COMMITTEE REPORT

April 22, 2015

**H. 3083**

Introduced by Reps. Huggins, Kennedy, Clary, Corley, Weeks and Whipper

S. Printed 4/22/15--H.

Read the first time January 13, 2015.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3083) to amend the Code of Laws of South Carolina, 1976, so as to enact the “South Carolina Overdose Prevention Act” by adding Chapter 130 to Title 44 so as, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting language and inserting:

/ SECTION 1. Title 44 of the 1976 Code is amended by adding:

“CHAPTER 130

South Carolina Overdose Prevention Act

Section 44‑130‑10. This chapter may be cited as the ‘South Carolina Overdose Prevention Act’.

Section 44‑130‑20. For purposes of this chapter:

(1) ‘Caregiver’ means a person who is not at risk of an opioid overdose but who, in the judgment of a physician, may be in a position to assist another individual during an overdose and who has received patient overdose information as required by Section 44‑130‑30 on the indications for and administration of an opioid antidote.

(2) ‘Department’ means the Department of Health and Environmental Control.

(3) ‘Drug overdose’ means an acute condition including, but not limited to, physical illness, coma, mania, hysteria, or death resulting from the consumption or use of a controlled substance or other substance with which a controlled substance was combined and that a layperson would reasonably believe to require medical assistance.

(4) ‘First responder’ means an emergency medical services provider, a law enforcement officer, or a fire department worker directly engaged in examining, treating, or directing persons during an emergency.

(5) ‘Medical assistance’ means professional medical services that are provided to a person experiencing a drug overdose.

(6) ‘Opioid antidote’ means naloxone hydrochloride or other similarly acting drug approved by the United States Food and Drug Administration for the treatment of an opioid overdose.

(7) ‘Pharmacist’ means an individual licensed pursuant to Chapter 43, Title 40 to engage in the practice of pharmacy.

(8) ‘Prescriber’ means a physician licensed pursuant to Chapter 47, Title 40, an advanced practice registered nurse licensed pursuant to Chapter 33, Title 40 and prescribing in accordance with the requirements of that chapter, and a physician assistant licensed pursuant to Article 7, Chapter 47, Title 40 and prescribing in accordance with the requirements of that article.

Section 44‑130‑30. (A) A prescriber acting in good faith and exercising reasonable care as a prescriber may issue a written prescription for an opioid antidote to:

(1) a person who is at risk of experiencing an opioid‑related overdose; or

(2) a caregiver for a person who is at risk of experiencing an opioid overdose whom the prescriber has not personally examined.

(B)(1) The prescriber must provide to the person or the caregiver overdose information addressing the following:

(a) opioid overdose prevention and recognition;

(b) opioid antidote dosage and administration;

(c) the importance of calling 911 emergency telephone service for medical assistance with an opioid overdose; and

(d) care for an overdose victim after administration of the opioid antidote.

(2) The prescriber must document in the medical record that the opioid overdose information required by this subsection has been provided to the person or the caregiver.

(C) A prescriber acting in good faith and exercising reasonable care may issue a standing order for a first responder to possess an opioid antidote for administration to a person whom the first responder believes to be experiencing an opioid‑related overdose.

(D) A prescriber who issues a written prescription or a standing order for an opioid antidote in accordance with the provisions of this section is not as a result of an act or omission subject to civil or criminal liability or to professional disciplinary action.

Section 44‑130‑40. (A) A pharmacist acting in good faith and exercising reasonable care as a pharmacist may dispense an opioid antidote pursuant to a written prescription or standing order by a prescriber.

(B) A pharmacist dispensing an opioid antidote in accordance with the provisions of this section is not as a result of an act or omission subject to civil or criminal liability or to professional disciplinary action.

Section 44‑130‑50. (A) A caregiver may in an emergency administer, without fee, an opioid antidote to a person whom the caregiver believes in good faith is experiencing an opioid overdose if the caregiver has received the opioid overdose information provided for in Section 44‑130‑30.

(B) A caregiver who administers an opioid antidote in accordance with the provisions of this section is not subject to civil or criminal liability.

Section 44‑130‑60. (A) A first responder may administer an opioid antidote in an emergency if the first responder believes in good faith that the person is experiencing an opioid overdose.

(B) The first responder must comply with all applicable requirements for possession, administration, and disposal of the opioid antidote and administration device. The department may promulgate regulations to implement this section, including appropriate training for first responders who carry or have access to an opioid antidote.

(C) A first responder who administers an opioid antidote in accordance with the provisions of this section to a person whom the first responder believes in good faith is experiencing an opioid overdose is not by an act or omission subject to civil or criminal liability or to professional disciplinary action.”

