

CHAPTER 178

CRIMINAL LAW AND PROCEDURE

SENATE BILL 13-014

BY SENATOR(S) Aguilar, Guzman, Kefalas, Newell, Steadman, Tochtrop, Todd, Ulibarri;
 also REPRESENTATIVE(S) Pettersen, Fields, Ginal, Hullinghorst, Kagan, Labuda, Melton, Moreno, Pabon, Rosenthal, Ryden,
 Singer, Williams, Young.

AN ACT

**CONCERNING THE USE OF OPIATE ANTAGONISTS TO TREAT PERSONS WHO SUFFER OPIATE-RELATED
 DRUG OVERDOSE EVENTS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly hereby finds that:

(a) Drug overdose is the leading cause of unintentional death in Colorado, ahead of motor vehicle deaths;

(b) Opiate overdose may be reversible with the timely administration of an opiate antagonist;

(c) Opiate antagonists have been shown to be safe and effective at reducing overdose death; and

(d) Access to opiate antagonists is often limited unnecessarily by laws that pre-date the overdose epidemic.

(2) Now, therefore, the general assembly hereby encourages the administration of opiate antagonists for the purpose of saving the lives of people who suffer opiate-related drug overdose events. A person who administers an opiate antagonist to another person is urged to call for emergency medical services immediately.

SECTION 2. In Colorado Revised Statutes, **add** 18-1-712 as follows:

18-1-712. Immunity for a person who administers an opiate antagonist

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

during an opiate-related drug overdose event - definitions. (1) Legislative declaration. THE GENERAL ASSEMBLY HEREBY ENCOURAGES THE ADMINISTRATION OF OPIATE ANTAGONISTS FOR THE PURPOSE OF SAVING THE LIVES OF PEOPLE WHO SUFFER OPIATE-RELATED DRUG OVERDOSE EVENTS. A PERSON WHO ADMINISTERS AN OPIATE ANTAGONIST TO ANOTHER PERSON IS URGED TO CALL FOR EMERGENCY MEDICAL SERVICES IMMEDIATELY.

(2) General immunity. A PERSON OTHER THAN A HEALTH CARE PROVIDER OR A HEALTH CARE FACILITY WHO ACTS IN GOOD FAITH TO ADMINISTER AN OPIATE ANTAGONIST TO ANOTHER PERSON WHOM THE PERSON BELIEVES TO BE SUFFERING AN OPIATE-RELATED DRUG OVERDOSE EVENT SHALL BE IMMUNE FROM CRIMINAL PROSECUTION FOR SUCH ACT.

(3) (a) Licensed prescribers and dispensers. A PERSON WHO IS PERMITTED BY LAW TO PRESCRIBE OR DISPENSE AN OPIATE ANTAGONIST SHALL BE IMMUNE FROM CRIMINAL PROSECUTION FOR:

(I) SUCH PRESCRIBING OR DISPENSING; OR

(II) ANY OUTCOMES RESULTING FROM THE EVENTUAL ADMINISTRATION OF THE OPIATE ANTAGONIST BY A LAYPERSON.

(b) A PRESCRIBER OR DISPENSER WHO DISPENSES AN OPIATE ANTAGONIST IS STRONGLY ENCOURAGED TO EDUCATE PERSONS RECEIVING THE OPIATE ANTAGONIST ON THE USE OF AN OPIATE ANTAGONIST FOR OVERDOSE, INCLUDING BUT NOT LIMITED TO INSTRUCTION CONCERNING RISK FACTORS FOR OVERDOSE, RECOGNITION OF OVERDOSE, CALLING EMERGENCY MEDICAL SERVICES, RESCUE BREATHING, AND ADMINISTRATION OF AN OPIATE ANTAGONIST.

(4) THE PROVISIONS OF THIS SECTION SHALL NOT BE INTERPRETED TO ESTABLISH ANY DUTY OR STANDARD OF CARE IN THE PRESCRIBING, DISPENSING, OR ADMINISTRATION OF AN OPIATE ANTAGONIST.

(5) Definitions. AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "HEALTH CARE FACILITY" MEANS A HOSPITAL, A HOSPICE INPATIENT RESIDENCE, A NURSING FACILITY, A DIALYSIS TREATMENT FACILITY, AN ASSISTED LIVING RESIDENCE, AN ENTITY THAT PROVIDES HOME- AND COMMUNITY-BASED SERVICES, A HOSPICE OR HOME HEALTH CARE AGENCY, OR ANOTHER FACILITY THAT PROVIDES OR CONTRACTS TO PROVIDE HEALTH CARE SERVICES, WHICH FACILITY IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED OR PERMITTED BY LAW TO PROVIDE MEDICAL TREATMENT.

