

State of Wisconsin



2013 Assembly Bill 446

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2013 WISCONSIN ACT 200

AN ACT to *renumber and amend* 448.015 (4) (bm); to *amend* 256.15 (8) (e), 441.07 (1g) (d), 450.10 (1) (a) (intro.), 450.11 (1), 450.11 (3), 450.11 (4) (a) 5. a., 450.11 (7) (h) and 895.48 (1); and to *create* 256.01 (13), 256.40, 441.07 (1g) (d) 2., 441.18, 448.015 (4) (bm) 2., 448.037, 450.01 (1) (d), 450.01 (13v), 450.11 (1i) and 450.11 (4) (a) 5. c. of the statutes; **relating to:** prescription, possession, dispensing, delivery, and administration of opioid antagonists; training and agreements for administering opioid antagonists; requiring emergency medical technicians to carry opioid antagonists; and immunity for certain individuals who prescribe, dispense, deliver, or administer opioid antagonists.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 256.01 (13) of the statutes is created to read:

256.01 (13) "Opioid antagonist" has the meaning given in s. 450.01 (13v).

SECTION 2. 256.15 (8) (e) of the statutes is amended to read:

256.15 (8) (e) A certified first responder is authorized to use an automated external defibrillator, as prescribed for first responders in rules promulgated by the department. The rules shall set forth authorization for the use of an automated external defibrillator or, for a defibrillator that may be operated in more than one mode, use as an automated external defibrillator only. A certified first responder is authorized to administer naloxone or another opioid antagonist if the first responder has received training necessary to safely administer naloxone or the other opioid antagonist, as determined by the department. A certified first responder is also authorized to employ other techniques, including the administration of nonvisualized advanced airways, and the administra-

tion of medications that are specified by the department by rule. In promulgating the rules under this paragraph, the department shall consult with the state medical director for emergency medical services and the emergency medical services board. The rule shall include those techniques that are specified in the most current guidelines issued by the National Highway Traffic Safety Administration under [23 CFR 1205.3](#) (a) (5).

SECTION 3. 256.40 of the statutes is created to read:
256.40 Opioid antagonists. (1) In this section:

(a) "Fire fighter" means any person employed by the state or any political subdivision as a member or officer of a fire department or a member of a volunteer fire department, including the state fire marshal and deputies.

(b) "Law enforcement agency" means an agency of a federally recognized Indian tribe or band or a state or political subdivision of a state, whose purpose is the detection and prevention of crime and enforcement of laws or ordinances.

(c) "Law enforcement officer" means any person employed by a law enforcement agency who is authorized to make arrests for violations of the laws or ordinances that the person is employed to enforce.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

(d) “Opioid-related drug overdose” means a condition including extreme physical illness, decreased level of consciousness, respiratory depression, coma, or the ceasing of respiratory or circulatory function resulting from the consumption or use of an opioid, or another substance with which an opioid was combined.

(2) (a) Subject to par. (b), the department shall permit all emergency medical technicians to administer naloxone or another opioid antagonist to individuals who are undergoing or who are believed to be undergoing an opioid-related drug overdose.

(b) The department shall require emergency medical technicians to undergo any training necessary to safely and properly administer naloxone or another opioid antagonist as specified under par. (a).

(c) Every ambulance service provider shall do all of the following:

1. Ensure that every emergency medical technician under the ambulance service provider’s supervision who has obtained the training necessary to safely and properly administer naloxone or another opioid antagonist has a supply of naloxone or the other opioid antagonist available for administration when he or she is performing his or her duties as an emergency medical technician, to the extent that naloxone or the other opioid antagonist is available to the ambulance service provider.

2. Require each certified first responder and emergency medical technician under the supervision of the ambulance service provider to, in the manner prescribed by the department, keep a record of each instance in which the certified first responder or emergency medical technician administers naloxone or another opioid antagonist to an individual who is undergoing or who is believed to be undergoing an opioid-related drug overdose.

3. Submit records under subd. 2. to the department in the manner prescribed by the department.

(3) (a) A law enforcement agency or fire department may enter into a written agreement to affiliate with an ambulance service provider or a physician for all of the following purposes:

1. Obtaining a supply of naloxone or another opioid antagonist.

2. Allowing law enforcement officers and fire fighters to obtain the training necessary to safely and properly administer naloxone or another opioid antagonist to individuals who are undergoing or who are believed to be undergoing an opioid-related drug overdose.

(b) A law enforcement officer or fire fighter who, reasonably believing another person to be undergoing an opioid-related drug overdose, administers naloxone or another 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, if the law enforcement officer or fire fighter is

acting pursuant to an agreement and any training obtained under par. (a).

