

ADMINISTRATION OF OPIOID ANTAGONISTS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 200 (S-1) as passed by the Senate
Sponsor: Sen. Paul Wojno

Analysis available at
<http://www.legislature.mi.gov>

Senate Bill 282 (S-1) as passed by the Senate
Sponsor: Sen. Curtis S. VanderWall

Senate Bill 283 as passed by the Senate
Sponsor: Sen. Peter J. Lucido

House Committee: Government Operations
Senate Committee: Healthy Policy and Human Services
Complete to 6-3-19

SUMMARY:

Senate Bills 200, 282, and 283 would amend the Public Health Code and the Revised School Code to coordinate those acts with the *Administration of Opioid Antagonists Act* proposed by House Bill 4367. (See **Background**, below.)

Senate Bill 200 would amend section 17744b of the Public Health Code, which currently allows an opioid antagonist to be prescribed and dispensed to a school board and to be possessed and administered by a school employee who has been trained in its use.

The bill would instead allow an opioid antagonist to be prescribed and dispensed to an agency authorized under the *Administration of Opioid Antagonists Act* and to be possessed and administered by an employee or agent of the agency under that act.

MCL 333.17744b

Senate Bill 282 would amend section 20919 of the Public Health Code. Under this section, by October 15, 2015, a medical control authority had to establish written protocols for life support agencies and emergency medical services (EMS) personnel within its region that ensured that each life support vehicle dispatched was equipped with opioid antagonists and that all EMS personnel were properly trained in their administration. A medical control authority may currently (since October 14, 2017) elect to rescind or continue this protocol at its discretion.

The bill would instead require a medical control authority to establish protocols to ensure that EMS personnel who receive opioid antagonists under the *Administration of Opioid Antagonists Act* are trained in their proper administration.

MCL 333.20919

Senate Bill 283 would amend the Revised School Code to remove provisions that currently provide immunity from civil or criminal liability for a school employee who administers an opioid antagonist in good faith (except for acts or omissions amounting to gross negligence or willful and wanton misconduct). The bill would also repeal section 1179b, which, among other things, allows a school board to require that at least two employees in each school it operates must be trained in the proper administration of an opioid antagonist.

Under the proposed *Administration of Opioid Antagonists Act*, a school district could purchase and possess an opioid antagonist and distribute it to an employee trained in its use. That act would also govern the drug's administration by an employee and provide for immunity for its good-faith use.

MCL 380.5 and 380.1178; MCL 380.1179b (repealed)

Senate Bills 200, 282, and 283 are tie-barred to HB 4367 (and varyingly to one another), and HB 4367 (S-2) is tie-barred to all three Senate bills. This means that none of these four bills could take effect unless all of them were enacted.

Each bill would take effect 90 days after its enactment.

BACKGROUND:

House Bill 4367 (S-2), on General Orders in the Senate, would create a new act called the *Administration of Opioid Antagonists Act*.

The act would allow an *agency* to purchase and possess an *opioid antagonist* and distribute it to an *employee or agent* who has been trained in its use. The employee or agent could possess an opioid antagonist given to him or her by the agency. If trained in the proper administration of the opioid antagonist, the employee or agent could administer it to an individual who he or she had reason to believe was experiencing an opioid-related overdose.

Agency would mean any of the following:

- This state and its agencies, departments, commissions, courts, boards, and statutorily created task forces
- A public university or college of this state.
- A city, village, or township or any combination of them when acting jointly.
- A county, county road commission, school district, public library, port district, metropolitan district, or transportation authority; a combination of these entities acting jointly; a district or authority authorized by law or formed by one or more of these entities; or an agency, department, court, board, or council of any of these entities.
- An ambulance operation, nontransport prehospital life support operation, aircraft transport operation, or medical first response service.

Employee or agent would mean an individual who is employed by an agency, who is under contract with an agency, who serves on the governing body of an agency, or who volunteers with an agency.

Opioid antagonist would mean naloxone hydrochloride or an equally safe and effective drug approved by the Food and Drug Administration for the treatment of drug overdose.

Under the new act, the agency and the employee or agent would be immune from civil liability for injuries or damages arising from the good-faith administration of an opioid antagonist to an individual unless that conduct amounted to gross negligence that was the proximate cause of the injury or damage. The agency and the employee or agent would not be subject to a criminal prosecution for purchasing, possessing, distributing, or administering an opioid antagonist, as applicable, under the act. The immunity described in this paragraph would be in addition to any immunity otherwise provided by law.

HB 4367 would also repeal 2014 PA 462, which provides access to opioid antagonists for certain law enforcement agencies and police officers and provides immunity for their use similar to that described above.

BRIEF DISCUSSION:

According to the Department of Health and Human Services, the number of drug overdose deaths in Michigan rose to 2,729 in 2017, continuing an upward trend since 2012. Over 70% of these deaths (1,941 cases) were opioid-related.¹ The number of opioid-related overdose deaths in Michigan has nearly tripled since 2012, when 681 such deaths were recorded. Nationally, opioid overdoses kill an estimated 115 Americans every day.

Naloxone hydrochloride is a nonaddictive drug that can safely and rapidly reverse the effects of an opioid overdose. It is commonly known by the brand names Narcan (a nasal spray) and Evzio (a prefilled auto-injection device). Administered to an individual whose breathing has slowed or stopped due to overdosing with heroin or a prescription opioid, naloxone can very quickly restore normal breathing. That is, it can save lives, especially if it is available to be administered during the crucial moments before emergency medical help is on the scene.

As part of the continuing efforts to address opioid use in this state, the Michigan Prescription Drug and Opioid Abuse Task Force released its report of findings and recommendations for action in October of 2015.² Among its findings and recommendations were the following:

- “Naloxone is a safe and life-saving drug that should be more accessible... The Task Force recommends pharmacists be allowed to dispense Naloxone to the public in similar fashion to how pseudoephedrine is currently dispensed.”

¹ https://www.michigan.gov/opioids/0,9238,7-377-88143_88334_88340-480039--,00.html

² http://www.michigan.gov/documents/snyder/Prescription_Drug_and_Opioid_Task_Force_Report_504140_7.pdf

- “Responding to an emergency should be the priority when administering Naloxone. It is essential that anyone administering Naloxone should not be hesitant to do so because of criminal and civil liabilities.”

In 2016, Michigan passed a naloxone standing order law, which allows a pharmacist to dispense the drug without the need to identify a particular patient. This allows friends or family members—or any individual—to obtain naloxone to use in an emergency.

Michigan has also enacted “Good Samaritan” protections from civil and criminal liability for individuals who administer naloxone in good faith to someone whom they believe to be suffering the immediate effects of an opioid-related overdose. Other laws have more specifically provided greater access to naloxone, and have limited individual and institutional liability for its good-faith use, for law enforcement, emergency services, and school personnel and entities. (The *Administration of Opioid Antagonists Act* would consolidate and expand these laws.)

FISCAL IMPACT:

Senate Bills 200 and 283 would have no fiscal impact on state or local government.

Senate Bill 282 would have no fiscal impact on the Department of Health and Human Services (DHHS), which administers this part of the Public Health Code regulating emergency medical services. The bill would add no additional costs for local governments that provide or contract for emergency medical services, as under the Public Health Code protocols were put into place in 2015 by local medical control authorities for training of life support agency EMS personnel in the administration of opioid antagonists.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.