



DRUG OVERDOSE PREVENTION Fact Sheet

Legal Interventions to Reduce Overdose Mortality in Alaska

Background

Fatal drug overdose is a nationwide epidemic that claimed the lives of over 47,000 Americans in 2014.¹ The overdose crisis is particularly severe in Alaska, where the number of drug overdose deaths increased 16.7% from 105 in 2013 to 124 in 2014.² The age-adjusted overdose death rates in Alaska are higher than the national rate.³ Opioid overdose can be treated by administering naloxone, a medication that reverses the effects of opioids.⁴ However, access to naloxone and other emergency treatment has historically been limited by laws that make it difficult for those likely to be in a position to reverse an overdose to access the drug and discourage overdose witnesses from calling for help.⁵ In an attempt to reverse the unprecedented increase in preventable overdose deaths, the majority of states have amended those laws to increase access to emergency care and treatment for overdose victims, including the administration of naloxone.⁶

In 2016, Alaska joined their ranks by passing legislation to increase access to naloxone. Senate Bill 23 was passed by overwhelming majorities in the state House and Senate and was signed by the Governor on March 16, 2016.⁷ The law went into effect immediately. Alaska also enacted a Good Samaritan law in 2014.⁸ These bills are similar to those passed by other states. As explained in more detail below, they provide limited immunity from prosecution for certain crimes for individuals who experience a drug or alcohol overdose and are in need of medical care and for those who seek medical care in good faith for a person experiencing an overdose. The laws also permit medical professionals to prescribe naloxone not only to their own patients, but also to others who may be in a position to assist in the event of an overdose. Finally, they permit naloxone to be prescribed via standing order and provide limited immunity for medical professionals who prescribe naloxone as well as laypeople who administer it to a person suspected of suffering from an opioid overdose.

Limited Immunity for Possession of Certain Drugs

In many cases, overdose bystanders may fail to summon medical assistance because they are afraid that doing so may put them at risk of arrest and prosecution for drug-related crimes.⁹ The Alaska Good Samaritan law attempts to address this problem by providing limited immunity from prosecution for possession of certain drugs for both a person acting in good faith who seeks medical assistance for an individual experiencing a drug-related overdose and the person suffering from the overdose.¹⁰ The immunity applies if the individual sought in good faith medical or law enforcement assistance for another person reasonably believed to be experiencing a drug overdose; the individual remained at the scene with the at-risk individual until law enforcement or medical assistance arrived; and the individual cooperated with medical or law enforcement personnel, including providing identification. The law provides limited immunity from criminal prosecution for

possession, manufacture, or distribution of a controlled substance and delivery of a controlled substance to an individual under age 19.¹¹ Alaska state law also provides for sentence mitigation if a convicted defendant sought medical assistance for another person who was experiencing a drug overdose contemporaneously with the commission of the offense.¹²

Increased Access to Opioid Overdose Drugs

The 2016 law also takes several steps to make it easier for those likely to be in the position to save a life to do so by administering naloxone, the standard treatment for opioid overdose. The law permits health care providers to prescribe an opioid overdose drug directly or by standing order or protocol to a person at risk of experiencing an overdose as well as a family member, friend, caregiver, or other person “in a position to administer an opioid overdose drug to a person at risk of experiencing an opioid overdose.”¹³ A health care provider includes a licensed physician, osteopath, dentist, advanced nurse practitioner, physician assistant, nurse, village health aide, or pharmacist operating within the scope of their authority.¹⁴ An employee or volunteer of an opioid overdose program may also receive a supply of opioid overdose drugs, possess opioid overdose drugs, and provide an opioid overdose drug to the person at risk or certain individuals in a position to administer the opioid overdose drug.¹⁵

Health care providers or employees or volunteers of an opioid overdose program are not liable for civil damages arising from an act or omission in prescribing or providing an opioid overdose drug if the person to whom the opioid overdose drug is prescribed or provided received education and training from the health care provider or volunteer program regarding proper emergency use and administration of the drug.¹⁶

The law also provides civil immunity to a person who administers the opioid overdose drug to another person, if there is a reasonable belief that the recipient is experiencing an opioid overdose emergency.¹⁷ Like many other states, the Alaska law does not provide any immunity against intentional or reckless misconduct or gross negligence.¹⁸ These changes should help increase access to opioid overdose drugs, since in general prescriptions are not permitted to be written for persons the practitioner has not personally examined, even though the friends and family members of a person at high risk for overdose are often the ones to seek help from a trusted practitioner.

Finally, the law clarifies that a pharmacist may independently dispense an opioid overdose drug and authorizes the Board of Pharmacy to establish standards for independent dispensing of an opioid overdose drug by a pharmacist.¹⁹ Since it can often be difficult to access a professional with prescribing privileges, this change can also be expected to increase access to opioid overdose drugs in Alaska.

SUPPORTERS

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This document was developed by Sandhya Gopal, J.D. and reviewed by Corey Davis, J.D., M.S.P.H., at the Network for Public Health Law -- Southeastern Region. 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. This factsheet was updated in 2016 to incorporate changes made by SB23.



REFERENCES

- ¹ R. Rudd et al., *Increases in Drug and Opioid Overdose Deaths – United States, 2000-2014*, 64 MORBIDITY AND MORTALITY WEEKLY REPORT 1378 (2015).
- ² THE ALASKA BUREAU OF VITAL STATISTICS, UNINTENTIONAL INJURY DEATHS FOR ALASKA (2015), available at http://dhss.alaska.gov/dph/VitalStats/Documents/stats/death_statistics/unintentional_injury_census/frame.html
- ³ Id.
- ⁴ See C. Baca, et al., *Take-home Naloxone to Reduce Heroin Death*, 100 ADDICTION 1823; 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 AK S.B. 23 (2016); Bill History/Action for 29th Legislature, available at http://www.legis.state.ak.us/basis/get_bill.asp?bill=SB%20%2023&session=29
- ⁸ Alaska Stat. § 11.71.311 (2014).
- ⁹ 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).
- ¹⁰ Alaska Stat. § 11.71.311(a) (2014).
- ¹¹ Id.
- ¹² Alaska Stat. § 12.55.155(d)(19) (2008).
- ¹³ Alaska Stat. § 17.20.085(a) (2016). Standing orders and protocols authorize naloxone to be dispensed to any person who meets criteria specified in the order or protocol, as opposed to a named individual.
- ¹⁴ Alaska Stat. § 17.20.085(c)(1) (2016).
- ¹⁵ Alaska Stat. § 17.20.085(b) (2016).
- ¹⁶ Alaska Stat. § 09.65.340(a) (2016).
- ¹⁷ Alaska Stat. § 09.65.340(b) (2016).
- ¹⁸ Alaska Stat. § 11.71.311(a) (2014); Alaska Stat. § 09.65.340(c) (2016).
- ¹⁹ Alaska Stat. § 08.80.030(b)(13) (2016).