SECTION 4. 441.07 (1g) (d) of the statutes, as affected by 2013 Wisconsin Act 114, is amended to read:

441.07 (1g) (d) Misconduct or unprofessional conduct. In this paragraph, “misconduct” and “unprofessional conduct” do not include ~~providing~~ any of the following:

1. Providing expedited partner therapy as described in s. 448.035.

SECTION 5. 441.07 (1g) (d) 2. of the statutes is created to read:

441.07 (1g) (d) 2. Prescribing or delivering an opioid antagonist in accordance with s. 441.18 (2).

SECTION 6. 441.18 of the statutes is created to read:
441.18 Prescriptions for and delivery of opioid antagonists. (1) In this section:

(a) “Administer” has the meaning given in s. 450.01 (1).

(b) “Deliver” has the meaning given in s. 450.01 (5).

(c) “Dispense” has the meaning given in s. 450.01 (7).

(d) “Opioid antagonist” has the meaning given in s. 450.01 (13v).

(e) “Opioid-related drug overdose” has the meaning given in s. 256.40 (1) (d).

(2) (a) An advanced practice nurse certified to issue prescription orders under s. 441.16 may, directly or by the use of a standing order, prescribe an opioid antagonist to a person in a position to assist an individual at risk of undergoing an opioid-related drug overdose and may deliver the opioid antagonist to that person. A prescription order under this paragraph need not specify the name and address of the individual to whom the opioid antagonist will be administered, but shall instead specify the name of the person to whom the opioid antagonist will be delivered.

(b) An advanced practice nurse who prescribes or delivers an opioid antagonist under par. (a) shall ensure that the person to whom the opioid antagonist will be delivered has 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.

(3) An advanced practice nurse who, acting in good faith, prescribes or delivers an opioid antagonist in accordance with sub. (2), or who, acting in good faith, otherwise lawfully prescribes or dispenses an opioid antagonist, shall be immune from criminal or civil liability and may not be subject to professional discipline under s. 441.07 for any outcomes resulting from prescribing, delivering, or dispensing the opioid antagonist.

SECTION 7. 448.015 (4) (bm) of the statutes is renumbered 448.015 (4) (bm) (intro.) and amended to read:

448.015 (4) (bm) (intro.) “Unprofessional conduct” does not include ~~providing any of the following~~:

1. Providing expedited partner therapy as described in s. 448.035.

SECTION 8. 448.015 (4) (bm) 2. of the statutes is created to read:

448.015 (4) (bm) 2. Prescribing or delivering an opioid antagonist in accordance with s. 448.037 (2).

SECTION 9. 448.037 of the statutes is created to read:

448.037 Prescriptions for and delivery of opioid antagonists. (1) In this section:

(a) “Administer” has the meaning given in s. 450.01 (1).

(b) “Deliver” has the meaning given in s. 450.01 (5).

(c) “Dispense” has the meaning given in s. 450.01 (7).

(d) “Opioid antagonist” has the meaning given in s. 450.01 (13v).

(e) “Opioid-related drug overdose” has the meaning given in s. 256.40 (1) (d).

(2) (a) A physician or physician assistant may, directly or by the use of a standing order, prescribe an opioid antagonist to a person in a position to assist an individual at risk of undergoing an opioid-related drug overdose and may deliver the opioid antagonist to that person. A prescription order under this paragraph need not specify the name and address of the individual to whom the opioid antagonist will be administered, but shall instead specify the name of the person to whom the opioid antagonist will be delivered.

(b) A physician or physician assistant who prescribes or delivers an opioid antagonist under par. (a) shall ensure that the person to whom the opioid antagonist will be delivered has 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.

(3) A physician or physician assistant who, acting in good faith, prescribes or delivers an opioid antagonist in accordance with sub. (2), or who, acting in good faith, otherwise lawfully prescribes or dispenses an opioid antagonist, shall be immune from criminal or civil liability and may not be subject to professional discipline under s. 448.02 for any outcomes resulting from prescribing, delivering, or dispensing the opioid antagonist.

SECTION 10. 450.01 (1) (d) of the statutes is created to read:

450.01 (1) (d) In the case of an opioid antagonist, any person.

SECTION 11. 450.01 (13v) of the statutes is created to read:

450.01 (13v) “Opioid antagonist” means a drug, such as naloxone, that satisfies all of the following:

(a) The drug 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.

(b) The drug is not a controlled substance.

