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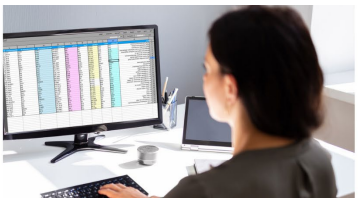


HARM REDUCTION AND OVERDOSE PREVENTION

Fact Sheet

Tennessee's Naloxone Access Laws, Explained

Background

Drug overdose is a nationwide epidemic. In 2021 alone it claimed the lives of nearly 108,000 people in the United States.[1] Opioids, either by themselves or in combination with other drugs or alcohol, were responsible for approximately 75% of these deaths. Many of these approximately 75,000 people would be alive today if they had been administered the opioid antagonist naloxone and, where needed, other emergency care.[2] In light of the ongoing crisis, all fifty states and the District of Columbia have modified their laws to increase access to naloxone, the standard first-line treatment for opioid overdose.[3]

This fact sheet discusses new amendments to Tennessee's naloxone access laws that went into effect on July 1, 2022. These amendments increase access to naloxone in several ways and remove some confusing language that previously limited the impact of efforts to increase access to this lifesaving medication.[1]

Summary of Tennessee naloxone access laws

Tennessee's naloxone laws, most recently amended effective July 1, 2022, provide for wide access to naloxone in a number of ways.[2] First, licensed healthcare practitioners acting in good faith and exercising reasonable care may prescribe naloxone or another opioid antagonist, directly or by standing order, to a person at risk of overdose or to a family member, friend, or other person in a position to assist a person experiencing an overdose.[3] Licensed healthcare practitioners can also prescribe opioid antagonists to an organization or other entity for the purpose of that organization or entity providing the medication to someone at risk of overdose or to family members, friends, or other people in a position to assist in the event of an overdose.[4] Although the law requires the commissioner of health to create and maintain an online education program to inform the public on the administration of naloxone and related matters, completion of this training is not required for healthcare practitioners to prescribe naloxone or for individuals or entities to receive, provide or administer it.[5]

Both individuals and entities acting under a standing order may receive and store naloxone or another opioid antagonist.[6] They may also provide the naloxone, directly or indirectly, to individuals at risk of overdose or their family, friends, or others in a position to assist in the event of an overdose, so long as the provision is done at

no cost to the recipient.[7] First responders acting under a standing order may also receive, store, and provide an opioid antagonist to a person at risk of overdose or a person in a position to assist in the event of an overdose.[8] Any person may administer an opioid antagonist to another person if they have a good faith belief that the other person is experiencing an overdose and they exercise reasonable care in administration.[9]

Licensed healthcare providers receive civil immunity and immunity from disciplinary action when they administer, prescribe, dispense, or issue standing orders for opioid antagonists in the absence of gross negligence or willful misconduct.[10] Civil immunity is also provided to individuals or entities that provide or administer opioid antagonists in the absence of gross negligence or willful misconduct.[11]

Finally, the Department of Health's chief medical officer may implement a statewide collaborative pharmacy practice agreement allowing pharmacists licensed and practicing in Tennessee who have completed a training program in the previous two years to dispense an opioid antagonist to individuals who do not otherwise have a prescription for it.[12] Civil and administrative immunity is provided to pharmacists acting under the collaborative practice agreement and the chief medical officer who implemented the agreement, so long as they act without gross negligence or willful misconduct.[13]

Changes from previous law

The new amendments are contained in S.B. 2572, which changed Tennessee's naloxone access laws in several ways.[14] First, while the ability of licensed healthcare practitioners to prescribe and dispense naloxone to an individual remains essentially unchanged from the previous version of the law, a previous recommendation that healthcare providers require receipt of a written communication proving that the person may need naloxone has been removed. The amendments also added the ability of healthcare practitioners to prescribe naloxone to an organization including but not limited to a recovery organization, hospital, school, harm reduction organization, homeless services organization, county jail, shelter, AIDS service organization, federally qualified health center, rural health clinic, health department, or treatment resource.[15]

Both individuals and entities acting under a standing order may now receive and store naloxone or another opioid antagonist "notwithstanding any other law or rule."[16] The amendments also clarify that organizations or entities acting under a standing order may provide the drug, directly or indirectly, to someone at risk of overdose or to family members, friends, or other people in a position to assist in the event of an overdose, so long as the provision is done at no cost to the recipient.[17]

Individuals may administer opioid antagonists to others if they have a good faith belief that the other person is experiencing an overdose and they exercise reasonable care in administration.[18] The 2022 amendments remove language in the previous version of the law regarding "reasonable care," including language regarding the receipt of instruction about the administration of naloxone and the completion of an overdose prevention education program. They also remove a requirement that the naloxone to be administered had been prescribed pursuant to the law.

