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FIRST SPECIAL SESSION-2023

Legislative Document

No. 1728

S.P. 692

In Senate, April 20, 2023

An Act to Ensure Access to Federally Approved Opioid Overdose-reversing Medication

Reference to the Committee on Health Coverage, Insurance and Financial Services suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator MOORE of Washington.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 17-A MRSA §1111-B, sub-§1, ¶C**, as enacted by PL 2021, c. 724, §1, is
3 amended to read:

4 C. "Rendering aid" means performing any action that involves looking after a person
5 who is experiencing a suspected drug-related overdose while the person performing
6 the action is awaiting the arrival of a medical professional or law enforcement officer
7 to provide assistance. "Rendering aid" includes, but is not limited to, giving first aid or
8 administering or assisting in the administration of naloxone hydrochloride or another
9 opioid overdose-reversing medication approved by the federal Food and Drug
10 Administration.

11 **Sec. 2. 20-A MRSA §6307**, as enacted by PL 2021, c. 115, §1, is amended to read:

12 **§6307. ~~Naloxone hydrochloride possession~~ Possession, prescription, administration
13 and distribution of naloxone hydrochloride or another opioid overdose-
14 reversing medication**

15 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
16 following terms have the following meanings.

17 A. "Collaborative practice agreement" means a written and signed agreement between
18 a physician licensed in this State or a school health advisor and a school nurse that
19 provides for the possession, prescription, administration and distribution of naloxone
20 hydrochloride or another opioid overdose-reversing medication by the physician or
21 school health advisor and administration of naloxone hydrochloride or another opioid
22 overdose-reversing medication by the school nurse or designated school personnel to
23 students, staff or visitors during school or a school-sponsored activity or otherwise on
24 school grounds under emergency circumstances involving an opioid overdose or
25 apparent opioid overdose.

26 B. "Designated school personnel" means those employees, agents or volunteers of a
27 school administrative unit or approved private school designated by a collaborative
28 practice agreement who have completed the training required by the guidelines
29 developed pursuant to subsection 8 to administer naloxone hydrochloride or another
30 opioid overdose-reversing medication to a student, staff member or visitor.

31 C. "Naloxone hydrochloride or another opioid overdose-reversing medication" means
32 medication that has been approved by the federal Food and Drug Administration, in a
33 noninjectable form, administered to reverse the effects of opioids in the emergency
34 treatment of an opioid overdose.

35 D. "School" means a public or approved private school.

36 E. "School health advisor" means a physician or family or pediatric nurse practitioner
37 appointed to act as a school health advisor pursuant to section 6402-A.

38 F. "School nurse" means a nurse appointed to serve as a school nurse pursuant to
39 section 6403-A.

40 **2. Collaborative practice agreement; adoption authorized.** A school administrative
41 unit or an approved private school may authorize adoption of a collaborative practice
42 agreement for the purposes of stocking, possessing and administering naloxone

1 hydrochloride or another opioid overdose-reversing medication as provided under this
2 section. The administration of naloxone hydrochloride or another opioid overdose-
3 reversing medication in accordance with this section is not the practice of medicine.

4 **3. Collaborative practice agreement; authority.** A collaborative practice agreement
5 permits a physician licensed in this State or school health advisor to prescribe naloxone
6 hydrochloride or another opioid overdose-reversing medication and direct a school nurse
7 to administer naloxone hydrochloride or another opioid overdose-reversing medication in
8 good faith to any student, staff member or visitor experiencing an apparent opioid overdose
9 during school or a school-sponsored activity or otherwise on school grounds. Pursuant to
10 a collaborative practice agreement, a physician licensed in this State or school health
11 advisor may authorize the school nurse during school or a school-sponsored activity or
12 otherwise on school grounds to designate designated school personnel to administer
13 naloxone hydrochloride or another opioid overdose-reversing medication if the school
14 nurse is not present when a student, staff member or visitor experiences a suspected opioid
15 overdose.