SECTION 12. 450.10 (1) (a) (intro.) of the statutes is amended to read:

450.10 (1) (a) (intro.) In this subsection, “unprofessional conduct” includes any of the following, but does not include the dispensing of an antimicrobial drug for expedited partner therapy as described in s. 450.11 (1g) or the delivery of an opioid antagonist as described in s. 450.11 (1i):

SECTION 13. 450.11 (1) of the statutes is amended to read:

450.11 (1) DISPENSING. ~~No~~ Except as provided in sub. (1i) (b) 2., no person may dispense any prescribed drug or device except upon the prescription order of a practitioner. All prescription orders shall specify the date of issue, the name and address of the practitioner, the name and quantity of the drug product or device prescribed, directions for the use of the drug product or device, the symptom or purpose for which the drug is being prescribed if required under sub. (4) (a) 8., and, if the order is written by the practitioner, the signature of the practitioner. ~~Except as provided in s. ss. 441.18 (2), 448.035 (2), and 448.037 (2),~~ all prescription orders shall also specify the name and address of the patient. Any oral prescription order shall be immediately reduced to writing by the pharmacist and filed according to sub. (2).

SECTION 14. 450.11 (1i) of the statutes is created to read:

450.11 (1i) OPIOID ANTAGONISTS. (a) *Prescription and liability.* 1. A pharmacist may, upon the prescription order of an advanced practice nurse prescriber under s. 441.18 (2), or of a physician or physician assistant under s. 448.037 (2), that complies with the requirements of sub. (1), deliver an opioid antagonist to the person specified in the prescription order. 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.

2. A pharmacist who, acting in good faith, delivers an opioid antagonist in accordance with subd. 1., or who, acting in good faith, otherwise lawfully dispenses an opioid antagonist, shall be immune from criminal or civil liability and may not be subject to professional discipline under s. 450.10 for any outcomes resulting from delivering or dispensing the opioid antagonist.

(b) *Possession, dispensing, and delivery.* 1. Any person may possess an opioid antagonist.

2. a. Subject to subd. 2. b. to d., any person may deliver or dispense an opioid antagonist.

b. An advanced practice nurse prescriber may only deliver or dispense an opioid antagonist in accordance with s. 441.18 (2) or in accordance with his or her other legal authority to dispense prescription drugs.

c. A physician or physician assistant may only deliver or dispense an opioid antagonist in accordance with s. 448.037 (2) or in accordance with his or her other legal authority to dispense prescription drugs.

d. A pharmacist may only deliver or dispense an opioid antagonist in accordance with par. (a) 1. or in accordance with his or her other legal authority to dispense prescription drugs.

(c) *Immunity*. 1. In this paragraph, "opioid-related drug overdose" has the meaning given in s. 256.40 (1) (d).

2. Subject to par. (a) 2. and ss. 441.18 (3) and 448.037 (3), any person who, acting in good faith, delivers or dispenses an opioid antagonist to another person shall be immune from civil or criminal liability for any outcomes resulting from delivering or dispensing the opioid antagonist.

3. 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.

SECTION 15. 450.11 (3) of the statutes is amended to read:

450.11 (3) PREPARATION OF PRESCRIPTION DRUGS. ~~No~~ Except as provided in sub. (1) (b), no person other than a pharmacist or practitioner or their agents and employ-

ees as directed, supervised, and inspected by the pharmacist or practitioner may prepare, compound, dispense, or prepare for delivery for a patient any prescription drug.

SECTION 16. 450.11 (4) (a) 5. a. of the statutes is amended to read:

450.11 (4) (a) 5. a. Except as provided in subd. 5. b. and c., the full name of the patient.

SECTION 17. 450.11 (4) (a) 5. c. of the statutes is created to read:

450.11 (4) (a) 5. c. For an opioid antagonist when delivered under sub. (1i) (a), the name of the person to whom the opioid antagonist will be delivered as specified in s. 441.18 (2) (a) or 448.037 (2) (a).

SECTION 18. 450.11 (7) (h) of the statutes is amended to read:

450.11 (7) (h) ~~No~~ Except as provided in sub. (1) (b), no person may possess a prescription drug unless the prescription drug is obtained in compliance with this section.

SECTION 19. 895.48 (1) of the statutes is amended to read:

895.48 (1) ~~Any~~ Except as provided in sub. (1g), any person who renders emergency care at the scene of any emergency or accident in good faith shall be immune from civil liability for his or her acts or omissions in rendering such emergency care. ~~This~~

(1g) The immunity described in sub. (1) and s. 450.11 (1) (c) 3. 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.