

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 223 Session of 2019

INTRODUCED BY PHILLIPS-HILL, BREWSTER, KILLION, COSTA, YAW, J. WARD, BROWNE, HAYWOOD AND SCAVELLO, MARCH 13, 2019

AS AMENDED ON THIRD CONSIDERATION, JUNE 18, 2019

AN ACT

1 Amending the act of September 27, 1961 (P.L.1700, No.699),
2 entitled "An act relating to the regulation of the practice
3 of pharmacy, including the sales, use and distribution of
4 drugs and devices at retail; and amending, revising,
5 consolidating and repealing certain laws relating thereto,"
6 further providing for definitions and for unlawful acts.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Section 2 of the act of September 27, 1961
10 (P.L.1700, No.699), known as the Pharmacy Act, is amended by
11 adding clauses to read:

12 Section 2. Definitions.--As used in this act:

13 * * *

14 (20) "EMS provider" means "emergency medical services
15 provider" or "EMS provider" as defined in 35 Pa.C.S. § 8103
16 (relating to definitions).

17 (21) "Dose package" means an individually sealed package
18 that contains naloxone or another comparable treatment regimen
19 as determined by the Secretary of Health in a standing order to
20 be used for the reversal of a single opioid-related overdose

1 event.

2 Section 2. Section 8(2) of the act is amended and the
3 section is amended by adding a clause to read:

4 Section 8. Unlawful Acts.--It shall be unlawful for:

5 * * *

6 (2) [Any] Except as provided in clause (2.2), any person not
7 duly licensed as a pharmacist, pursuant to section 3 hereof, to
8 engage in the practice of pharmacy, including the preparing,
9 compounding, dispensing, selling or distributing at retail to
10 any person any drug, except by a pharmacy intern or such other
11 authorized personnel under the direct and immediate personal
12 supervision of a pharmacist: Provided, however, That nothing
13 herein shall be construed to prevent a duly licensed medical
14 practitioner from dispensing, compounding or otherwise giving
15 any drug to his own patients after diagnosis or treatment of
16 said patient, if such compounding, preparing and dispensing is
17 done by said licensee himself, nor shall anything herein prevent
18 any person from selling or distributing at retail household
19 remedies or proprietary medicines when the same are offered for
20 sale or sold in the original packages which have been put up
21 ready for sale to consumers, provided household remedies or
22 proprietary medicines shall not include any controlled
23 substances or non-proprietary drug under the act of April 14,
24 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug,
25 Device and Cosmetic Act."

26 * * *

27 (2.2) An EMS provider to dispense a dose package unless all
28 of the following apply:

29 (i) A standing order issued by the Secretary of Health
30 allows for the purchase of naloxone or a dose package by the

1 public without a prescription.

2 (ii) The EMS provider determines that it is appropriate to
3 dispense a dose package to a family member, a friend or another
4 individual who is in a position to assist a patient who has
5 experienced an opioid-related overdose event, based on the
6 immediate circumstances surrounding the event or other
7 conditions, including the availability and accessibility of a
8 pharmacy. The following shall apply:

9 (A) The dispensing of the dose package shall be voluntary on
10 the part of the EMS provider. The following shall apply:

11 (I) This subclause shall not create any obligation on the
12 part of an EMS provider to stock the dose package or dispense
13 the dose package to the family member, friend or other
14 individual.

15 (II) The EMS provider shall not incur any liability for not
16 stocking the dose package or not dispensing the dose package to
17 the family member, friend or other individual.

18 (B) ~~Consistent with~~ UNLESS THE DOSE PACKAGE WAS SUPPLIED TO <--
19 THE EMS PROVIDER FREE OF CHARGE, AN EMS PROVIDER THAT DISPENSES
20 A DOSE PACKAGE IN ACCORDANCE WITH THIS CLAUSE MAY BILL THE
21 PATIENT'S INSURER, AS THAT TERM IS DEFINED IN section 635.7 of
22 the act of May 17, 1921 (P.L.682, No.284), known as "The
23 Insurance Company Law of 1921," the EMS provider may bill for <--
24 the dispensing of the dose package under this subclause as a
25 result of the opioid-related overdose event. ~~The reimbursement~~ <--
26 ~~by an insurer to the EMS provider for the dose package shall not~~
27 ~~exceed the amount that a pharmacy would have received if the~~
28 ~~family member, friend or other individual had purchased the~~
29 ~~naloxone or other comparable regimen at the pharmacy. The EMS~~
30 ~~provider may not bill for the dispensing of the dose package~~

1 ~~under this subclause as a result of the opioid related overdose~~
2 ~~event if the dose package was supplied to the EMS provider free~~
3 ~~of charge by a single county authority or designee. PAYMENT BY~~ <--
4 THE INSURER:

5 (I) MAY NOT BE DENIED ON THE BASIS THAT THE EMS PROVIDER IS
6 NOT DULY LICENSED AS A PHARMACIST.

7 (II) SHALL BE CONSISTENT WITH THE TERMS OF THE PATIENT'S
8 HEALTH INSURANCE POLICY AND, IF APPLICABLE, SECTION 635.7 OF THE
9 INSURANCE COMPANY LAW OF 1921.

10 (III) MAY NOT EXCEED THE AMOUNT THAT A PHARMACY WOULD HAVE
11 RECEIVED IF THE FAMILY MEMBER, FRIEND OR OTHER INDIVIDUAL HAD
12 PURCHASED THE NALOXONE OR OTHER COMPARABLE REGIMEN AT THE
13 PHARMACY.

14 (iii) The EMS provider enters the date and contents of the
15 dose package under subclause (ii) on the back of the dose
16 package or on another appropriate, uniformly maintained and
17 readily retrievable record. The EMS provider shall also sign the
18 dose package or record.

19 (iv) The EMS provider provides only one dose package under
20 subclause (ii) and the quantity of that dose package is in
21 conformity with the prescribed directions for use.

22 * * *

23 Section 3. This act shall take effect in 60 days.