16 **4. Collaborative practice agreement; terms and provisions.** A collaborative
17 practice agreement must include the following information:

18 A. Name and address of the school;

19 B. Identification and signatures of the physician or school health advisor and school
20 nurse who are parties to the collaborative practice agreement, the dates the agreement
21 is signed by each party and the beginning and end dates of the period of time within
22 which the agreement is in effect; and

23 C. Any other information considered appropriate by the physician or school health
24 advisor and school nurse.

25 **5. Use of naloxone hydrochloride or another opioid overdose-reversing**
26 **medication without a collaborative practice agreement.** If a collaborative practice
27 agreement has not been adopted pursuant to subsection 2, the governing body of a school
28 administrative unit or an approved private school may authorize a school nurse or other
29 licensed health care professional whose scope of practice includes administration of
30 naloxone hydrochloride or another opioid overdose-reversing medication to:

31 A. Stock and possess naloxone hydrochloride or another opioid overdose-reversing
32 medication prescribed by a legally authorized individual; and

33 B. Administer naloxone hydrochloride or another opioid overdose-reversing
34 medication prescribed by a legally authorized individual to any student, staff member
35 or visitor that the school nurse or other licensed health care professional, based on the
36 school nurse's or other licensed health care professional's professional judgment,
37 suspects to be experiencing an opioid overdose.

38 The administration of naloxone hydrochloride or another opioid overdose-reversing
39 medication in accordance with this subsection is not the practice of medicine.

40 **6. Manufacturer or supplier arrangement.** A school administrative unit or an
41 approved private school may enter into an arrangement with a manufacturer of naloxone
42 hydrochloride or another opioid overdose-reversing medication or a 3rd-party supplier of
43 naloxone hydrochloride or another opioid overdose-reversing medication to obtain

1 naloxone hydrochloride or another opioid overdose-reversing medication at fair market
2 prices, reduced prices or no cost.

3 **7. Purchase from licensed pharmacies.** A collaborative practice agreement under
4 this section may provide that a school administrative unit or an approved private school
5 may purchase naloxone hydrochloride or another opioid overdose-reversing medication
6 from a pharmacy licensed in this State.

7 **8. Guidelines.** By January 1, 2022, and as needed after that date, the department in
8 consultation with the Department of Health and Human Services shall develop and make
9 available to all schools guidelines for the management of opioid overdose during school or
10 a school-sponsored activity or otherwise on school grounds. The guidelines must include,
11 but are not limited to:

12 A. Education and training for school personnel on recognition of opioid overdose,
13 rescue breathing and the administration of naloxone hydrochloride or another opioid
14 overdose-reversing medication; and

15 B. Procedures for responding to opioid overdose.

16 **Sec. 3. 22 MRSA §2353**, as amended by PL 2021, c. 605, §§1 and 2, is further
17 amended to read:

18 **§2353. Naloxone hydrochloride or another opioid overdose-reversing medication**

19 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
20 following terms have the following meanings.

21 A. "Health care professional" means a person licensed under Title 32 who is authorized
22 to prescribe naloxone hydrochloride or another opioid overdose-reversing medication.

23 A-1. "Another opioid overdose-reversing medication" means a medication approved
24 by the federal Food and Drug Administration for the immediate treatment of an opioid
25 overdose.

26 B. "Immediate family" has the same meaning as set forth in Title 21-A, section 1,
27 subsection 20.

28 C. "Opioid-related drug overdose" means a condition including, but not limited to,
29 extreme physical illness, decreased level of consciousness, respiratory depression,
30 coma or death resulting from the consumption or use of an opioid, or another substance
31 with which an opioid was combined, or a condition that a reasonable person would
32 believe to be an opioid-related drug overdose that requires medical assistance.

33 D. "Pharmacist" means a pharmacist authorized to prescribe and dispense naloxone
34 hydrochloride or another opioid overdose-reversing medication pursuant to Title 32,
35 section 13815.

36 E. "Recovery residence" means a shared living residence for individuals recovering
37 from substance use disorder that is focused on peer support, provides to its residents
38 an environment free of alcohol and illegal drugs and assists its residents by connecting
39 the residents to support services or resources in the community that are available to
40 persons recovering from substance use disorder.

1 F. "Corrections officer" means a person who is responsible for the custody or direct
2 supervision of a person confined in a jail, prison or correctional facility pursuant to an
3 order of a court or as a result of an arrest.

4 **2. Prescription; possession; administration.** The prescription, possession and
5 administration of naloxone hydrochloride or another opioid overdose-reversing medication
6 is governed by this subsection.

7 A. A health care professional may directly or by standing order prescribe naloxone
8 hydrochloride or another opioid overdose-reversing medication to an individual at risk
9 of experiencing an opioid-related drug overdose.

