

HOUSE BILL 791

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By: **Delegates Barron, Bromwell, Kipke, and Pena-Melnyk**

Introduced and read first time: February 3, 2017

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Overdose Response Program – Prescribing and Dispensing of Naloxone –**
3 **Noncertificate Holders**

4 FOR the purpose of authorizing, notwithstanding certain provisions of law, a certain
5 physician or a certain advanced practice nurse to prescribe and dispense naloxone to
6 certain individuals who have not completed a certain training program; authorizing,
7 notwithstanding certain provisions of law, a certain physician or a certain advanced
8 practice nurse to prescribe and dispense naloxone to certain individuals by issuing a
9 standing order under certain circumstances; authorizing a certain physician or a
10 certain advanced practice nurse who issues a certain standing order to delegate to a
11 certain registered nurse the authority to dispense naloxone to certain individuals;
12 authorizing certain health care providers who have dispensing authority to dispense
13 naloxone to certain individuals in accordance with a certain standing order;
14 prohibiting certain individuals who administer naloxone to a certain individual from
15 being considered to be practicing medicine or registered nursing; prohibiting a
16 certain physician or a certain advanced practice nurse who prescribes or dispenses
17 naloxone to certain individuals in a certain manner from being subject to certain
18 disciplinary action; prohibiting the bringing of a cause of action against certain
19 health care providers for prescribing or dispensing naloxone and certain
20 paraphernalia for the administration of naloxone to certain individuals under a
21 certain provision of law; providing for the construction of certain provisions of law;
22 altering a certain definition; and generally relating to the Overdose Response
23 Program and prescribing and dispensing of naloxone to noncertificate holders.

24 BY repealing and reenacting, with amendments,
25 Article – Health – General
26 Section 13–3101(h), 13–3102, 13–3108, 13–3109, and 13–3110
27 Annotated Code of Maryland
28 (2015 Replacement Volume and 2016 Supplement)

29 BY repealing and reenacting, without amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Health – General
Section 13–3104(d)
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Health – General

13–3101.

(h) “Standing order” means a written instruction for the prescribing and dispensing of naloxone [to a certificate holder] in accordance with § 13–3108 of this subtitle.

13–3102.

(A) An Overdose Response Program is a program overseen by the Department for the purpose of providing a means of authorizing certain individuals to administer naloxone to an individual experiencing, or believed to be experiencing, opioid overdose to help prevent a fatality when medical services are not immediately available.

(B) THIS SUBTITLE MAY NOT BE CONSTRUED TO PROHIBIT:

(1) A LICENSED PHYSICIAN OR AN ADVANCED PRACTICE NURSE WITH PRESCRIBING AUTHORITY FROM PRESCRIBING OR DISPENSING NALOXONE TO AN INDIVIDUAL WHO IS NOT A CERTIFICATE HOLDER;

(2) A LICENSED PHARMACIST FROM DISPENSING NALOXONE TO AN INDIVIDUAL WHO HAS A PRESCRIPTION BUT WHO IS NOT A CERTIFICATE HOLDER;
OR

(3) AN INDIVIDUAL WHO HAS A PRESCRIPTION BUT IS NOT A CERTIFICATE HOLDER FROM RECEIVING, POSSESSING, OR ADMINISTERING NALOXONE TO AN INDIVIDUAL EXPERIENCING, OR BELIEVED TO BE EXPERIENCING, AN OPIOID OVERDOSE.

13–3104.

(d) (1) The applicant shall successfully complete an educational training program offered by a private or public entity authorized by the Department.

(2) An educational training program required under this subsection shall:

(i) Be conducted by:

1. A licensed physician;
2. An advanced practice nurse;
3. A pharmacist; or
4. An employee or a volunteer of a private or public entity who is supervised in accordance with a written agreement between the private or public entity and a supervisory licensed physician, advanced practice nurse, or pharmacist that includes:

A. Procedures for providing patient overdose information;

B. Information as to how the employee or volunteer providing the information will be trained; and

C. Standards for documenting the provision of patient overdose information to patients; and

(ii) Include training in:

1. The recognition of the symptoms of opioid overdose;
2. The proper administration of naloxone;
3. The importance of contacting emergency medical services;
4. The care of an individual after the administration of naloxone; and
5. Any other topics required by the Department.

13–3108.

(a) A licensed physician or an advanced practice nurse with prescribing authority may prescribe and dispense naloxone to a certificate holder.

(b) A registered nurse may dispense naloxone to a certificate holder in a local health department if the registered nurse complies with:

- (1) The formulary developed and approved under § 3–403(b) of this article; and
- (2) The requirements established under § 8–512 of the Health Occupations Article.

(c) (1) A licensed physician or an advanced practice nurse with prescribing authority may prescribe and dispense naloxone to a certificate holder by issuing a standing order if the licensed physician or advanced practice nurse:

(i) Is employed by the Department or a local health department; or

(ii) Supervises or conducts an educational training program under § 13–3104(d) of this subtitle.

(2) A licensed physician or an advanced practice nurse with prescribing authority who issues a standing order under paragraph (1) of this subsection may delegate to the following persons the authority for dispensing naloxone to a certificate holder:

(i) A licensed registered nurse who:

1. Is employed by a local health department; and

2. Completes a training program approved by the Department; and

(ii) An employee or a volunteer of a private or public entity who is authorized to conduct an educational training program in accordance with § 13–3104(d) of this subtitle.

