

FACT SHEET

LEGALITY OF EXPIRED NALOXONE IN WISCONSIN

BACKGROUND

Drug overdose is a continuing public health crisis that claimed the lives of over 12,500 people in Wisconsin between 2016 and 2024.¹ At least 9,899 of these deaths involved an opioid.² Many of those people would likely be alive today if they had been administered the opioid antagonist naloxone and, where needed, other emergency care.³ In light of the ongoing overdose 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.⁴

While these laws have successfully increased access to naloxone, few explicitly address the legality of distributing and administering the lifesaving medication past its expiration date, despite its proven efficacy and safety.⁵ As many governmental and non-governmental organizations increasingly have stocks of such expired naloxone, it is important to determine the legality of distributing and using it.

This factsheet discusses whether Wisconsin law forbids the prescription, dispensing, distribution, possession, or administration of expired naloxone. It also discusses whether taking such actions might impact a medical professional's risk of criminal, civil, or administrative liability for prescribing or dispensing expired naloxone, or a layperson's criminal or civil immunity for distributing or administering it.

In summary, Wisconsin law does not generally forbid the possession or distribution of expired drugs, including naloxone, and the state naloxone access law's broad immunity protections would cover good faith distribution or administration of expired naloxone. However, some healthcare professionals are forbidden from keeping or dispensing expired drugs, including naloxone.

“An expired naloxone vial may deliver less than the labeled amount of drug, but the risk of an untreated opioid overdose is far greater than any risk posed by the administration of expired naloxone.”

American College of Medical Toxicology, ACMT
Position Statement: ACMT Supports the Use of
Expired Naloxone When Unexpired Drug is Not
Available, March 27, 2026. [\[Link\]](#)

EFFICACY OF EXPIRED NALOXONE

Numerous studies have demonstrated that naloxone retains its potency long past its expiration date, even when kept in less-than-ideal conditions. In perhaps the most comprehensive study on the subject, expired naloxone samples—some which had expiration dates as early as the 1990s—were obtained from fire departments, emergency medical services, and law enforcement agencies.⁶ Upon testing, it was discovered that these samples—which had mostly been stored in ambulances, police cars, and similar high-variability environments—retained nearly all of their active ingredient even after nearly 30 years in storage. Only one sample, which was more than 25 years past its expiration date, had fallen to below 90% of its original strength.⁷

While that study was conducted with naloxone vials designed for injection with a needle and syringe, similar results have been obtained with Evzio, an auto-injector device, and Narcan, a nasal spray. Testing on several of these products that were at least one year past their listed expiration date revealed that they all retained greater than 100% of their labeled naloxone concentration. The researchers who conducted this study noted that the data suggest “extending the shelf life of these products” to “aid in avoiding the significant expense of replacing them every two years and also increase the availability” of naloxone in communities.⁸

Even extremes of heat and cold seem to do little to impact the efficacy of naloxone. In another study, ampoules of naloxone were cycled through repeated heating and cooling cycles for 28 days. These samples, which had

been either repeatedly cooled to around -70 degrees Fahrenheit or heated to around 176 degrees Fahrenheit, “remained at comparable concentrations as ampoules stored at room temperature.”⁹

Although these studies primarily evaluated chemical stability rather than clinical effectiveness, their findings provide substantial evidence that naloxone retains much of its potency beyond its labeled expiration date. Consistent with this evidence, in March 2026 the American College of Medical Toxicology issued a position statement supporting the use of expired naloxone to reverse a suspected opioid overdose when unexpired naloxone is not available.¹⁰ Similarly, the FDA has repeatedly extended the shelf-life of naloxone products, indicating recognition of their robust stability.¹¹

SUMMARY OF RELEVANT WISCONSIN LAW

Since 2014, Wisconsin law has allowed any person, including laypeople, to possess and distribute opioid antagonists such as naloxone.¹² In the healthcare context, physicians, advanced practice registered nurses, and physician assistants can prescribe, deliver, and dispense an opioid antagonist so long as they ensure that the recipient “has or has the capacity to provide the knowledge and training necessary to safely administer the opioid antagonist to an individual undergoing an opioid-related overdose and that the person demonstrates the capacity to ensure that any individual to whom the person further delivers the opioid antagonist has or receives that knowledge and training.”¹³ If they do so in good faith, they are immune from civil liability, criminal liability and disciplinary proceedings.¹⁴ Those healthcare professionals may also issue standing orders “to one or more persons authorizing the dispensing of an opioid antagonist.”¹⁵ Pharmacists may also deliver naloxone pursuant to traditional prescriptions and standing orders and are immune from civil liability, criminal liability and disciplinary proceedings if they do so in good faith.¹⁶

The law also provides criminal and civil immunity to any person who, in good faith, delivers or dispenses an opioid antagonist to another person for any outcomes resulting from those actions.¹⁷ Additionally, laypeople who administer naloxone or another opioid antagonist to another person they think is experiencing an opioid-related drug overdose are immune from civil and criminal liability for any outcomes resulting from the administration of the opioid antagonist.¹⁸ Law enforcement officers, jailers, correctional officers, and firefighters who administer an opioid antagonist to a person they reasonably believe is experiencing an opioid-related overdose have civil and criminal immunity for any outcomes resulting from that administration if their department has entered into an agreement with a physician or ambulance service provider to obtain the opioid antagonist and necessary training to administer it.¹⁹

