

Senate Bill 395

By: Senators Dixon of the 45th, Watson of the 11th, Walker III of the 20th, Strickland of the 17th and Halpern of the 39th

AS PASSED

A BILL TO BE ENTITLED

AN ACT

1 To amend Titles 16, 20, 26, and 31 of the Official Code of Georgia Annotated, relating to
2 crimes and offenses; education; food, drugs, and cosmetics; and health, respectively, so as
3 to address opioid antagonists; to expand the exemption of naloxone from the definition of a
4 dangerous drug to include any opioid antagonist when used for drug overdose prevention;
5 to authorize the possession of opioid antagonists in schools; to provide a short title; to
6 authorize schools to maintain a stock supply of opioid antagonists; to authorize trained
7 school personnel to administer opioid antagonists and carry opioid antagonists on their
8 person; to provide for immunity; to provide for activation of the emergency medical services
9 system and notification of emergency contacts; to provide for educational resources,
10 guidelines, policy, training, and immunity relative to opioid antagonists; to revise language
11 relating to the prohibition on selling drugs through vending machines; to provide that
12 practitioners may dispense and supply opioid antagonists to certain individuals and entities;
13 to repeal the requirement that an opioid antagonist must have a prescription in order for a
14 individual who administers it to have civil, criminal, and professional immunity; to provide
15 immunity for harm reduction organizations that supply opioid antagonists to certain
16 individuals; to require that certain buildings maintain and make accessible opioid
17 antagonists; to provide for definitions; to provide for related matters; to repeal conflicting
18 laws; and for other purposes.

S. B. 395

- 1 -

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is amended in Article 3 of Chapter 13, relating to dangerous drugs, by adding a new paragraph to subsection (c) of Code Section 16-13-71, relating to the definition of a dangerous drug, to read as follows:

"(16.92) Any opioid antagonist, as defined in Code Section 26-4-116.2, shall also be exempt from subsections (a) and (b) of this Code section when used for drug overdose prevention and when supplied by a dispenser or an authorized wholesale distributor."

SECTION 2.

Title 20 of the Official Code of Georgia Annotated, relating to education, is amended in Part 3 of Article 16 of Chapter 2, relating to student health in elementary and secondary education, by adding a new Code section to read as follows:

"20-2-776.5.

(a) This Code section shall be known and may be cited as 'Wesley's Law.'

(b) As used in this Code section, the term 'opioid antagonist' means a drug that binds to opioid receptors and blocks or inhibits the effect of opioids acting on those receptors, including, but not limited to, naloxone, hydrochloride, or any other similarly acting drug that is approved by the federal Food and Drug Administration for the treatment of an opioid related overdose.

(c) No visitor or school personnel shall be prohibited from possessing an opioid antagonist on school property or at a school sponsored activity.

(d) All local school systems or public schools, including charter schools, shall acquire and maintain a supply of opioid antagonists in any secure location where an individual may have an opioid overdose; provided, however, that, if there occurs a shortage of opioid

antagonists, the local school systems or public schools, including charter schools, shall make a reasonable effort to maintain a supply of opioid antagonists. Any such supply shall be maintained in accordance with the manufacturer's instructions.

(e) Any school personnel may administer an opioid antagonist to any person who the school personnel believes in good faith to be experiencing an opioid overdose:

(1) While in school;

(2) While at a school sponsored activity;

(3) While under the supervision of school personnel; or

(4) Before or after normal school activities, such as while in a before-school or after-school program on school operated property.

(f) School personnel shall be authorized to carry an opioid antagonist on his or her person while in school, at a school sponsored activity, or on school operated property.

(g) Upon the administration of any opioid antagonist pursuant to this Code section, the local school system or public school, including charter schools, shall immediately activate the emergency medical services system and notify the student's parent, guardian, or emergency contact or notify such other individual's emergency contact, if known

(h) Any school personnel who in good faith administers or chooses not to administer an opioid antagonist pursuant to this Code section shall be immune from civil liability or professional discipline for any act or omission related to the administration of an opioid antagonist, except that such immunity shall not apply to an act or omission of willful or wanton misconduct, recklessness, or gross negligence.

(i) A local school system or public school, including a charter school, shall be immune from civil liability for an act or omission related to the implementation of the provisions of this Code section, except that such immunity shall not apply to an act or omission of willful or wanton misconduct, recklessness, or gross negligence."

SECTION 3.

Title 26 of the Official Code of Georgia Annotated, relating to food, drugs, and cosmetics, is amended in Chapter 4, relating to pharmacists and pharmacies, by revising Code Section 26-4-89, relating to prohibition of selling drugs in vending machines, remote automated medication system excluded, as follows:

"26-4-89.

(a) Any person who shall sell or dispense prescription drugs by the use of vending machines shall be guilty of a misdemeanor.

(b) A remote automated medication system shall not be considered a vending machine for purposes of this Code section."

SECTION 4.

Said title is further amended in said chapter by revising subsections (b), (d), and (e) of Code Section 26-4-116.2, relating to authorization of licensed health practitioners to prescribe opioid antagonists, pharmacists authorized to fill prescriptions, and immunity from liability, as follows:

"(b) A practitioner acting in good faith and in compliance with the standard of care applicable to that practitioner may prescribe and dispense an opioid antagonist for use in accordance with a protocol specified by such practitioner, and may supply opioid antagonists to a person at risk of experiencing an opioid related overdose or to a pain management clinic, first responder, harm reduction organization, family member, friend, or other person in a position to assist a person at risk of experiencing an opioid related overdose."