10 A-1. A pharmacist may prescribe and dispense naloxone hydrochloride or another
11 opioid overdose-reversing medication in accordance with protocols established under
12 Title 32, section 13815 to an individual of any age at risk of experiencing an opioid-
13 related drug overdose.

14 B. An individual to whom naloxone hydrochloride or another opioid overdose-
15 reversing medication is prescribed or dispensed in accordance with paragraph A or A-1
16 may provide the naloxone hydrochloride or another opioid overdose-reversing
17 medication so prescribed or dispensed to a member of that individual's immediate
18 family to possess and administer to the individual if the family member believes in
19 good faith that the individual is experiencing an opioid-related drug overdose.

20 C. A health care professional may directly or by standing order prescribe naloxone
21 hydrochloride or another opioid overdose-reversing medication to a member of an
22 individual's immediate family or a friend of the individual or to another person in a
23 position to assist the individual if the individual is at risk of experiencing an opioid-
24 related drug overdose.

25 C-1. A pharmacist may prescribe and dispense naloxone hydrochloride or another
26 opioid overdose-reversing medication in accordance with protocols established under
27 Title 32, section 13815 to a person of any age who is a member of an individual's
28 immediate family or a friend of the individual or to another person in a position to assist
29 the individual if the individual is at risk of experiencing an opioid-related drug
30 overdose.

31 D. If a member of an individual's immediate family, friend of the individual or other
32 person is prescribed or provided naloxone hydrochloride or another opioid overdose-
33 reversing medication in accordance with paragraph C or C-1, that family member,
34 friend or other person may administer the naloxone hydrochloride or another opioid
35 overdose-reversing medication to the individual if the family member, friend or other
36 person believes in good faith that the individual is experiencing an opioid-related drug
37 overdose.

38 Nothing in this subsection affects the provisions of law relating to maintaining the
39 confidentiality of medical records.

40 **2-A. Dispensing of naloxone hydrochloride or another opioid overdose-reversing**
41 **medication by emergency medical services persons, ambulance services and**
42 **nontransporting emergency medical services.** Notwithstanding any provision of law to
43 the contrary, pursuant to a standing order issued in accordance with protocols developed
44 by the Medical Direction and Practices Board pursuant to Title 32, section 88-B, subsection

1 1, paragraph A, an emergency medical services person, ambulance service or
2 nontransporting emergency medical service licensed under Title 32, chapter 2-B may
3 dispense naloxone hydrochloride or another opioid overdose-reversing medication to an
4 individual of any age at risk of experiencing an opioid-related drug overdose or to a
5 member of the individual's immediate family, a friend of the individual or another person
6 in a position to assist the individual if the individual is at risk of experiencing an opioid-
7 related drug overdose.

8 **3. Authorized administration and dispensing of naloxone hydrochloride or**
9 **another opioid overdose-reversing medication by law enforcement officers,**
10 **corrections officers and municipal firefighters.** A law enforcement agency as defined
11 in Title 25, section 3701, subsection 1, a regional or county jail, a prison, a correctional
12 facility as defined in Title 34-A, section 1001, subsection 6 or a municipal fire department
13 as defined in Title 30-A, section 3151, subsection 1 is authorized to obtain a supply of
14 naloxone hydrochloride or another opioid overdose-reversing medication to be
15 administered or dispensed in accordance with this subsection. A law enforcement officer
16 as defined in Title 17-A, section 2, subsection 17, in accordance with policies adopted by
17 the law enforcement agency, a corrections officer, in accordance with policies adopted by
18 the jail, prison or correctional facility, and a municipal firefighter as defined in Title 30-A,
19 section 3151, subsection 2, in accordance with policies adopted by the municipality, may
20 administer or dispense intranasal naloxone hydrochloride or another opioid overdose-
21 reversing medication as clinically indicated if the law enforcement officer, corrections
22 officer or municipal firefighter has received medical training in accordance with protocols
23 adopted by the Medical Direction and Practices Board established in Title 32, section 83,
24 subsection 16-B. The Medical Direction and Practices Board shall establish medical
25 training protocols for law enforcement officers, corrections officers and municipal
26 firefighters pursuant to this subsection.

