

HOUSE BILL 1039

State of Washington

66th Legislature

2019 Regular Session

By Representatives Pollet, Cody, Slatter, Leavitt, Callan, Senn, Lekanoff, Kloba, Peterson, Valdez, Kilduff, Ryu, Irwin, Appleton, Jenkins, Macri, Wylie, Goodman, Doglio, Stanford, Stonier, and Frame

Prefiled 12/10/18. Read first time 01/14/19. Referred to Committee on Health Care & Wellness.

AN ACT Relating to **opioid** overdose medication at kindergarten through twelfth grade schools and higher education institutions; amending RCW [28A.210.260](#) and [28A.210.270](#); adding new sections to chapter [28A.210](#) RCW; adding a new section to chapter [28B.10](#) RCW; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Sec. 1. (1) The legislature finds that:

(a) According to the centers for disease control and prevention, the United States is in the midst of an **opioid** overdose epidemic;

(b) In 2017, opioids, including prescription opioids, heroin, and fentanyl, killed more than forty-nine thousand people in the United States. In 2017, opioids killed six hundred ninety-three people in Washington and caused over one thousand six hundred hospitalizations for **opioid** overdose;

(c) One way to prevent **opioid** overdose deaths is to expand access to and use of nonaddictive, **opioid** overdose medications, such as naloxone, that can reverse the effects of an **opioid** overdose when administered in time;

(d) The centers for disease control and prevention indicates that access to naloxone can be expanded through: Standing orders at pharmacies; distribution through local, community-based organizations; access to and use by law enforcement officials; and training for basic emergency medical service staff on how to administer the drug;

(e) In 2016, syringe service programs in Washington distributed three thousand six hundred forty naloxone kits and reported six hundred ninety overdose reversals; and

(f) It is unknown: How many **opioid** overdose incidents occur on the property of kindergarten through twelfth grade schools and higher education institutions each year; whether these schools and institutions maintain **opioid** overdose medication through a standing order for the purpose of assisting a person at risk of experiencing an opioid-related overdose; or whether these schools and institutions train staff to administer **opioid** overdose medication.

(2) The legislature recognizes that it has taken steps to respond to the **opioid** overdose epidemic, including: (a) Permitting health care practitioners to administer, prescribe, and dispense **opioid** overdose medication to any person who may be present at an overdose; (b) permitting people who may be present at an **opioid** overdose to possess and administer **opioid** overdose medication prescribed by an authorized health care practitioner; (c) limiting the liability of practitioners, pharmacists, and other people who possess and administer naloxone; and (d) limiting the liability of people experiencing a drug-related overdose who are in need of medical assistance and people acting in good faith to seek medical assistance for someone experiencing a drug-related overdose.

(3) Using its general police power to prescribe laws tending to promote the health and welfare of the people of the state, the legislature intends to increase access to **opioid** overdose medication at kindergarten through twelfth grade schools and higher education institutions.

NEW SECTION. Sec. 2. A new section is added to chapter [28A.210](#) RCW to read as follows:

(1) For the purposes of this section:

(a) "High school" means a school enrolling students in any of grades nine through twelve;

(b) "**Opioid** overdose medication" has the meaning provided in RCW [69.41.095](#);

(c) "Opioid-related overdose" has the meaning provided in RCW [69.41.095](#);

(d) "School" means a public school, school district, or educational service district with any of grades kindergarten through twelve; and

(e) "Standing order" has the meaning provided in RCW [69.41.095](#).

(2)(a) For the purpose of assisting a person at risk of experiencing an opioid-related overdose, a school may obtain and maintain **opioid** overdose medication through a standing order prescribed and dispensed in accordance with RCW [69.41.095](#).

(b) **Opioid** overdose medication may be obtained from donation sources, but must be maintained and administered in a manner consistent with a standing order issued in accordance with RCW [69.41.095](#).

(c) A school district with two thousand or more students must obtain and maintain at least one set of **opioid** overdose medication doses in each of its high schools as provided in (a) and (b) of this subsection.

(3)(a) The following personnel may distribute or administer the school-owned **opioid** overdose medication to respond to symptoms of an opioid-related overdose pursuant to a prescription or a standing order issued in accordance with RCW [69.41.095](#): (i) A school nurse; (ii) a health care professional or trained staff person located at a health care clinic on public school property or under contract with the school district; or (iii) designated trained school personnel.

(b) **Opioid** overdose medication may be used on school property, including the school building, playground, and school bus, as well as during field trips or sanctioned excursions away from school property. A school nurse or designated trained school personnel may carry an appropriate supply of school-owned **opioid** overdose medication on field trips or sanctioned excursions.

(4) Training for school personnel who have been designated to distribute or administer **opioid** overdose medication under this section must meet the requirements for training described in section 3 of this act and any rules or guidelines for such training adopted by the office of the superintendent of public instruction. Each high school is encouraged to designate and train at least one school personnel to distribute and administer **opioid** overdose medication if the high school does not have a full-time school nurse or trained health care clinic staff.

