
SECOND SUBSTITUTE HOUSE BILL 1039

State of Washington

66th Legislature

2019 Regular Session

By House Appropriations (originally sponsored by Representatives Pollet, Cody, Slatter, Leavitt, Callan, Senn, Lekanoff, Kloba, Peterson, Valdez, Kilduff, Ryu, Irwin, Appleton, Jinkins, Macri, Wylie, Goodman, Doglio, Stanford, Stonier, and Frame)

1 AN ACT Relating to opioid overdose medication at kindergarten
2 through twelfth grade schools and higher education institutions;
3 amending RCW 28A.210.260 and 28A.210.270; adding new sections to
4 chapter 28A.210 RCW; adding a new section to chapter 28B.10 RCW; and
5 creating new sections.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

8 (a) According to the centers for disease control and prevention,
9 the United States is in the midst of an opioid overdose epidemic;

10 (b) In 2017, opioids, including prescription opioids, heroin, and
11 fentanyl, killed more than forty-nine thousand people in the United
12 States. In 2017, opioids killed six hundred ninety-three people in
13 Washington and caused over one thousand six hundred hospitalizations
14 for opioid overdose;

15 (c) One way to prevent opioid overdose deaths is to expand access
16 to and use of nonaddictive, opioid overdose medications, such as
17 naloxone, that can reverse the effects of an opioid overdose when
18 administered in time;

19 (d) The centers for disease control and prevention indicates that
20 access to naloxone can be expanded through: Standing orders at
21 pharmacies; distribution through local, community-based

1 organizations; access to and use by law enforcement officials; and
2 training for basic emergency medical service staff on how to
3 administer the drug;

4 (e) In 2016, syringe service programs in Washington distributed
5 three thousand six hundred forty naloxone kits and reported six
6 hundred ninety overdose reversals; and

7 (f) It is unknown: How many opioid overdose incidents occur on
8 the property of kindergarten through twelfth grade schools and higher
9 education institutions each year; whether these schools and
10 institutions maintain opioid overdose medication through a standing
11 order for the purpose of assisting a person at risk of experiencing
12 an opioid-related overdose; or whether these schools and institutions
13 train staff to administer opioid overdose medication.

14 (2) The legislature recognizes that it has taken steps to respond
15 to the opioid overdose epidemic, including: (a) Permitting health
16 care practitioners to administer, prescribe, and dispense opioid
17 overdose medication to any person who may be present at an overdose;
18 (b) permitting people who may be present at an opioid overdose to
19 possess and administer opioid overdose medication prescribed by an
20 authorized health care practitioner; (c) limiting the liability of
21 practitioners, pharmacists, and other people who possess and
22 administer naloxone; and (d) limiting the liability of people
23 experiencing a drug-related overdose who are in need of medical
24 assistance and people acting in good faith to seek medical assistance
25 for someone experiencing a drug-related overdose.

26 (3) Using its general police power to prescribe laws tending to
27 promote the health and welfare of the people of the state, the
28 legislature intends to increase access to opioid overdose medication
29 at kindergarten through twelfth grade schools and higher education
30 institutions.

31 NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.210
32 RCW to read as follows:

33 (1) For the purposes of this section:

34 (a) "High school" means a school enrolling students in any of
35 grades nine through twelve;

36 (b) "Opioid overdose medication" has the meaning provided in RCW
37 69.41.095;

38 (c) "Opioid-related overdose" has the meaning provided in RCW
39 69.41.095;

1 (d) "School" means a public school, school district, or
2 educational service district with any of grades kindergarten through
3 twelve; and

4 (e) "Standing order" has the meaning provided in RCW 69.41.095.

5 (2)(a) For the purpose of assisting a person at risk of
6 experiencing an opioid-related overdose, a school may obtain and
7 maintain opioid overdose medication through a standing order
8 prescribed and dispensed in accordance with RCW 69.41.095.

9 (b) Opioid overdose medication may be obtained from donation
10 sources, but must be maintained and administered in a manner
11 consistent with a standing order issued in accordance with RCW
12 69.41.095.

13 (c) A school district with two thousand or more students must
14 obtain and maintain at least one set of opioid overdose medication
15 doses in each of its high schools as provided in (a) and (b) of this
16 subsection.

