

HARM REDUCTION AND OVERDOSE PREVENTION Fact Sheet

California Naloxone Liability Protections


Background

Drug overdose is a nationwide epidemic. In 2021 alone nearly 108,000 people in the United States died of drug-related overdose.¹ Opioids, either by themselves or in combination with other drugs or alcohol, were responsible for approximately 75% of these deaths. In addition, a significant number of individuals experience preventable harm due to non-fatal opioid-induced hypoxia.² Many of these deaths and injuries could have been avoided if persons experiencing opioid overdose had quickly received naloxone, a full opioid antagonist that reverses most opioid overdoses if administered before the affected individual experiences cardiac arrest.³ Reducing the time to naloxone administration is crucial, as the risk of irreversible cell death increases with the amount of time the overdosing person is hypoxic.⁴ This necessarily means equipping people who use drugs (“PWUD”), as well as their friends and family members, with naloxone. These individuals are often the first, and sometimes the only, opioid overdose responders.⁵ 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.⁶

This fact sheet discusses laws in California that protect those who respond at the scene of an overdose emergency, including by administering naloxone to a person experiencing an overdose. These laws show a clear intention by the state to encourage laypersons to respond to overdose and increase access to and use of naloxone to reduce preventable overdose death and disability.

Summary of California naloxone liability protections

California’s naloxone access law includes protections for individuals who possess or administer naloxone pursuant to a prescription or standing order. Under state law, licensed health care providers are authorized to prescribe, dispense, and distribute naloxone to individuals at risk of an opioid-related overdose and to a family member, friend, or other person in a position to assist a person experiencing or reasonably suspected of experiencing an opioid overdose.⁷ These providers may also issue a standing order for the distribution of naloxone to those individuals.⁸ Additionally, health care providers are authorized to issue standing orders that



allow laypersons to administer naloxone to individuals at risk of an opioid-related overdose or to a family member, friend, or other person in a position to assist a person experiencing or reasonably suspected of experiencing an opioid overdose.⁹

Any person who receives naloxone via prescription or standing order may possess or distribute that naloxone without being subject to professional review, civil liability, or criminal prosecution.¹⁰ Further, a person not otherwise licensed to administer naloxone may do so under a standing order, so long as they receive training on responding to an opioid overdose that includes education on the causes of an opiate overdose, mouth to mouth resuscitation, how to contact appropriate emergency medical services, and how to administer an opioid antagonist like naloxone.¹¹ This training can be provided by “any program operated by a local health jurisdiction or that is registered by a local health jurisdiction.”¹² So long as this trained person acts with reasonable care, in good faith, and not for compensation when administering naloxone, the person is not subject to professional review, civil liability, or criminal prosecution.¹³

California also has two Good Samaritan laws that provide protections for individuals responding to medical emergencies. First, a person who, in good faith and without compensation, provides care at the scene of an emergency is not liable for any civil damages resulting from their acts or omissions, so long as the act or omission does not constitute gross negligence or willful or wanton misconduct.¹⁴ This law does not create any duty to act at the scene of an emergency.¹⁵

The second Good Samaritan law provides specific protections to individuals both responding to and experiencing overdose emergencies. This law provides criminal immunity for the use or possession of controlled substances, their analogs, or drug paraphernalia for both the person experiencing the overdose and the person reporting the overdose, so long as that person does not obstruct medical or law enforcement personnel.¹⁶

California law strongly supports individuals who wish to help at the scene of an emergency.¹⁷ For example, employers are forbidden from adopting or enforcing a policy prohibiting an employee from voluntarily providing care at the scene of an emergency, unless the individual experiencing the emergency has expressed that they do not wish for medical interventions in a legally recognized fashion, such as a do-not-resuscitate order.¹⁸ An employer may adopt policies identifying specific employees to receive training to become designated emergency responders and may not forbid other employees from helping when a designated responder is unavailable.¹⁹

Conclusion

California’s naloxone access and Good Samaritan laws aim to increase access to and use of naloxone at the scene of an overdose emergency. They do this by ensuring professional, civil, and criminal liability protections for anyone who has completed overdose response education, which is widely available. Because nearly every witnessed opioid overdose is reversible with by the timely administration of naloxone, carrying naloxone and being prepared to use it can save countless lives in the state.

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¹ National Center for Health Statistics. Vital Statistics Rapid Release: Provisional Drug Overdose Death Counts. 2022; <https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm>. Accessed March 20, 2023.

² 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 James M. Chamberlain & Bruce L. Klein, *A Comprehensive Review of Naloxone for the Emergency Physician*. 12 AM. J. EMERGENCY MED. 650 (1994).

³ Debra Kerr, Anne-Maree Kelly, Paul Dietze, Damien Jolley & Bill Barger, *Randomized Controlled Trial Comparing the Effectiveness and Safety of Intranasal and Intramuscular Naloxone for the Treatment of Suspected Heroin Overdose*. 104 ADDICTION 2067–2074 (2009). <https://doi.org/10.1111/j.1360-0443.2009.02724.x>

⁴ Carine Michiels, *Physiological and Pathological Responses to Hypoxia*, 164 AMERICAN J. PATHOLOGY 1875 (2004).

⁵ Alex Bennet, Alice Bell, Maya Doe-Simkins, Luther Elliott, Enrique Pouget & Corey Davis, *From Peers to Lay Bystanders: Findings from a Decade of Naloxone Distribution in Pittsburgh, PA*, JOURNAL OF PSYCHOACTIVE DRUGS 1 (2018).

⁶ For a comprehensive list of state naloxone access laws, see Network for Public Health Law, *Legal Interventions to Reduce Overdose Mortality: Naloxone Access Laws*, <https://www.networkforphl.org/wp-content/uploads/2021/04/NAL-FINAL-4-12.pdf>.

⁷ These providers are required to act with reasonable care. Cal. Civ. Code § 1714.22(b).

⁸ Cal. Civ. Code § 1714.22(c)(1).

⁹ Cal. Civ. Code § 1714.22(c)(2).

¹⁰ Cal. Civ. Code § 1714.22(f).

¹¹ Cal. Civ. Code § 1714.22(d)(1); (a)(2). Individuals do not need training to possess naloxone directly prescribed to them by a healthcare provider. Cal. Civ. Code § 1714.22(d)(2).

¹² Cal. Civ. Code § 1714.22(a)(2).

¹³ Cal. Civ. Code § 1714.22(f).

¹⁴ Cal. Health & Safety Code § 1799.102(b)(2).

¹⁵ Cal. Health & Safety Code § 1799.102(c).

¹⁶ Cal. Health & Safety Code § 11376.5

¹⁷ See Cal. Educ. Code § 49414.3.

¹⁸ Cal. Health & Safety Code § 1799.103(a); (c).

¹⁹ Cal. Health & Safety Code § 1799.103(b).