27 **4. Community-based drug overdose prevention programs; standing orders for**
28 **naloxone hydrochloride or another opioid overdose-reversing medication.** Acting
29 under standing orders from a licensed health care professional authorized by law to
30 prescribe naloxone hydrochloride or another opioid overdose-reversing medication, a
31 public health agency that provides services to populations at high risk for a drug overdose
32 may establish an overdose prevention program in accordance with rules adopted by the
33 department and the provisions of this subsection.

34 A. Notwithstanding any other provision of law to the contrary, an overdose prevention
35 program established under this subsection may store and dispense naloxone
36 hydrochloride or another opioid overdose-reversing medication without being subject
37 to the provisions of Title 32, chapter 117 as long as these activities are undertaken
38 without charge or compensation.

39 B. An overdose prevention program established under this subsection may distribute
40 unit-of-use packages of naloxone hydrochloride or another opioid overdose-reversing
41 medication and the medical supplies necessary to administer the naloxone
42 hydrochloride or another opioid overdose-reversing medication to a person who has
43 successfully completed training provided by the overdose prevention program that
44 meets the protocols and criteria established by the department, so that the person may
45 possess and administer naloxone hydrochloride or another opioid overdose-reversing

1 medication to an individual who appears to be experiencing an opioid-related drug
2 overdose.

3 The department shall adopt rules to implement this subsection. Rules adopted pursuant to
4 this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter
5 2-A.

6 **4-A. Recovery residences; standing orders for naloxone hydrochloride or another**
7 **opioid overdose-reversing medication.** Acting under standing orders from a licensed
8 health care professional authorized by law to prescribe naloxone hydrochloride or another
9 opioid overdose-reversing medication, a recovery residence shall operate in accordance
10 with rules adopted by the department and the provisions of this subsection.

11 A. Notwithstanding any provision of law to the contrary, a recovery residence shall
12 store and dispense naloxone hydrochloride or another opioid overdose-reversing
13 medication and is not subject to the provisions of Title 32, chapter 117. The recovery
14 residence shall store on site at least 2 units of naloxone hydrochloride or another opioid
15 overdose-reversing medication for each floor of the recovery residence.

16 B. A recovery residence shall provide training in administration of naloxone
17 hydrochloride or another opioid overdose-reversing medication that meets the
18 protocols and criteria established by the department, and residents of the recovery
19 residence, employees of the recovery residence and all other persons involved in the
20 administration of a recovery residence shall successfully complete the training.

21 C. A licensed health care professional authorized by law to prescribe naloxone
22 hydrochloride or another opioid overdose-reversing medication shall distribute unit-
23 of-use packages of naloxone hydrochloride or another opioid overdose-reversing
24 medication and ~~the~~ any medical supplies necessary to administer the naloxone
25 hydrochloride or another opioid overdose-reversing medication to a recovery residence
26 that has provided training described in paragraph B so that the recovery residence may
27 possess and administer naloxone hydrochloride or another opioid overdose-reversing
28 medication to an individual who appears to be experiencing a drug-related overdose.

29 The department shall adopt rules to implement this subsection. Rules adopted pursuant to
30 this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter
31 2-A.

32 **5. Immunity.** The following provisions provide immunity for actions taken in
33 accordance with this section.

34 A. A health care professional or a pharmacist, acting in good faith and with reasonable
35 care, is immune from criminal and civil liability and is not subject to professional
36 disciplinary action for storing, dispensing or prescribing naloxone hydrochloride or
37 another opioid overdose-reversing medication in accordance with this section or for
38 any outcome resulting from such actions.

39 B. A person, acting in good faith and with reasonable care, is immune from criminal
40 and civil liability and is not subject to professional disciplinary action for possessing
41 or providing to another person naloxone hydrochloride or another opioid overdose-
42 reversing medication in accordance with this section or for administering naloxone
43 hydrochloride or another opioid overdose-reversing medication in accordance with this

1 section to an individual whom the person believes in good faith is experiencing an
2 opioid-related drug overdose or for any outcome resulting from such actions.