(3) Any licensed health care provider who has dispensing authority also may dispense naloxone to a certificate holder in accordance with a standing order issued by a licensed physician.

(d) (1) Any licensed health care provider who has prescribing authority may prescribe naloxone to a patient who is believed by the licensed health care provider to be at risk of experiencing an opioid overdose or in a position to assist an individual at risk of experiencing an opioid overdose.

(2) A patient who receives a naloxone prescription under paragraph (1) of this subsection is not subject to the training requirements under § 13–3104(d) of this subtitle.

(e) A pharmacist may dispense naloxone in accordance with a therapy management contract under Title 12, Subtitle 6A of the Health Occupations Article.

(F) (1) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION:

(I) A LICENSED PHYSICIAN OR AN ADVANCED PRACTICE NURSE WITH PRESCRIBING AUTHORITY MAY PRESCRIBE AND DISPENSE NALOXONE TO AN INDIVIDUAL WHO HAS NOT COMPLETED THE TRAINING PROGRAM UNDER § 13–3104(D) OF THIS SUBTITLE; AND

(II) A LICENSED PHYSICIAN OR AN ADVANCED PRACTICE NURSE WITH PRESCRIBING AUTHORITY WHO IS EMPLOYED BY A LOCAL HEALTH DEPARTMENT MAY PRESCRIBE AND DISPENSE NALOXONE TO AN INDIVIDUAL WHO HAS NOT COMPLETED THE TRAINING PROGRAM UNDER § 13-3104(D) OF THIS SUBTITLE BY ISSUING A STANDING ORDER.

(2) (I) A LICENSED PHYSICIAN OR AN ADVANCED PRACTICE NURSE WITH PRESCRIBING AUTHORITY WHO ISSUES A STANDING ORDER UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION MAY DELEGATE TO A LICENSED REGISTERED NURSE WHO IS EMPLOYED BY A LOCAL HEALTH DEPARTMENT THE AUTHORITY TO DISPENSE NALOXONE TO AN INDIVIDUAL WHO HAS NOT COMPLETED THE TRAINING PROGRAM UNDER § 13-3104(D) OF THIS SUBTITLE.

(II) ANY LICENSED HEALTH CARE PROVIDER WHO HAS DISPENSING AUTHORITY MAY DISPENSE NALOXONE TO AN INDIVIDUAL WHO HAS NOT COMPLETED THE TRAINING REQUIREMENTS UNDER § 13-3104(D) OF THIS SUBTITLE IN ACCORDANCE WITH A STANDING ORDER ISSUED BY A LICENSED PHYSICIAN.

13-3109.

(a) (1) A certificate holder OR ANY OTHER INDIVIDUAL who, in accordance with this subtitle, is administering naloxone to an individual experiencing or believed by the certificate holder OR OTHER INDIVIDUAL to be experiencing an opioid overdose may not be considered to be practicing:

(i) Medicine for the purposes of Title 14 of the Health Occupations Article; or

(ii) Registered nursing for the purposes of Title 8 of the Health Occupations Article.

(2) An employee or volunteer of a private or public entity who, in accordance with this subtitle, provides naloxone to a certificate holder in accordance with a standing order may not be considered to be practicing:

(i) Medicine for the purposes of Title 14 of the Health Occupations Article;

(ii) Registered nursing for the purposes of Title 8 of the Health Occupations Article; or

(iii) Pharmacy for the purposes of Title 12 of the Health Occupations Article.

(b) (1) A licensed physician who prescribes or dispenses naloxone to a certificate holder **OR AN INDIVIDUAL WHO HAS NOT COMPLETED THE TRAINING PROGRAM UNDER § 13-3104(D) OF THIS SUBTITLE** in a manner consistent with the protocol established by the authorized private or public entity may not be subject to any disciplinary action under Title 14 of the Health Occupations Article solely for the act of prescribing or dispensing naloxone to the certificate holder **OR INDIVIDUAL**.

(2) An advanced practice nurse with prescribing authority who prescribes or dispenses naloxone to a certificate holder **OR AN INDIVIDUAL WHO HAS NOT COMPLETED THE TRAINING PROGRAM UNDER § 13-3104(D) OF THIS SUBTITLE** in a manner consistent with the protocol established by the authorized private or public entity may not be subject to any disciplinary action under Title 8 of the Health Occupations Article solely for the act of prescribing or dispensing naloxone to the certificate holder **OR INDIVIDUAL**.

13-3110.

(a) An individual who administers naloxone to an individual who is or in good faith is believed to be experiencing an opioid overdose shall have immunity from liability under §§ 5-603 and 5-629 of the Courts and Judicial Proceedings Article.

(b) A cause of action may not arise against any licensed physician, advanced practice nurse with prescribing authority, or pharmacist for any act or omission when the physician, advanced practice nurse with prescribing authority, or pharmacist in good faith prescribes or dispenses naloxone and the necessary paraphernalia for the administration of naloxone to a certificate holder, [or] patient, **OR ANY OTHER INDIVIDUAL** under § 13-3108 of this subtitle.

(c) This subtitle may not be construed to create a duty on any individual to:

(1) Obtain a certificate under this subtitle, and an individual may not be held civilly liable for failing to obtain a certificate under this subtitle; or

(2) Administer naloxone to an individual who is experiencing or believed by the individual to be experiencing an opioid overdose.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.