17 (3)(a) The following personnel may distribute or administer the
18 school-owned opioid overdose medication to respond to symptoms of an
19 opioid-related overdose pursuant to a prescription or a standing
20 order issued in accordance with RCW 69.41.095: (i) A school nurse;
21 (ii) a health care professional or trained staff person located at a
22 health care clinic on public school property or under contract with
23 the school district; or (iii) designated trained school personnel.

24 (b) Opioid overdose medication may be used on school property,
25 including the school building, playground, and school bus, as well as
26 during field trips or sanctioned excursions away from school
27 property. A school nurse or designated trained school personnel may
28 carry an appropriate supply of school-owned opioid overdose
29 medication on field trips or sanctioned excursions.

30 (4) Training for school personnel who have been designated to
31 distribute or administer opioid overdose medication under this
32 section must meet the requirements for training described in section
33 3 of this act and any rules or guidelines for such training adopted
34 by the office of the superintendent of public instruction. Each high
35 school is encouraged to designate and train at least one school
36 personnel to distribute and administer opioid overdose medication if
37 the high school does not have a full-time school nurse or trained
38 health care clinic staff.

39 (5)(a) The liability of a person or entity who complies with this
40 section and RCW 69.41.095 is limited as described in RCW 69.41.095.

1 (b) If a student is injured or harmed due to the administration
2 of opioid overdose medication that a practitioner, as defined in RCW
3 69.41.095, has prescribed and a pharmacist has dispensed to a school
4 under this section, the practitioner and pharmacist may not be held
5 responsible for the injury unless he or she acted with conscious
6 disregard for safety.

7 NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.210
8 RCW to read as follows:

9 (1) For the purposes of this section:

10 (a) "Opioid overdose medication" has the meaning provided in RCW
11 69.41.095; and

12 (b) "Opioid-related overdose" has the meaning provided in RCW
13 69.41.095.

14 (2)(a) To prevent opioid-related overdoses and respond to medical
15 emergencies resulting from overdoses, by January 1, 2020, the office
16 of the superintendent of public instruction, in consultation with the
17 department of health, shall develop opioid-related overdose policy
18 guidelines and training requirements for public schools and school
19 districts.

20 (b)(i) The opioid-related overdose policy guidelines and training
21 requirements must include information about: The identification of
22 opioid-related overdose symptoms; how to obtain and maintain opioid
23 overdose medication on school property issued through a standing
24 order in accordance with section 2 of this act; the distribution and
25 administration of opioid overdose medication by designated trained
26 school personnel; and sample standing orders for opioid overdose
27 medication.

28 (ii) The opioid-related overdose policy guidelines may: Include
29 recommendations for the storage and labeling of opioid overdose
30 medications that are based on input from relevant health agencies or
31 experts; and allow for opioid-related overdose medications to be
32 obtained, maintained, distributed, and administered by health care
33 professionals and trained staff located at a health care clinic on
34 public school property or under contract with the school district.

35 (c) In addition to being offered by the school, training on the
36 distribution or administration of opioid overdose medication that
37 meets the requirements of this subsection (2) may be offered by
38 nonprofit organizations, higher education institutions, and local
39 public health organizations.

1 (3) Beginning with the 2020-21 school year, the following school
2 districts must adopt a policy that meets the requirements of
3 subsection (2) of this section: (a) School districts with a school
4 that obtains, maintains, distributes, or administers opioid overdose
5 medication under section 2 of this act; and (b) school districts with
6 two thousand or more students.

7 (4) Subject to the availability of amounts appropriated for this
8 specific purpose, the office of the superintendent of public
9 instruction shall develop and administer a grant program to provide
10 funding to public schools with any of grades kindergarten through
11 twelve and public higher education institutions to purchase opioid
12 overdose medication and train personnel on the administration of
13 opioid overdose medication to respond to symptoms of an opioid-
14 related overdose. The office must publish on its web site a list of
15 annual grant recipients, including award amounts.