"(d) A person acting in good faith and with reasonable care to another person whom he or she believes to be experiencing an opioid related overdose may administer or supply an opioid antagonist ~~that was prescribed pursuant to subsection (b) of this Code section in~~

94 ~~accordance with the protocol specified by the practitioner or pursuant to Code Section~~
95 ~~31-1-10.~~

96 (e) The following ~~individuals~~ persons shall be immune from any civil liability, criminal
97 responsibility, or professional licensing sanctions for the following actions authorized by
98 this Code section:

99 (1) Any practitioner acting in good faith and in compliance with the standard of care
100 applicable to that practitioner who prescribes an opioid antagonist pursuant to
101 subsection (b) of this Code section;

102 (2) Any practitioner or pharmacist acting in good faith and in compliance with the
103 standard of care applicable to that practitioner or pharmacist who dispenses or supplies
104 an opioid antagonist pursuant to a prescription issued in accordance with subsection (b)
105 of this Code section;

106 (3) The state health officer acting in good faith and as provided in Code Section 31-1-10;
107 ~~and~~

108 (4) Any person acting in good faith, other than a practitioner, who administers or
109 supplies an opioid antagonist pursuant to subsection (d) of this Code section; and

110 (5) Any harm reduction organization acting in good faith and within its scope of services
111 that supplies an opioid antagonist to individuals at risk of experiencing an opioid related
112 overdose."

113 SECTION 5.

114 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended in Article 1
115 of Chapter 2A, relating to general provisions for the Department of Public Health, by adding
116 a new Code section to read as follows:

117 "31-2A-20.

118 (a) As used in this Code section, the term:

119 (1) 'Automated external defibrillator' shall have the same meaning as set forth in Code
120 Section 31-11-53.1.

121 (2) 'Courthouse' means a building occupied by judicial courts and containing rooms in
122 which judicial proceedings are held, provided that such building contains an automated
123 external defibrillator.

124 (3) 'Government entity' means any state board, commission, agency, or department, or
125 the governing authority of any county, municipality, or consolidated government, but
126 such term shall not include local school systems, public schools, charter schools, or
127 university buildings.

128 (4) 'Opioid antagonist' shall have the same meaning as set forth in Code
129 Section 26-4-116.2.

130 (5) 'Opioid related overdose' shall have the same meaning as set forth in Code
131 Section 26-4-116.2.

132 (6) 'Qualified government building' means a building in which a government entity is
133 housed or meets in its official capacity, including the portion occupied by a government
134 entity of any building that is not publicly owned, provided that such building contains an
135 automated external defibrillator.

136 (7) 'University building' means any building which forms a part of the University System
137 of Georgia, including any college or university under the government, control, and
138 management of the Board of Regents of the University System of Georgia, or any
139 building under the control of the State Board of the Technical College System of Georgia.

140 (b) The department shall consult with the Department of Behavioral Health and
141 Developmental Disabilities and may consult with any other medical, clinical, or peer
142 support professionals or organizations it deems appropriate to identify and develop
143 educational resources and guidelines on opioid related overdoses. The department shall
144 develop a model training and implementation policy for opioid antagonist administration.
145 All such educational resources and guidelines and the model training and implementation

policy shall be maintained in a prominent manner on the department's principal public website.

(c) All qualified government buildings and courthouses shall:

(1) Maintain a supply of at least three unit doses of opioid antagonists; and

(2) Ensure that such supply of opioid antagonists is available and accessible during regular business hours and outside of regular business hours for all government entity events.

(d) A government entity may make opioid antagonists accessible during government entity events that occur on property that is not publicly owned.

(e) No one employee, officer, agent, contractor, or other individual shall be solely responsible for providing training pursuant to subsection (f) of this Code section for any government entity.

(f)(1) Every government entity that is based in or operates out of a qualified government building shall establish and implement an internal training and implementation policy for opioid antagonist administration. Such policy may be based on the model training and implementation policy developed by the department pursuant to subsection (b) of this Code section. Each such government entity shall be authorized to receive and administer grants, gifts, contracts, moneys, and donations for the purpose of implementing this Code section.

(2) Each internal training and implementation policy provided for in paragraph (1) of this subsection shall:

(A) Provide details about how an individual can access opioid antagonist administration training;

(B) Specify the location or locations of the government entity's supply of opioid antagonists;

171 (C) Contain an affirmative statement that any trained individual may administer an
172 opioid antagonist to any person whom the trained individual believes in good faith to
173 be experiencing an opioid related overdose; and

174 (D) Contain the following statement: 'Georgia law provides that any trained individual
175 shall be immune from civil liability or professional discipline for any good faith act or
176 omission to act in the emergency administration of an opioid antagonist to a person
177 believed to be having an opioid related overdose.'

178 (g) All employees, officers, agents, and contractors of government entities and all other
179 individuals who receive training pursuant to subsection (f) of this Code section shall be
180 immune from civil liability or professional discipline for any good faith act or omission to
181 act related to the emergency administration of an opioid antagonist pursuant to this Code
182 section. Good faith shall not include willful misconduct, gross negligence, or recklessness.

183 (h) Notwithstanding any law to the contrary, funds appropriated or otherwise made
184 available to a government entity may be used to comply with the requirements of this Code
185 section by such government entity.

186 (i) A government entity shall not be subject to civil liability for damages for any failure
187 to provide an automated external defibrillator or opioid antagonist pursuant to this Code
188 section."

189 **SECTION 6.**

190 All laws and parts of laws in conflict with this Act are repealed.