Wisconsin has not enacted any laws regulating expired drugs generally. However, several statutes and regulations address expired drugs in healthcare settings. For example:

- Pharmacists may not dispense expired drugs and pharmacies must remove expired drugs from dispensing stock until they can be disposed of²⁰
- Dentists must dispose of expired drugs²¹
- An ambulance cannot keep drugs or medications beyond their expiration date²²
- Expired medication cannot be given to a resident in facilities serving people with developmental disabilities²³
- In nursing homes, expired medications must be destroyed within 72 hours of their expiration date²⁴
- In group homes, medications must be disposed of “at an authorized department of health services or law enforcement pharmaceutical drop-off site within one week after the medication’s expiration date”²⁵
- Expired drugs cannot be accepted by a state drug repository that allowed unused medications and supplies to be donated and redistributed to patients in need,²⁶ and recipients may not administer or dispense a prescription drug if it will “expire before the use by a patient based on the prescribing practitioner’s directions for use.”²⁷

Only two laws specifically address expired naloxone: office based opioid treatment services must be offered a new prescription if their previous naloxone kit has expired²⁸ and opioid treatment programs must “provide a new naloxone kit or prescription upon expiration or use of the old kit.”²⁹

LEGAL ANALYSIS

Wisconsin law defines “opioid antagonist” as “a drug, such as naloxone” that is not a controlled substance and “binds to the opioid receptors and competes with or displaces opioid agonists at the opioid receptor site but does not activate the receptors, effectively blocking the receptor and preventing or reversing the effect of an

opioid agonist”.³⁰ This definition would include both expired and unexpired naloxone so long as that naloxone prevents or reverses an overdose. As noted above, naloxone generally retains its efficacy long past the expiration date on the package.

Wisconsin law allows physicians, advanced practice registered nurses, physician assistants, and pharmacists to deliver and dispense opioid antagonists. If they do so in good faith, they are immune from civil liability, criminal liability and disciplinary proceedings. The law also explicitly allows laypeople to distribute and administer opioid antagonists. If a layperson distributes naloxone in good faith or administers it to a person they reasonably believe is experiencing an opioid-related drug overdose, the law provides civil and criminal immunity for any outcomes that result from the distribution or administration.³¹

The naloxone access law does not clearly supersede the few laws that explicitly apply to expired drugs outlined above. We therefore think it is not clear whether, for example, pharmacists would be able to dispense expired naloxone. However, we believe it is highly likely that the same immunity provisions that apply to laypeople who distribute or administer unexpired naloxone apply to expired naloxone as well, so long as the naloxone maintains its efficacy.

CONCLUSION

Wisconsin law authorizes certain healthcare professionals and laypeople, acting in good faith, to distribute naloxone with immunity from civil or criminal liability and, with few exceptions, provides civil and criminal immunity to anyone who administers naloxone if they reasonably believe a person is experiencing an opioid-related drug overdose. Further, Wisconsin law does not generally prohibit the possession or distribution of expired drugs. However, pharmacists are explicitly prohibited from dispensing expired drugs (including naloxone) and the naloxone access law may not supersede this restriction.

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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.



¹ Wisconsin Dep’t of Health Services, Substance Use: Drug Overdose Deaths Dashboard, (last revised Apr. 13, 2026), available at <https://www.dhs.wisconsin.gov/aoda/drug-overdose-deaths.htm>.

² Wisconsin Dep’t of Health Services, Substance Use: Drug Overdose Deaths Dashboard, (last revised Apr. 13, 2026), available at <https://www.dhs.wisconsin.gov/aoda/drug-overdose-deaths.htm>.

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. James Chamberlain et al., *A comprehensive review of naloxone for the emergency physician*, 12 Am J Emerg Med. 650, 660 (1994).

⁴ 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/2024/10/Naloxone-Access-Laws-50-State-Survey-2024.pdf>.

⁵ Colorado and Kansas are notable exceptions. In Colorado, state law explicitly extends immunity protections to individuals who furnish or administer expired naloxone. See Colo. Rev. Stat. § 13-21-108.7(3)(a); Colo. Rev. Stat. § 18-1-712(2)(a). The Colorado Consortium for Prescription Drug Abuse Prevention has created an Expired Naloxone Program toolkit that walks agencies through the process of donating expired naloxone. See Colorado Consortium for Prescription Drug Abuse Prevention, *Expired Naloxone Donation program*, <https://corxconsortium.org/projects/expired-naloxone/>. In 2026, Kansas expanded its definition of “emergency opioid antagonist to include “an expired emergency opioid antagonist up to 10 years past such emergency opioid antagonist’s expiration.”

⁶ Schuyler Pruyin et al., *Quality Assessment of Expired Naloxone Products from First-Responders’ Supplies*, in 23 PREHOSP EMERG CARE 647, 653 (2019).