(5)(a) The liability of a person or entity who complies with this section and RCW [69.41.095](#) is limited as described in RCW [69.41.095](#).

(b) If a student is injured or harmed due to the administration of **opioid** overdose medication that a practitioner, as defined in RCW [69.41.095](#), has prescribed and a pharmacist has dispensed to a school under this section, the practitioner and pharmacist may not be held responsible for the injury unless he or she acted with conscious disregard for safety.

NEW SECTION. Sec. 3. A new section is added to chapter [28A.210](#) RCW to read as follows:

(1) For the purposes of this section:

(a) "**Opioid** overdose medication" has the meaning provided in RCW [69.41.095](#); and

(b) "Opioid-related overdose" has the meaning provided in RCW [69.41.095](#).

(2)(a) To prevent opioid-related overdoses and respond to medical emergencies resulting from overdoses, by the 2019-20 school year, the office of the superintendent of public instruction, in consultation with the department of health, shall develop opioid-related overdose policy guidelines and training requirements for public schools and school districts.

(b)(i) The opioid-related overdose policy guidelines and training requirements must include information about: The identification of opioid-related overdose symptoms; how to obtain and maintain **opioid** overdose medication on school property issued through a standing order in accordance with section 2 of this act; the distribution and administration of **opioid** overdose medication by designated trained school personnel; and sample standing orders for **opioid** overdose medication.

(ii) The opioid-related overdose policy guidelines may: Include recommendations for the storage and labeling of **opioid** overdose medications that are based on input from relevant health agencies or experts; and allow for opioid-related overdose medications to be obtained,

maintained, distributed, and administered by health care professionals and trained staff located at a health care clinic on public school property or under contract with the school district.

(c) In addition to being offered by the school, training on the distribution or administration of **opioid** overdose medication that meets the requirements of this subsection (2) may be offered by nonprofit organizations, higher education institutions, and local public health organizations.

(3) Beginning January 1, 2020, the following school districts must adopt a policy that meets the requirements of subsection (2) of this section: (a) School districts with a school that obtains, maintains, distributes, or administers **opioid** overdose medication under section 2 of this act; and (b) school districts with two thousand or more students.

(4) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction shall develop and administer a grant program to provide funding to public schools with any of grades kindergarten through twelve and public higher education institutions to train personnel on the administration of **opioid** overdose medication to respond to symptoms of an opioid-related overdose. The office must publish on its web site a list of annual grant recipients, including award amounts.

Sec. 4. RCW [28A.210.260](#) and 2017 c 186 s 2 are each amended to read as follows:

(1) Public school districts and private schools which conduct any of grades kindergarten through the twelfth grade may provide for the administration of oral medication, topical medication, eye drops, ear drops, or nasal spray, of any nature to students who are in the custody of the school district or school at the time of administration, but are not required to do so by this section, subject to the following conditions:

~~((1))~~(a) The board of directors of the public school district or the governing board of the private school or, if none, the chief administrator of the private school shall adopt policies which address the designation of employees who may administer oral medications, topical medications, eye drops, ear drops, or nasal spray to students, the acquisition of parent requests and instructions, and the acquisition of requests from licensed health professionals prescribing within the scope of their prescriptive authority and instructions regarding students who require medication for more than fifteen consecutive school days, the identification of the medication to be administered, the means of safekeeping medications with special attention given to the safeguarding of legend drugs as defined in chapter [69.41](#) RCW, and the means of maintaining a record of the administration of such medication;

~~((2))~~(b) The board of directors shall seek advice from one or more licensed physicians or nurses in the course of developing the foregoing policies;

~~((3))~~(c) The public school district or private school is in receipt of a written, current and unexpired request from a parent, or a legal guardian, or other person having legal control over the student to administer the medication to the student;

~~((4))~~(d) The public school district or the private school is in receipt of ~~((a))~~: (i) A written, current and unexpired request from a licensed health professional prescribing within the scope of his or her prescriptive authority for administration of the medication, as there exists a valid health reason which makes administration of such medication advisable during the hours when school is in session or the hours in which the student is under the supervision of school officials~~((7))~~; and ~~((b))~~(ii) written, current and unexpired instructions from such licensed health professional prescribing within the scope of his or her prescriptive authority regarding the administration of prescribed medication to students who require medication for more than fifteen consecutive workdays;

~~((5))~~(e) The medication is administered by an employee designated by or pursuant to the policies adopted pursuant to (a) of this subsection ~~((1) of this section)~~ and in substantial compliance with the prescription of a licensed health professional prescribing within the scope of his or her prescriptive authority or the written instructions provided pursuant to (d) of this subsection ~~((4) of this section)~~. If a school nurse is on the premises, a nasal spray that is a legend drug or a controlled substance must be administered by the school nurse. If no school nurse is on the premises, a nasal spray that is a legend drug or a controlled substance may be administered by a trained school employee or parent-designated adult who is not a school nurse.