Civil immunity and immunity from disciplinary action is provided to licensed healthcare providers who administer, prescribe, dispense, or issue standing orders for opioid antagonists in the absence of gross negligence or willful misconduct.[19] This is a simplification of the wording in the previous law but provides essentially the same protections, although immunity for standing orders has been added. Civil immunity is also provided to individuals or entities providing or administering opioid antagonists in the absence of gross negligence or willful misconduct.[20] Previously, individuals were only protected when administering naloxone, and entities had no immunity.

First responders acting under a standing order are now explicitly permitted to receive, store, and provide an opioid antagonist to a person at risk of overdose or a person in a position to assist in the event of an overdose, "notwithstanding another law or rule."

Other changes include an expansion of the definition of "drug-related overdose" substituting "drug-related overdose" everywhere that the previous law specified "opioid-related overdose," and substitution of the word "individual" for the word "person." Additionally, the definition of "opioid antagonist" was expanded to include any formulation of naloxone or any other federally approved, similarly acting, and equally safe drug for the treatment of a drug-related overdose.

No significant changes were made to the pharmacist collaborative practice law, but the definition of "opioid antagonist" was changed in the same manner as in the naloxone access law, and "opioid-related overdose" was changed to "drug-related overdose."

Frequently Asked Questions

Q: May hospitals and jails distribute naloxone upon discharge?

Yes, hospitals and jails acting under standing orders are explicitly authorized to distribute naloxone to any individual at risk of experiencing an overdose or a family member, friend, or other person in a position to assist someone at risk of overdose, so long as the naloxone is provided at no cost to the recipient.[21] There is no restriction on when or where that distribution may take place; therefore, distribution at discharge is permitted. In fact, this practice is encouraged due to the high number of people seen in Tennessee hospitals for drug overdose[22] as well as increases in overdose death after being discharged from both hospitals[23] and jails/prisons.[24]

Q: May an individual use a naloxone kit that wasn't distributed directly to them to reverse an opioid overdose?

Yes. The only requirements to use an opioid antagonist on another individual are that the person administering naloxone have a good faith belief that the other individual is experiencing a drug-related overdose, and that the person administering naloxone exercise reasonable care in doing so.[25] There is no restriction on where the person administering naloxone acquired that naloxone. This is a change from the previous version of the law, which only permitted a "person who receives an opioid antagonist that was prescribed" pursuant to the law to administer naloxone. The new version of the law removes that requirement.

Q: May a person who has received naloxone pass their kit on to a friend who is at risk of overdose or may be in a position to assist at the scene of an overdose?

Yes, for several reasons. First, an individual or entity acting under a standing order may provide naloxone to another individual "directly or indirectly".[26] Indirect distribution would include allowing those who receive naloxone to then pass that naloxone onto another person who is at risk of overdose or who might be in a position to assist in an overdose. .Second, the law permits any organization acting under a standing order to be prescribed naloxone for the purpose of providing it to an individual at risk of overdose or who might be in a position to assist in an overdose. This necessarily permits the organization, or an individual affiliated with the organization, to further distribute the naloxone.

Q: May an individual or organization authorized to distribute naloxone do so outside of a fixed site?

Yes. Entities authorized to distribute naloxone may do so directly or indirectly so long as they provide naloxone at no cost to the recipient.[27] There are no other qualifications on how the naloxone may be distributed. Further, the law states that these entities may do so "notwithstanding another law or rule," so even if a different law restricted the distribution of naloxone to certain locations, that law would be preempted by the naloxone access law.

Q: Are health departments authorized to distribute naloxone via standing order on- and/or off-site?

Yes, health departments are explicitly authorized to distribute naloxone via standing order.[28] There are no restrictions on where they may do so, as explained above.

Q: Is naloxone training required before a person can receive or administer naloxone?

No. The commissioner of health is required to create and maintain an online resource to provide training,[29] but there are no requirements that organizations use that resource, no requirements that organizations provide any training, and no requirement that an individual must receive training before receiving, storing, or administering naloxone.

Q: Is there a limit to the amount of naloxone that can be provided to an individual at one time?

