



**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2013 Assembly Bill 446

**Assembly Substitute
Amendment 1**

Memo published: January 13, 2014

Contact: Melissa Schmidt, Senior Staff Attorney (266-2298)

2013 ASSEMBLY BILL 446

2013 Assembly Bill 446 (hereinafter, “the bill”) contains various provisions related to training and agreements for administering the drug naloxone; requiring emergency medical technicians (EMTs) to carry the drug; and immunity for certain individuals who administer the drug. Naloxone, also known by its trade name, Narcan, is a prescription drug that is used as an antidote to reverse an overdose of an opioid (e.g., heroin and prescription opioids including morphine, oxycontin, methadone, and Vicodin).

Administration of Naloxone by Responders to an Emergency

Certified First Responders

A certified first responder is an individual who has completed a first responder course approved by the Department of Health Services (DHS), passed the required examination, and has been certified by DHS to provide certain basic emergency medical procedures. A certified first responder may perform only the types of emergency medical care that are within the Wisconsin scope of practice for certified first responders.

The bill provides that a certified first responder is authorized to administer naloxone if he or she has received training necessary to safely administer naloxone, as determined by DHS.

Emergency Medical Technicians

There are three classifications of EMTs in Wisconsin: (1) EMT - basic; (2) EMT - intermediate; and (3) EMT - paramedic. Each type of EMT may perform a different range of emergency medical services, which increases with the increasing level of classification. An EMT may only administer the medications that are authorized by DHS to be within the EMT’s scope of practice. Currently, DHS authorizes a person licensed as an EMT - intermediate or EMT - paramedic, but not an EMT - basic, to administer naloxone. [See s. DHS 110.12, Wis. Adm. Code, and http://www.dhs.wisconsin.gov/ems/License_certification/scope_of_practice.htm.]

The bill requires the following related to EMTs:

- DHS must permit EMTs, at all levels of training, to administer the drug naloxone to individuals who are undergoing or who are believed to be undergoing an opioid-related drug overdose. The bill defines an opioid-related drug overdose as 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.
- DHS must require EMTs to undergo any training necessary to safely and properly administer the drug naloxone.
- Every EMT who has obtained the training described above must carry or have available a supply of naloxone at all times when performing his or her duties as an EMT.

Law Enforcement Agencies and Fire Departments

The bill provides that 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:

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

Immunity from Civil or Criminal Liability

The bill provides that a law enforcement officer or fire fighter may not be subject to any criminal or civil liability in connection with administering naloxone if the law enforcement officer or fire fighter does all of the following:

- Acts in good faith.
- Reasonably believes the individual is undergoing an opioid-related drug overdose.
- Acts pursuant to an agreement and training, as described above.

ASSEMBLY SUBSTITUTE AMENDMENT 1

Assembly Substitute Amendment 1 to the bill (hereinafter, “ASA1”) amends the bill as follows.

Possessing, Delivering or Dispensing an Opioid Antagonist by Any Person

ASA1 replaces the term, “naloxone” with the term “opioid antagonist,” which is defined in ASA1 to mean a drug, such as naloxone, that satisfies all of the following:

- 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.
- The drug is not a controlled substance.

ASA1 also adds a provision that any person may possess an opioid antagonist and may deliver or dispense an opioid antagonist except that a licensed physician, licensed physician assistant, or advanced practice nurse who is certified to issue prescription orders (APRN), or licensed pharmacist may only dispense or deliver in accordance with his or her other legal authority to dispense prescription drugs, as described below.

Administration of an Opioid Antagonist by Responders to an Emergency

Certified First Responders and EMTs

ASA1 retains the provisions, described above, related to certified first responders. However, instead of requiring every EMT who has obtained the training described above to carry or have available a supply of an opioid antagonist at all times when performing his or her duties as an EMT, ASA1 requires that every ambulance service provider¹ does all of following:

- Ensure that every EMT 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 other opioid antagonist available for administration when her or she is performing his or her duties as an EMT, ***to the extent that naloxone or the other opioid antagonist is available to the ambulance service provider.***
- Require each certified first responder and EMT under its supervision to, in the manner prescribed by DHS, keep a record of each instance in which he or she administers naloxone or another opioid antagonist.
- Submit the records described above to DHS in a manner prescribed by DHS.

Law Enforcement Agencies and Fire Departments

ASA1 retains the provisions of the bill that authorizes a law enforcement agency or fire department to enter into a written agreement, as described above. However, it amends the immunity provided to a law enforcement officer or fire fighter, as described at the end of this Memo.