The board of directors shall allow school personnel, who have received appropriate training and volunteered for such training, to administer a nasal spray that is a legend drug or a controlled substance. After a school employee who is not a school nurse administers a nasal spray that is a legend drug or a controlled substance, the employee shall summon emergency medical assistance as soon as practicable;

~~((6))~~(f) The medication is first examined by the employee administering the same to determine in his or her judgment that it appears to be in the original container and to be properly labeled; and

~~((7))~~(g) The board of directors shall designate a professional person licensed pursuant to chapter [18.71](#) RCW or chapter [18.79](#) RCW as it applies to registered nurses and advanced registered nurse practitioners, to delegate to, train, and supervise the designated school district personnel in proper medication procedures;

~~((8)(a))~~ For the purposes of this section, "parent-designated adult" means a volunteer, who may be a school district employee, who receives additional training from a health care professional or expert in epileptic seizure care selected by the parents, and who provides care for the child consistent with the individual health plan.

~~(b))~~(h) To be eligible to be a parent-designated adult, a school district employee not licensed under chapter [18.79](#) RCW must file, without coercion by the employer, a voluntary written, current, and unexpired letter of intent stating the employee's willingness to be a parent-designated adult. If a school employee who is not licensed under chapter [18.79](#) RCW chooses not to file a letter under this section, the employee shall not be subject to any employer reprisal or disciplinary action for refusing to file a letter;

~~((9))~~(i) The board of directors shall designate a professional person licensed under chapter [18.71](#), [18.57](#), or [18.79](#) RCW as it applies to registered nurses and advanced registered nurse practitioners, to consult and coordinate with the student's parents and health care provider, and train and supervise the appropriate school district personnel in proper procedures for care for students with epilepsy to ensure a safe, therapeutic learning environment. Training may also be provided by an epilepsy educator who is nationally certified. Parent-designated adults who are school employees are required to receive the training provided under this subsection. Parent-designated adults who are not school employees must show evidence of comparable training. The parent-designated adult must also receive additional training as established in subsection ~~((8)(a))~~(2) of this section for the additional care the parents have authorized the parent-designated adult to provide. The professional person designated under this subsection is not responsible for the supervision of the parent-designated adult for those procedures that are authorized by the parents;

~~((10))~~(j) This section does not apply to topical sunscreen products regulated by the United States food and drug administration for over-the-counter use. Provisions related to possession and application of topical sunscreen products are in RCW [28A.210.278](#); and

(k) This section does not apply to **opioid** overdose medication. Provisions related to maintenance and administration of **opioid** overdose medication are in section 2 of this act.

(2) For the purposes of this section, "parent-designated adult" means a volunteer, who may be a school district employee, who receives additional training from a health care professional or expert in epileptic seizure care selected by the parents, and who provides care for the child consistent with the individual health plan.

Sec. 5. RCW [28A.210.270](#) and 2013 c 180 s 2 are each amended to read as follows:

(1) In the event a school employee administers oral medication, topical medication, eye drops, ear drops, or nasal spray to a student pursuant to RCW [28A.210.260](#) in substantial compliance with the prescription of the student's licensed health professional prescribing within the scope of the professional's prescriptive authority or the written instructions provided pursuant to RCW [28A.210.260](#)~~((4))~~(1)(d), and the other conditions set forth in RCW [28A.210.260](#) have been substantially complied with, then the employee, the employee's school district or school of employment, and the members of the governing board and chief administrator thereof shall not

be liable in any criminal action or for civil damages in their individual or marital or governmental or corporate or other capacities as a result of the administration of the medication.

(2) The administration of oral medication, topical medication, eye drops, ear drops, or nasal spray to any student pursuant to RCW [28A.210.260](#) may be discontinued by a public school district or private school and the school district or school, its employees, its chief administrator, and members of its governing board shall not be liable in any criminal action or for civil damages in their governmental or corporate or individual or marital or other capacities as a result of the discontinuance of such administration: PROVIDED, That the chief administrator of the public school district or private school, or his or her designee, has first provided actual notice orally or in writing in advance of the date of discontinuance to a parent or legal guardian of the student or other person having legal control over the student.

NEW SECTION. Sec. 6. A new section is added to chapter [28B.10](#) RCW to read as follows:

(1) For the purposes of this section:

(a) "Opioid overdose medication" has the meaning provided in RCW [69.41.095](#); and

(b) "Opioid-related overdose" has the meaning provided in RCW [69.41.095](#).

(2) By the beginning of the 2019-20 academic year, a public institution of higher education with a residence hall housing at least one hundred students must develop a plan: (a) For the maintenance and administration of opioid overdose medication in and around the residence hall; and (b) for the training of designated personnel to administer opioid overdose medication to respond to symptoms of an opioid-related overdose. The plan may identify: The ratio of residents to opioid overdose medication doses; the designated trained personnel, who may include residence hall advisers; and whether the designated trained personnel covers more than one residence hall.

--- END ---