requested emergency medical assistance for another individual who appeared to be experiencing an opioid-related overdose. Ind. Code Ann. § 16-42-27-2(g).

⁷¹ Per Michigan law, individuals who seek or require emergency assistance “because of a drug overdose or other perceived medical emergency arising from the use of a controlled substance or a controlled substance analogue that he or she possesses or possessed in an amount sufficient only for personal use” are “not in violation of” applicable law. Mich. Comp. Laws Ann. § 333.7304(3).

⁷² MN law provides protection from charge and prosecution for “possession, sharing, or use” of a controlled substance under enumerated section of the law, but those sections appear to prohibit only possession. Minn. Stat. Ann. § 604A.05

⁷³ The statute establishes that a person who provides first aid and medical assistance to another person experiencing an overdose may use this as a mitigating factor in a criminal prosecution for which immunity is not provided in the statute. Minn. Stat. Ann. § 604A.05 (4)(a).

⁷⁴ The statute establishes that a person who provides first aid and medical assistance to another person experiencing an overdose may use this as a mitigating factor in a criminal prosecution for which immunity is not provided in the statute. HB 333, Section 9(3).

⁷⁵ Immunity is granted to the person who summons assistance only if they have a “reasonable belief that” they were the first to call for assistance and they provide their own name to the 911 system of law enforcement officer upon arrival. N.C. Gen. Stat. Ann. § 90-96.2(b).

⁷⁶ Under North Dakota law, for immunity against prosecution and charge for possession and sharing of controlled substances and paraphernalia to apply, the individual receiving immunity “must have remained on the scene [of the overdose] until assistance arrived, cooperated with the medical treatment of the reported drug overdosed individual, and the overdosed individual must have been in a condition a layperson would reasonably believe to be a drug overdose requiring immediate medical assistance.” The maximum number of people who can gain immunity for one occurrence is three. N.D.

Page 18 of 24
N.D. Code Ann. § 19-03.1-23.4.

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- ⁷⁷ Immunity is also provided for inhalation of certain substances under N.D. Cent. Code Ann § 19-03.1-22.1, ingesting controlled substances under N.D. Cent. Code Ann § 19-02.1-22.3, and using controlled substance analogs under N.D. Cent. Code Ann § 19-03.1-22.5.
- ⁷⁸ Under Nebraska law, a person is not criminally liable for possession of controlled substances and paraphernalia if the individual was the first to request assistance during the emergency. The person receiving immunity must have remained at the scene of the overdose until assistance arrived and must have cooperated with medical assistance and law enforcement personnel. LB 487, Section 5.
- ⁷⁹ Immunity applies to “using, being under the influence of, or failing to make lawful disposition of, a controlled dangerous substance or controlled substance.” N.J. Stat. Ann. § 2C:35-30(a)(1).
- ⁸⁰ Immunity applies to the use of a controlled substance. Nev. Rev. Stat. Ann. § 453C.150(a)(3).
- ⁸¹ For reasons that are not clear to this author, the Ohio law applies only to individuals who have been previously granted immunity under the law not more than twice. People on “Community control or post-release control” do not qualify for immunity. The law also requires any EMS personnel or firefighter to disclose the name and address of any person to whom the EMS personnel or firefighter administered naloxone due to an actual or suspected drug overdose to a law enforcement agency with jurisdiction over the place where the naloxone was administered.
- ⁸² Immunity from arrest, charge and prosecution is only granted if the caller or victim, within 30 days of seeking or obtaining assistance, “seeks and obtains a screening and receives a referral for treatment [...]” Ohio Rev. Code Ann. § 2925.11(B)(2)(b)(ii).
- ⁸³ Immunity also applies to “frequentering a place where controlled substances are used.” Or. Rev. Stat. Ann. § 475.898(3)(a).
- ⁸⁴ Immunity is only granted if the caller provided his or her name and location, “cooperated with” the responding officials, and remained with the person needing assistance until law enforcement, campus security, or EMS personnel arrived. 35 Pa. Cons. Stat. Ann. § 780-113.7(a)(2).
- ⁸⁵ Pennsylvania law also provides protection from delivery, possession with intent to deliver, or manufacture with intent to deliver drug paraphernalia. 35 Pa. Cons. Stat. Ann. § 780-113.7(a).
- ⁸⁶ Immunity is also granted for “operation of a drug-involved premises.” R.I. Gen Laws Ann. § 21-28.9-4(a).
- ⁸⁷ The statute establishes that a person who provides first aid and medical assistance to another person experiencing an overdose may use this as a mitigating factor in a criminal prosecution pursuant to the controlled substance act. R.I. Gen Laws Ann. § 21-28.9-4(c).
- ⁸⁸ Under North Dakota law, a person who seeks assistance for another experiencing an overdose is immune from arrest and prosecution for possession and use of controlled substances if that person remains at the scene of the overdose and cooperates with medical assistance and law enforcement personnel. HB 1082, Section 2(3). The immunity provided to persons seeking assistance for another experiencing an overdose is limited to one time. The statute provides: “Any person seeking medical assistance or reports a person is in need of medical assistance shall only qualify once for immunity under this Act.” HB 1082, Section 5.
- ⁸⁹ Immunity also applies to the “inhalation, ingestion, or otherwise taking into the body any controlled drug or substance.” HB 1082, Section 2.
- ⁹⁰ The statute establishes that a person who provides first aid and medical assistance to another person experiencing an overdose may use this as a mitigating factor in a criminal prosecution for which immunity is not provided under the statute. HB 1082, Section 4.
- ⁹¹ Immunity applies to both a person seeking assistance for another experiencing an overdose and to a person seeking assistance for himself or herself. However, the statute specifies that for a person seeking assistance for himself or herself, immunity only applies on the person’s first overdose. Tenn. Code Ann. § 63-1-156(b).
- ⁹² The statute establishes that a person who provides first aid and medical assistance to another person experiencing an overdose may use this as a mitigating factor in a criminal prosecution for which immunity is not provided under the statute. Tenn. Code Ann. § 63-1-156(c)(1).
- ⁹³ For immunity to apply, the individual seeking immunity must have remained at the scene of the overdose and must have cooperated with medical assistance and law enforcement personnel. Utah Code Ann. § 58-37-8(16)(iv) – (v).
- ⁹⁴ For the act of seeking assistance for a person experiencing an overdose to serve as a mitigating factor, the individual seeking immunity must have remained at the scene of the overdose and must have cooperated with medical assistance and law enforcement personnel. Utah Code Ann. § 76-3-203.11(4) – (5).
- ⁹⁵ The immunity afforded under Virginia law to a person seeking medical assistance for another experiencing an overdose applies only if the person remains at the scene of the overdose and cooperates with medical assistance and law enforcement personnel. Va. Code Ann. § 18.2-251.03(B)(2) – (4).
- ⁹⁶ Simple possession of drug paraphernalia is not a crime in Vermont. Vt. Stat. Ann. tit. 18, § 4476.
- ⁹⁷ Under West Virginia law, a person who seeks emergency medical assistance for another experiencing an overdose “may not be held criminally responsible” for possessing controlled substances. W. Va. Code Ann. § 16-47-4(a)(9).