No. There is no law restricting the amount of naloxone or the type of naloxone that may be provided to any one person at any one time. The amount and type of naloxone that can be provided to an individual is set by the licensed healthcare practitioner that issues the prescription or standing order, not the statute.

Conclusion

Tennessee modified its laws in July 2022 to increase access to naloxone in a variety of ways. Perhaps most notably, while naloxone remains a prescription medication under federal law, these changes permit the medication to stored and provided by any individual or organization authorized to do so by a licensed healthcare practitioner otherwise authorized to prescribe naloxone, so long as they do so at no cost to the recipient. Because nearly every witnessed opioid overdose is reversible with by the timely administration of naloxone, these changes can save countless lives in the state.

SUPPORTERS

Support for the Network provided by the Robert Wood Johnson Foundation. The views expressed in this document do not necessarily reflect the views of the Foundation.

This document was developed by Amy Lieberman, JD with assistance from Corey Davis, JD, MSPH at the Network for Public Health Law's Harm Reduction Legal Project (harmreduction@networkforphl.org) in July 2022. **The legal information provided in this document does not constitute legal advice or legal representation. For legal advice, please consult specific legal counsel.**

[1] 2022 Tennessee Laws Pub. Ch. 749 (S.B. 2572).
[2] While the naloxone access law uses the term "opioid antagonist," that term is defined as "naloxone hydrochloride which is approved by the federal food and drug administration for the treatment of a drug overdose." TENN. CODE ANN. § 63-1-152(a). We therefore use the term "naloxone" in the fact sheet when referring to that law.
[3] The licensed healthcare practitioner must be "otherwise authorized to prescribe an opioid antagonist." TENN. CODE ANN. § 63-1-152(b). The law defines "opioid antagonist" as "a formulation of naloxone hydrochloride or another similarly acting and equally safe drug approved by the United States food and drug administration for the treatment of a drug-related overdose." TENN. CODE ANN. § 63-1-152(a)(2).
[4] TENN. CODE ANN. § 63-1-152(b)(3).
[5] *See* TENN. CODE ANN. § 63-1-152(e).
[6] TENN. CODE ANN. § 63-1-152(c)(1).
[7] TENN. CODE ANN. § 63-1-152(c)(2).
[8] TENN. CODE ANN. § 63-1-152(i). Emergency medical services are required to take an individual treated with naloxone by a first responder to a medical facility, unless they are competent to refuse treatment and choose to do so. TENN. CODE ANN. § 63-1-152(j).
[9] TENN. CODE ANN. § 63-1-152(d).
[10] TENN. CODE ANN. § 63-1-152(f); (g).
[11] TENN. CODE ANN. § 63-1-152(f)(2); (3).
[12] TENN. CODE ANN. § 63-1-157.
[13] TENN. CODE ANN. § 63-1-157(6); (7).
[14] 2022 Tennessee Laws Pub. Ch. 749 (S.B. 2572)
[15] TENN. CODE ANN. § 63-1-152(b)(3).
[16] TENN. CODE ANN. § 63-1-152(c)(1).
[17] TENN. CODE ANN. § 63-1-152(c)(2).
[18] TENN. CODE ANN. § 63-1-152(d).
[19] TENN. CODE ANN. § 63-1-152(f); (g).
[20] TENN. CODE ANN. § 63-1-152(f)(2).
[21] TENN. CODE ANN. § 63-1-152(c)(2).
[22] TENNESSEE DEPARTMENT OF HEALTH OFFICE OF INFORMATICS AND ANALYTICS, *2020 Drug Overdose Hospital Discharges in Tennessee*, https://www.tn.gov/content/dam/tn/health/program-areas/reports_and_publications/DrugPoisoningReport-2022.pdf (March 1, 2022).
[23] Dan Lewer, et al., *Fatal opioid overdoses during and shortly after hospital admissions in England: A case-crossover study*, 18 PLOS Medicine (2021).
[24] Elizabeth L.C. Merrall, et al., *Meta-analysis of drug-related deaths soon after release from prison*, 105 Addiction 1545 (September 2010).
[25] TENN. CODE ANN. § 63-1-152(d).
[26] TENN. CODE ANN. § 63-1-152(c)(2).
[27] TENN. CODE ANN. § 63-1-152(c)(2).
[28] TENN. CODE ANN. § 63-1-152(b)(3).
[29] TENN. CODE ANN. § 63-1-152(e). This training is available at https://apps.health.tn.gov/naloxone/savealife/.