Prescriptions for an Opioid Antagonist

Authority for Physicians, Physician Assistants, and APRNs to Prescribe, Dispense, and Deliver an Opioid Antagonist

ASA1 includes the ability for a licensed physician, licensed physician assistant, or APRN to prescribe an opioid antagonist to a person who is in a position to assist another person who is at risk of experiencing an opioid-related drug overdose, either directly or by the use of a standing order. A licensed physician, licensed physician assistant, and APRN may also deliver or dispense an opioid antagonist to a person who is in a position to assist another person at risk of experiencing an opioid-related drug overdose.

If a licensed physician, licensed physician assistant, or APRN does prescribe or deliver an opioid antagonist to such a person, he or she must ensure both of the following:

¹ An “ambulance service provider” is defined as “a person engaged in the business of transporting sick, disabled, or injured individuals by ambulance to or from facilities or institutions providing health services.” [s. 256.01 (3), Stats.]

- The person to whom the drug will be delivered or dispensed has the knowledge and training necessary to safely administer it to an individual experiencing an opioid-related overdose.
- The person to whom the drug will be delivered or dispensed will ensure that any individual to whom the person further delivers or dispenses the drug has or receives that knowledge and training necessary to safely administer it to an individual experiencing an opioid-related overdose.

ASA1 provides that a licensed physician, licensed physician assistant, or APRN who, acting in good faith, prescribes, delivers, or dispenses an opioid antagonist in accordance with the procedures created by ASA1 may ***not be subject to professional discipline*** for any outcomes resulting from prescribing, delivering, or dispensing that drug.

Authority of Pharmacists to Deliver or Dispense an Opioid Antagonist

ASA1 authorizes a licensed pharmacist to deliver or dispense an opioid antagonist upon the prescription order of a physician, physician assistant, or APRN that complies with the requirements described above. The pharmacist may deliver or dispense an opioid antagonist to the person specified in the prescription order. The pharmacist must provide a consultation in accordance with rules promulgated by the Pharmacy Examining Board for the delivery or dispensing of a prescription to the person to whom the drug is delivered or dispensed.

ASA1 also provides that a licensed pharmacist who, acting in good faith, delivers, or dispenses an opioid antagonist in accordance with the procedures created by ASA1 ***may not be subject to professional discipline*** for any outcomes resulting from prescribing, delivering, or dispensing that drug.

Information Required on Prescription Orders for an Opioid Antagonist

ASA1 specifies that a prescription order for a prescription opioid antagonist need not specify the name and address of the individual to whom the opioid antagonist will be administered. Instead it must specify the name of the person to whom the drug will be delivered or dispensed.

Immunity from Civil or Criminal Liability

ASA1 provides that, in general any person who ***delivers*** an opioid antagonist to another person is immune from civil or criminal liability, with the following exceptions:

- A licensed physician, licensed physician assistant, or APRN must act in good faith when prescribing, delivering, or dispensing an opioid antagonist in accordance with the procedures created by ASA1, be immune from any criminal or civil liability for any outcomes resulting from prescribing, delivering, or dispensing that drug.
- A licensed pharmacist must act in good faith when delivering or dispensing an opioid antagonist in accordance with the procedures created by ASA1, to be immune from any criminal or civil liability for any outcomes resulting from delivering or dispensing that drug.

ASA1 also provides that, in general any person who ***administers*** an opioid antagonist to another, whom the person reasonably believes to be undergoing an opioid-related drug overdose, is immune from civil or criminal liability. However, a law enforcement officer or fire fighter is only immune from civil or criminal liability for any outcomes resulting from the administration of naloxone or another opioid antagonist to another person if the law enforcement officer or fire fighter does all of the following:

- Reasonably believes the individual is undergoing an opioid-related drug overdose.
- Acts pursuant to an agreement with an ambulance service provider or a physician and any training obtained pursuant to the agreement, as described above.

Also, an employee trained in health care or a health care professional is not immune from civil liability if he or she renders emergency care for compensation 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 an emergency or accident, enroute to a hospital or other institution equipped with hospital facilities, or at a physician's office.

BILL HISTORY

On January 8, 2014, Representative Nygren offered ASA1. On March 9, 2014, the Assembly Committee on Criminal Justice voted to recommend adoption of ASA1 by a vote of Ayes, 10; Noes, 0; and voted to recommend passage of the bill, as amended, by a vote of Ayes, 10; Noes, 0.

MS:ty