16 **Sec. 4.** RCW 28A.210.260 and 2017 c 186 s 2 are each amended to
17 read as follows:

18 (1) Public school districts and private schools which conduct any
19 of grades kindergarten through the twelfth grade may provide for the
20 administration of oral medication, topical medication, eye drops, ear
21 drops, or nasal spray, of any nature to students who are in the
22 custody of the school district or school at the time of
23 administration, but are not required to do so by this section,
24 subject to the following conditions:

25 ~~((1))~~ (a) The board of directors of the public school district
26 or the governing board of the private school or, if none, the chief
27 administrator of the private school shall adopt policies which
28 address the designation of employees who may administer oral
29 medications, topical medications, eye drops, ear drops, or nasal
30 spray to students, the acquisition of parent requests and
31 instructions, and the acquisition of requests from licensed health
32 professionals prescribing within the scope of their prescriptive
33 authority and instructions regarding students who require medication
34 for more than fifteen consecutive school days, the identification of
35 the medication to be administered, the means of safekeeping
36 medications with special attention given to the safeguarding of
37 legend drugs as defined in chapter 69.41 RCW, and the means of
38 maintaining a record of the administration of such medication;

1 ~~((2))~~ (b) The board of directors shall seek advice from one or
2 more licensed physicians or nurses in the course of developing the
3 foregoing policies;

4 ~~((3))~~ (c) The public school district or private school is in
5 receipt of a written, current and unexpired request from a parent, or
6 a legal guardian, or other person having legal control over the
7 student to administer the medication to the student;

8 ~~((4))~~ (d) The public school district or the private school is
9 in receipt of ~~((a))~~: (i) A written, current and unexpired request
10 from a licensed health professional prescribing within the scope of
11 his or her prescriptive authority for administration of the
12 medication, as there exists a valid health reason which makes
13 administration of such medication advisable during the hours when
14 school is in session or the hours in which the student is under the
15 supervision of school officials~~((r))~~; and ~~((b))~~ (ii) written,
16 current and unexpired instructions from such licensed health
17 professional prescribing within the scope of his or her prescriptive
18 authority regarding the administration of prescribed medication to
19 students who require medication for more than fifteen consecutive
20 workdays;

21 ~~((5))~~ (e) The medication is administered by an employee
22 designated by or pursuant to the policies adopted pursuant to (a) of
23 this subsection ~~((1) of this section)~~ and in substantial compliance
24 with the prescription of a licensed health professional prescribing
25 within the scope of his or her prescriptive authority or the written
26 instructions provided pursuant to (d) of this subsection ~~((4) of~~
27 ~~this section)~~. If a school nurse is on the premises, a nasal spray
28 that is a legend drug or a controlled substance must be administered
29 by the school nurse. If no school nurse is on the premises, a nasal
30 spray that is a legend drug or a controlled substance may be
31 administered by a trained school employee or parent-designated adult
32 who is not a school nurse. The board of directors shall allow school
33 personnel, who have received appropriate training and volunteered for
34 such training, to administer a nasal spray that is a legend drug or a
35 controlled substance. After a school employee who is not a school
36 nurse administers a nasal spray that is a legend drug or a controlled
37 substance, the employee shall summon emergency medical assistance as
38 soon as practicable;

39 ~~((6))~~ (f) The medication is first examined by the employee
40 administering the same to determine in his or her judgment that it

1 appears to be in the original container and to be properly labeled;
2 and

3 ~~((7))~~ (g) The board of directors shall designate a professional
4 person licensed pursuant to chapter 18.71 RCW or chapter 18.79 RCW as
5 it applies to registered nurses and advanced registered nurse
6 practitioners, to delegate to, train, and supervise the designated
7 school district personnel in proper medication procedures;

8 ~~((8)(a) For the purposes of this section, "parent-designated
9 adult" means a volunteer, who may be a school district employee, who
10 receives additional training from a health care professional or
11 expert in epileptic seizure care selected by the parents, and who
12 provides care for the child consistent with the individual health
13 plan.~~

14 ~~(b))~~ (h) To be eligible to be a parent-designated adult, a
15 school district employee not licensed under chapter 18.79 RCW must
16 file, without coercion by the employer, a voluntary written, current,
17 and unexpired letter of intent stating the employee's willingness to
18 be a parent-designated adult. If a school employee who is not
19 licensed under chapter 18.79 RCW chooses not to file a letter under
20 this section, the employee shall not be subject to any employer
21 reprisal or disciplinary action for refusing to file a letter. A
22 parent-designated adult must be a volunteer, who may be a school
23 district employee, who receives additional training from a health
24 care professional or expert in epileptic seizure care selected by the
25 parents, and who provides care for the child consistent with the
26 individual health plan; and