(b) (I) "HEALTH CARE PROVIDER" MEANS:

(A) A LICENSED OR CERTIFIED PHYSICIAN, NURSE PRACTITIONER, PHYSICIAN ASSISTANT, OR PHARMACIST; OR

(B) A HEALTH MAINTENANCE ORGANIZATION LICENSED AND CONDUCTING BUSINESS IN THIS STATE.

(II) "HEALTH CARE PROVIDER" DOES NOT INCLUDE A PODIATRIST, OPTOMETRIST, DENTIST, OR VETERINARIAN.

(c) "OPIATE" HAS THE SAME MEANING AS SET FORTH IN SECTION 18-18-102 (21).

(d) "OPIATE ANTAGONIST" MEANS NALOXONE HYDROCHLORIDE OR ANY SIMILARLY ACTING DRUG THAT IS NOT A CONTROLLED SUBSTANCE AND THAT IS APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR THE TREATMENT OF A DRUG OVERDOSE.

(e) "OPIATE-RELATED DRUG OVERDOSE EVENT" MEANS AN ACUTE CONDITION, INCLUDING BUT NOT LIMITED TO A DECREASED LEVEL OF CONSCIOUSNESS OR RESPIRATORY DEPRESSION RESULTING FROM THE CONSUMPTION OR USE OF A CONTROLLED SUBSTANCE, OR ANOTHER SUBSTANCE WITH WHICH A CONTROLLED SUBSTANCE WAS COMBINED, AND THAT A LAYPERSON WOULD REASONABLY BELIEVE TO BE AN OPIATE-RELATED DRUG OVERDOSE EVENT THAT REQUIRES MEDICAL ASSISTANCE.

SECTION 3. In Colorado Revised Statutes, **add** 13-21-108.7 as follows:

13-21-108.7. Persons rendering emergency assistance through the administration of an opiate antagonist - limited immunity - legislative declaration - definitions. (1) **Legislative declaration.** THE GENERAL ASSEMBLY HEREBY ENCOURAGES THE ADMINISTRATION OF OPIATE ANTAGONISTS FOR THE PURPOSE OF SAVING THE LIVES OF PEOPLE WHO SUFFER OPIATE-RELATED DRUG OVERDOSE EVENTS. A PERSON WHO ADMINISTERS AN OPIATE ANTAGONIST TO ANOTHER PERSON IS URGED TO CALL FOR EMERGENCY MEDICAL SERVICES IMMEDIATELY.

(2) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "HEALTH CARE FACILITY" MEANS A HOSPITAL, A HOSPICE INPATIENT RESIDENCE, A NURSING FACILITY, A DIALYSIS TREATMENT FACILITY, AN ASSISTED LIVING RESIDENCE, AN ENTITY THAT PROVIDES HOME- AND COMMUNITY-BASED SERVICES, A HOSPICE OR HOME HEALTH CARE AGENCY, OR ANOTHER FACILITY THAT PROVIDES OR CONTRACTS TO PROVIDE HEALTH CARE SERVICES, WHICH FACILITY IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED OR PERMITTED BY LAW TO PROVIDE MEDICAL TREATMENT.

(b) (I) "HEALTH CARE PROVIDER" MEANS:

(A) A LICENSED OR CERTIFIED PHYSICIAN, NURSE PRACTITIONER, PHYSICIAN ASSISTANT, OR PHARMACIST; OR

(B) A HEALTH MAINTENANCE ORGANIZATION LICENSED AND CONDUCTING BUSINESS IN THIS STATE.

(II) "HEALTH CARE PROVIDER" DOES NOT INCLUDE A PODIATRIST, OPTOMETRIST, DENTIST, OR VETERINARIAN.

(c) "OPIATE" HAS THE SAME MEANING AS SET FORTH IN SECTION 18-18-102 (21), C.R.S.

(d) "OPIATE ANTAGONIST" MEANS NALOXONE HYDROCHLORIDE OR ANY SIMILARLY ACTING DRUG THAT IS NOT A CONTROLLED SUBSTANCE AND THAT IS APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR THE TREATMENT OF A DRUG OVERDOSE.