3 **Sec. 4. 24-A MRSA §2159-E**, as enacted by PL 2019, c. 203, §1, is amended to
4 read:

5 **§2159-E. Discrimination against naloxone hydrochloride or another opioid overdose-**
6 **reversing medication purchases prohibited in life insurance**

7 **1. Discrimination prohibited.** Notwithstanding any provision of law to the contrary
8 and except as provided in subsection 2, an insurer authorized to do business in this State
9 may not:

10 A. Limit coverage or refuse to issue or renew coverage of an individual under any life
11 insurance policy due to the fact that the individual has been issued a prescription for
12 naloxone hydrochloride or another opioid overdose-reversing medication or has
13 purchased naloxone hydrochloride or another opioid overdose-reversing medication in
14 accordance with Title 22, section 2353;

15 B. Consider the fact that an individual has been issued a prescription for naloxone
16 hydrochloride or another opioid overdose-reversing medication or has purchased
17 naloxone hydrochloride or another opioid overdose-reversing medication in
18 determining the premium rate for coverage of that individual under a life insurance
19 policy; or

20 C. Otherwise discriminate in the offering, issuance, cancellation, amount of coverage,
21 price or any other condition of a life insurance policy based solely and without any
22 additional actuarial justification upon the fact that an individual has been issued a
23 prescription for naloxone hydrochloride or another opioid overdose-reversing
24 medication or has purchased naloxone hydrochloride or another opioid overdose-
25 reversing medication.

26 An opioid overdose-reversing medication referenced in this subsection must be approved
27 by the federal Food and Drug Administration.

28 **2. Exception.** An insurer may take an action described in subsection 1 with respect to
29 an individual who has a demonstrated history of opioid use disorder.

30 **Sec. 5. 32 MRSA §85, sub-§8**, as enacted by PL 2021, c. 161, §4, is amended to
31 read:

32 **8. Naloxone hydrochloride or another opioid overdose-reversing medication.** An
33 emergency medical services person licensed under this chapter may dispense naloxone
34 hydrochloride or another opioid overdose-reversing medication in accordance with Title
35 22, section 2353, subsection 2-A and the rules adopted and protocols developed for
36 emergency medical services persons under this chapter. An opioid overdose-reversing
37 medication referenced in this subsection must be approved by the federal Food and Drug
38 Administration.

39 **Sec. 6. 32 MRSA §86, sub-§4**, as enacted by PL 2021, c. 161, §5, is amended to
40 read:

41 **4. Naloxone hydrochloride or another opioid overdose-reversing medication.** An
42 ambulance service or a nontransporting emergency medical service licensed under this
43 chapter may dispense naloxone hydrochloride or another opioid overdose-reversing

1 medication in accordance with Title 22, section 2353, subsection 2-A and the rules adopted
2 and protocols developed for ambulance services and nontransporting emergency medical
3 services under this chapter. An opioid overdose-reversing medication referenced in this
4 subsection must be approved by the federal Food and Drug Administration.

5 **Sec. 7. 32 MRSA c. 117, sub-c. 11-A, headnote** is amended to read:

6 **SUBCHAPTER 11-A**

7 **PRESCRIBING AND DISPENSING OF NALOXONE HYDROCHLORIDE AND**
8 **OTHER OPIOID OVERDOSE-REVERSING MEDICATIONS**

9 **Sec. 8. 32 MRSA §13815, sub-§2**, as amended by PL 2017, c. 364, §7, is further
10 amended to read:

11 **2. Rules for prescribing and dispensing naloxone hydrochloride or another opioid**
12 **overdose-reversing medication.** The board by rule shall establish standards for
13 authorizing pharmacists to prescribe and dispense naloxone hydrochloride or another
14 opioid overdose-reversing medication in accordance with Title 22, section 2353, subsection
15 2, paragraphs A-1 and C-1. The rules must establish adequate training requirements and
16 protocols for prescribing and dispensing naloxone hydrochloride or another opioid
17 overdose-reversing medication when there is no prescription drug order, standing order or
18 collaborative practice agreement authorizing naloxone hydrochloride or another opioid
19 overdose-reversing medication to be dispensed to the intended recipient. Rules adopted
20 under this subsection are routine technical rules as defined in Title 5, chapter 375,
21 subchapter 2-A. A pharmacist authorized by the board pursuant to this subsection to
22 prescribe and dispense naloxone hydrochloride or another opioid overdose-reversing
23 medication may prescribe and dispense naloxone hydrochloride or another opioid
24 overdose-reversing medication in accordance with Title 22, section 2353, subsection 2,
25 paragraphs A-1 and C-1. An opioid overdose-reversing medication referenced in this
26 subsection must be approved by the federal Food and Drug Administration.

27 **SUMMARY**

28 This bill adds other opioid overdose-reversing medications to statutes governing
29 naloxone hydrochloride.