⁷ The potency of that sample, which expired in May 1992, was approximately 89% of that when it was new.

⁸ Mohammad F. Hossain et al., *Chemical stability of naloxone products beyond their labeled expiration dates*, 18 J OPIOID MANAG. 39, 46 (2022).

- ⁹ See Dulcie Lai et al., *The effects of heat and freeze-thaw cycling on naloxone stability*, 16 HARM REDUCT J. 17 (2019) (finding stability across temperatures reported between -20 and 80 degrees Celsius); Bart Johansen et al., *Effect of extreme temperatures on drugs for prehospital ACLS*, 11 AM J EMERG MED. 450, 452 (1993) (finding stable results at temperatures of -20 and 70 degrees Celsius).
- ¹⁰ American College of Medical Toxicology, *ACMT Position Statement: ACMT Supports the Use of Expired Naloxone When Unexpired Drug is Not Available*, March 27, 2026, available at https://www.acmt.net/wp-content/uploads/2026/03/ACMT-Position-Statement_-_Expired-Naloxone.pdf.
- ¹¹ See, e.g., FDA, Press Release, FDA Announces Shelf-Life Extension for Naloxone Nasal Spray (Jan. 17, 2024), <https://www.fda.gov/drugs/drug-safety-and-availability/fda-announces-shelf-life-extension-naloxone-nasal-spray>; Hikma Pharm., Press Release, Kloxxado 8mg Naloxone Nasal Spray Shelf-Life Extended from 24 Months to 36 Months (Aug. 15, 2024), <https://www.prnewswire.com/news-releases/kloxxado-8mg-naloxone-nasal-spray-shelf-life-extended-from-24-months-to-36-months-302223864.html>.
- ¹² “[A]ny person may deliver or dispense an opioid antagonist.” Wis. Stat. § 450.11(1i)(b)(2)(a). “Any person may possess an opioid antagonist.” Wis. Stat. § 450.11(1i)(b)(1).
- ¹³ Wis. Stat. Ann. § 448.9727; Wis. Stat. Ann. § 441.18; Wis. Stat. Ann. § 448.037.
- ¹⁴ Wis. Stat. Ann. § 448.9727(3); Wis. Stat. Ann. § 441.18(3); Wis. Stat. Ann. § 448.037(3).
- ¹⁵ Wis. Stat. Ann. § 448.9727(2)(a)(2); Wis. Stat. Ann. § 441.18(2)(a)(2); Wis. Stat. Ann. § 448.037(2)(a)(2).
- ¹⁶ Wis. Stat. Ann. § 450.11(1i). When doing so, the pharmacist “shall provide a consultation in accordance with rules promulgated by the board for the delivery of a prescription to the person to whom the opioid antagonist is delivered.” *Id.*
- ¹⁷ Wis. Stat. Ann. § 450.11(1i)(c)(2). This immunity “does not extend when employees trained in health care or health care professionals render emergency care for compensation and within the scope of their usual and customary employment or practice at a hospital or other institution equipped with hospital facilities, at the scene of any emergency or accident, enroute to a hospital or other institution equipped with hospital facilities, or at a physician’s office.” Wis. Stat. Ann. § 895.48(1g).
- ¹⁸ “Subject to ss. 256.40(3)(b) and 895.48(1g), any person who, reasonably believing another person to be undergoing an opioid-related drug overdose, administers an opioid antagonist to that person shall be immune from civil or criminal liability for any outcomes resulting from the administration of the opioid antagonist to that person.” Wis. Stat. Ann. § 450.11(1i)(c)(3).
- ¹⁹ Wis. Stat. Ann. § 256.40(3).
- ²⁰ “The pharmacist shall inspect drugs and supplies for adulteration, misbranding, and the date of expiration before dispensing. Drugs or supplies that are expired, adulterated, or misbranded may not be dispensed.” Wis. Admin. Code DHS § 148.07(2). “A drug or device may not be dispensed after the drug’s or device’s expiration date or beyond use date. Outdated drugs or devices shall be removed from dispensing stock and shall be quarantined until such drugs or devices are properly disposed.” Wis. Admin. Code Phar § 7.09(2).
- ²¹ Wis. Admin. Code DE § 11.09(7).
- ²² Wis. Admin. Code Trans § 309.24(4).
- ²³ Wis. Admin. Code DHS § 134.67(5)(b)(9).
- ²⁴ Wis. Admin. Code DHS § 132.65(6)(c).
- ²⁵ Wis. Admin. Code DC § 57.29(7).
- ²⁶ Wis. Stat. Ann. § 255.056(3)(b).
- ²⁷ Wis. Stat. Ann. § 255.056(3m)(c).
- ²⁸ Wis. Admin. Code DHS § 75.60(10)(a)(3).
- ²⁹ Wis. Admin. Code DHS § 75.59(26)(b).
- ³⁰ Wis. Stat. Ann. § 450.01(13v).
- ³¹ Wis. Stat. Ann. § 450.11(1i)(c).