(e) "OPIATE-RELATED DRUG OVERDOSE EVENT" MEANS AN ACUTE CONDITION, INCLUDING BUT NOT LIMITED TO A DECREASED LEVEL OF CONSCIOUSNESS OR RESPIRATORY DEPRESSION RESULTING FROM THE CONSUMPTION OR USE OF A CONTROLLED SUBSTANCE, OR ANOTHER SUBSTANCE WITH WHICH A CONTROLLED SUBSTANCE WAS COMBINED, AND THAT A LAYPERSON WOULD REASONABLY BELIEVE TO BE AN OPIATE-RELATED DRUG OVERDOSE EVENT THAT REQUIRES MEDICAL ASSISTANCE.

(3) **General immunity.** A PERSON OTHER THAN A HEALTH CARE PROVIDER OR A HEALTH CARE FACILITY WHO ACTS IN GOOD FAITH TO ADMINISTER AN OPIATE ANTAGONIST TO ANOTHER PERSON WHOM THE PERSON BELIEVES TO BE SUFFERING AN OPIATE-RELATED DRUG OVERDOSE EVENT SHALL NOT BE LIABLE FOR ANY CIVIL DAMAGES FOR ACTS OR OMISSIONS MADE AS A RESULT OF SUCH ACT.

(4) (a) **Licensed prescribers and dispensers.** A PERSON WHO IS PERMITTED BY LAW TO PRESCRIBE OR DISPENSE AN OPIATE ANTAGONIST SHALL NOT BE LIABLE FOR ANY CIVIL DAMAGES RESULTING FROM:

(I) SUCH PRESCRIBING OR DISPENSING; OR

(II) ANY OUTCOMES RESULTING FROM THE EVENTUAL ADMINISTRATION OF THE OPIATE ANTAGONIST BY A LAYPERSON.

(b) A PRESCRIBER OR DISPENSER WHO DISPENSES AN OPIATE ANTAGONIST IS STRONGLY ENCOURAGED TO EDUCATE PERSONS RECEIVING THE OPIATE ANTAGONIST ON THE USE OF AN OPIATE ANTAGONIST FOR OVERDOSE, INCLUDING BUT NOT LIMITED TO INSTRUCTION CONCERNING RISK FACTORS FOR OVERDOSE, RECOGNITION OF OVERDOSE, CALLING EMERGENCY MEDICAL SERVICES, RESCUE BREATHING, AND ADMINISTRATION OF AN OPIATE ANTAGONIST.

(5) THE PROVISIONS OF THIS SECTION SHALL NOT BE INTERPRETED TO ESTABLISH ANY DUTY OR STANDARD OF CARE IN THE PRESCRIBING, DISPENSING, OR ADMINISTRATION OF AN OPIATE ANTAGONIST.

SECTION 4. In Colorado Revised Statutes, 12-36-117, **add** (1.7) as follows:

12-36-117. Unprofessional conduct. (1.7) THE PRESCRIBING, DISPENSING, OR DISTRIBUTION OF AN OPIATE ANTAGONIST BY A LICENSED HEALTH CARE PRACTITIONER SHALL NOT CONSTITUTE UNPROFESSIONAL CONDUCT IF HE OR SHE PRESCRIBED, DISPENSED, OR DISTRIBUTED THE OPIATE ANTAGONIST IN A GOOD FAITH EFFORT TO ASSIST:

(a) A PERSON WHO IS AT INCREASED RISK OF EXPERIENCING OR LIKELY TO

EXPERIENCE AN OPIATE-RELATED DRUG OVERDOSE EVENT, AS DEFINED IN SECTION 18-1-712 (5) (e), C.R.S.; OR

(b) A FAMILY MEMBER, FRIEND, OR OTHER PERSON WHO IS IN A POSITION TO ASSIST A PERSON WHO IS AT INCREASED RISK OF EXPERIENCING OR LIKELY TO EXPERIENCE AN OPIATE-RELATED DRUG OVERDOSE EVENT, AS DEFINED IN SECTION 18-1-712 (5) (e), C.R.S.