27 ~~((9))~~ (i) The board of directors shall designate a professional
28 person licensed under chapter 18.71, 18.57, or 18.79 RCW as it
29 applies to registered nurses and advanced registered nurse
30 practitioners, to consult and coordinate with the student's parents
31 and health care provider, and train and supervise the appropriate
32 school district personnel in proper procedures for care for students
33 with epilepsy to ensure a safe, therapeutic learning environment.
34 Training may also be provided by an epilepsy educator who is
35 nationally certified. Parent-designated adults who are school
36 employees are required to receive the training provided under this
37 subsection. Parent-designated adults who are not school employees
38 must show evidence of comparable training. The parent-designated
39 adult must also receive additional training as established in (h) of
40 this subsection ~~((8)(a) of this section))~~ for the additional care

1 the parents have authorized the parent-designated adult to provide.
2 The professional person designated under this subsection is not
3 responsible for the supervision of the parent-designated adult for
4 those procedures that are authorized by the parents(~~(7)~~).

5 (~~(10)~~) (2) This section does not apply to:

6 (a) Topical sunscreen products regulated by the United States
7 food and drug administration for over-the-counter use. Provisions
8 related to possession and application of topical sunscreen products
9 are in RCW 28A.210.278; and

10 (b) Opioid overdose medication. Provisions related to maintenance
11 and administration of opioid overdose medication are in section 2 of
12 this act.

13 **Sec. 5.** RCW 28A.210.270 and 2013 c 180 s 2 are each amended to
14 read as follows:

15 (1) In the event a school employee administers oral medication,
16 topical medication, eye drops, ear drops, or nasal spray to a student
17 pursuant to RCW 28A.210.260 in substantial compliance with the
18 prescription of the student's licensed health professional
19 prescribing within the scope of the professional's prescriptive
20 authority or the written instructions provided pursuant to RCW
21 28A.210.260(~~(4)~~) (1)(d), and the other conditions set forth in RCW
22 28A.210.260 have been substantially complied with, then the employee,
23 the employee's school district or school of employment, and the
24 members of the governing board and chief administrator thereof shall
25 not be liable in any criminal action or for civil damages in their
26 individual or marital or governmental or corporate or other
27 capacities as a result of the administration of the medication.

28 (2) The administration of oral medication, topical medication,
29 eye drops, ear drops, or nasal spray to any student pursuant to RCW
30 28A.210.260 may be discontinued by a public school district or
31 private school and the school district or school, its employees, its
32 chief administrator, and members of its governing board shall not be
33 liable in any criminal action or for civil damages in their
34 governmental or corporate or individual or marital or other
35 capacities as a result of the discontinuance of such administration:
36 PROVIDED, That the chief administrator of the public school district
37 or private school, or his or her designee, has first provided actual
38 notice orally or in writing in advance of the date of discontinuance

1 to a parent or legal guardian of the student or other person having
2 legal control over the student.

3 NEW SECTION. **Sec. 6.** A new section is added to chapter 28B.10
4 RCW to read as follows:

5 (1) For the purposes of this section:

6 (a) "Opioid overdose medication" has the meaning provided in RCW
7 69.41.095; and

8 (b) "Opioid-related overdose" has the meaning provided in RCW
9 69.41.095.

10 (2) By the beginning of the 2019-20 academic year, a public
11 institution of higher education with a residence hall housing at
12 least one hundred students must develop a plan: (a) For the
13 maintenance and administration of opioid overdose medication in and
14 around the residence hall; and (b) for the training of designated
15 personnel to administer opioid overdose medication to respond to
16 symptoms of an opioid-related overdose. The plan may identify: The
17 ratio of residents to opioid overdose medication doses; the
18 designated trained personnel, who may include residence hall
19 advisers; and whether the designated trained personnel covers more
20 than one residence hall.

21 NEW SECTION. **Sec. 7.** If specific funding for the purposes of
22 this act, referencing this act by bill or chapter number, is not
23 provided by June 30, 2019, in the omnibus appropriations act, this
24 act is null and void.

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