SECTION 5. In Colorado Revised Statutes, 12-42.5-123, **add** (3) as follows:

12-42.5-123. Unprofessional conduct - grounds for discipline. (3) THE DISPENSING OR DISTRIBUTION OF AN OPIATE ANTAGONIST BY A PHARMACIST SHALL NOT CONSTITUTE UNPROFESSIONAL CONDUCT IF HE OR SHE DISPENSED OR DISTRIBUTED THE OPIATE ANTAGONIST IN A GOOD FAITH EFFORT TO ASSIST:

(a) A PERSON WHO IS AT INCREASED RISK OF EXPERIENCING OR LIKELY TO EXPERIENCE AN OPIATE-RELATED DRUG OVERDOSE EVENT, AS DEFINED IN SECTION 18-1-712 (5) (e), C.R.S.; OR

(b) A FAMILY MEMBER, FRIEND, OR OTHER PERSON WHO IS IN A POSITION TO ASSIST A PERSON WHO IS AT INCREASED RISK OF EXPERIENCING OR LIKELY TO EXPERIENCE AN OPIATE-RELATED DRUG OVERDOSE EVENT, AS DEFINED IN SECTION 18-1-712 (5) (e), C.R.S.

SECTION 6. In Colorado Revised Statutes, 12-38-117, **add** (6) as follows:

12-38-117. Grounds for discipline. (6) THE PRESCRIBING, DISPENSING, OR DISTRIBUTION OF AN OPIATE ANTAGONIST BY AN ADVANCED PRACTICE NURSE SHALL NOT CONSTITUTE GROUNDS FOR DISCIPLINE IF HE OR SHE PRESCRIBED, DISPENSED, OR DISTRIBUTED THE OPIATE ANTAGONIST IN A GOOD FAITH EFFORT TO ASSIST:

(a) A PERSON WHO IS AT INCREASED RISK OF EXPERIENCING OR LIKELY TO EXPERIENCE AN OPIATE-RELATED DRUG OVERDOSE EVENT, AS DEFINED IN SECTION 18-1-712 (5) (e), C.R.S.; OR

(b) A FAMILY MEMBER, FRIEND, OR OTHER PERSON WHO IS IN A POSITION TO ASSIST A PERSON WHO IS AT INCREASED RISK OF EXPERIENCING OR LIKELY TO EXPERIENCE AN OPIATE-RELATED DRUG OVERDOSE EVENT, AS DEFINED IN SECTION 18-1-712 (5) (e), C.R.S.

SECTION 7. In Colorado Revised Statutes, 12-42.5-102, **add** (42) (b) (XIV) as follows:

12-42.5-102. Definitions. As used in this article, unless the context otherwise requires or the term is otherwise defined in another part of this article:

(42) (b) "Wholesale distribution" does not include:

(XIV) THE DISTRIBUTION OF NALOXONE.

SECTION 8. In Colorado Revised Statutes, **amend** 12-42.5-105 as follows:

12-42.5-105. Rules. (1) The board shall make, adopt, amend, or repeal rules in accordance with article 4 of title 24, C.R.S., that the board deems necessary for the proper administration and enforcement of the responsibilities and duties delegated to the board by this article, including those relating to nuclear pharmacies.

(2) ON OR BEFORE JANUARY 1, 2014, THE BOARD SHALL ADOPT OR AMEND RULES AS NECESSARY TO PERMIT THE DISPENSING OF AN OPIATE ANTAGONIST, AS DEFINED IN SECTION 18-1-712 (5) (d), C.R.S., BY A PHARMACIST TO A PERSON WHO IS AT INCREASED RISK OF EXPERIENCING OR LIKELY TO EXPERIENCE AN OPIATE-RELATED DRUG OVERDOSE EVENT, AS DEFINED IN SECTION 18-1-712 (5) (e), C.R.S., OR TO A FAMILY MEMBER, FRIEND, OR OTHER PERSON WHO IS IN A POSITION TO ASSIST SUCH A PERSON, SO LONG AS THE PRESCRIPTION FOR THE OPIATE ANTAGONIST PROVIDES FOR THE DISPENSING OF THE OPIATE ANTAGONIST TO SUCH A FAMILY MEMBER, FRIEND, OR OTHER PERSON.

SECTION 9. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the division of professions and occupations cash fund created in section 24-34-105 (2) (b) (I), Colorado Revised Statutes, not otherwise appropriated, to the department of regulatory agencies, for the fiscal year beginning July 1, 2013, the sum of \$8,318, or so much thereof as may be necessary, to be allocated for the implementation of this act as follows:

(a) \$6,000 to the division of professions and occupations for board meeting costs; and

(b) \$2,318 to the executive director's office and administrative services for the purchase of legal services.

(2) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2013, the sum of \$2,318, or so much thereof as may be necessary, for the provision of legal services for the department of regulatory agencies related to the implementation of this act. Said sum is from reappropriated funds received from the department of regulatory agencies out of the appropriation made in paragraph (b) of subsection (1) of this section.

SECTION 10. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 10, 2013