SECTION 2. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

F. GREGORY DELLENEY, JR. for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “SOUTH CAROLINA OVERDOSE PREVENTION ACT” BY ADDING CHAPTER 130 TO TITLE 44 SO AS TO PROVIDE CERTAIN PROFESSIONALS AND OTHER INDIVIDUALS PROTECTION FROM CIVIL AND CRIMINAL LIABILITY AND PROFESSIONAL DISCIPLINE FOR PRESCRIBING, DISPENSING, OR ADMINISTERING AN OPIOID ANTIDOTE TO INDIVIDUALS AT RISK OF AN OPIOID OVERDOSE, TO REQUIRE PROVISION OF INSTRUCTIONAL INFORMATION TO NONHEALTH CARE PROFESSIONALS ADMINISTERING OPIOID ANTIDOTES AND DOCUMENTATION OF RECEIPT OF THE INSTRUCTION, TO PROVIDE FOR FUNDING AND FOR GRANTS TO ORGANIZATIONS TO SUPPORT OPIOID OVERDOSE PREVENTION AND AWARENESS PROJECTS, TO CLARIFY THAT THE PROVISIONS OF THE CHAPTER DO NOT RELIEVE LAW ENFORCEMENT AND EMERGENCY RESPONDERS OF THEIR LEGAL RESPONSIBILITIES TO RESPOND TO MEDICAL EMERGENCIES AND CRIMINAL CONDUCT, AND FOR OTHER PURPOSES.

Whereas, deaths from prescription medication overdoses, including opioid overdoses, have contributed to the dramatic rise in drug overdose deaths in South Carolina and nationally over the past decade; and

Whereas, encouraging witnesses and victims of drug overdoses to seek medical assistance saves lives and is in the best interests of the citizens of this State; and

Whereas, protecting witnesses and victims of opioid overdoses from potential criminal and civil liability would encourage these individuals to seek medical assistance and help prevent deaths by opioid overdose; and

Whereas, increased prescription and distribution of naloxone or similarly acting drugs to those at risk for an opioid overdose, or to members of their families or peers, would reduce the number of opioid overdose deaths and is in the best interests of the citizens of this State; and

Whereas, naloxone is an inexpensive and easily administered antidote to an opioid overdose. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 44 of the 1976 Code is amended by adding:

“CHAPTER 130

South Carolina Overdose Prevention Act

Section 44‑130‑10.This chapter may be cited as the ‘South Carolina Overdose Prevention Act’.

Section 44‑130‑20. For purposes of this chapter:

(1) ‘Department’ means the Department of Health and Environmental Control.

(2) ‘Director’ means the Director of the Department of Health and Environmental Control.

(3) ‘Drug overdose’ means an acute condition including, but not limited to, physical illness, coma, mania, hysteria, or death resulting from the consumption or use of a controlled dangerous substance or other substance with which a controlled dangerous substance was combined and that a layperson would reasonably believe to require medical assistance.

(4) ‘Health care professional’ means a physician, physician assistant, advanced practice nurse, or other individual who is licensed or whose professional practice is otherwise regulated in Title 40, other than a pharmacist, and who, based upon the accepted scope of professional authority, prescribes or dispenses an opioid antidote.

(5) ‘Medical assistance’ means professional medical services that are provided to a person experiencing a drug overdose by a health care professional, acting within the scope of lawful practice, including professional medical services that are mobilized through telephone contact with the 911 telephone emergency service.

(6) ‘Opioid antidote’ means naloxone hydrochloride or other similarly acting drugs approved by the United States Food and Drug Administration for the treatment of an opioid overdose.

(7) ‘Patient’ means a person who is not at risk of an opioid overdose but who, in the judgment of a physician, may be in a position to assist another individual during an overdose and who has received patient overdose information as required by Section 44‑130‑40 on the indications for and administration of an opioid antidote.

Section 44‑130‑30. (A) A health care professional or pharmacist who, acting in good faith, directly or through a standing order, prescribes or dispenses an opioid antidote to a patient capable, in the judgment of the health care professional or pharmacist, of administering the opioid antidote in an emergency, is not, as a result of an act or omission, subject to criminal or civil liability, or professional disciplinary action as provided in Title 40, for prescribing or dispensing an opioid antidote as provided in this chapter.

(B) A patient may in an emergency administer, without fee, an opioid antidote, if the patient has received patient overdose information as provided in Section 44‑130‑40 and believes in good faith that a person is experiencing an opioid overdose. The patient is not, as a result of an act or omission, subject to criminal or civil liability for administering an opioid antidote as provided in this chapter.

Section 44‑130‑40. (A) A health care professional prescribing or dispensing an opioid antidote to a patient shall ensure that the patient receives patient overdose information. This information must address at a minimum:

(1) opioid overdose prevention and recognition;

(2) performance of rescue breathing and resuscitation;

(3) opioid antidote dosage and administration;

(4) the importance of calling 911 emergency telephone service for assistance with an opioid overdose; and

(5) care for an overdose victim after administration of the opioid antidote.

(B) The patient overdose information required in subsection (A) may be provided by a health care professional, or by a community‑based organization, substance abuse organization, or other organization that addresses medical or social issues related to drug addiction with which the health care professional maintains a written agreement, and must include:

(1) procedures for providing patient overdose information;

(2) information as to how employees or volunteers providing the information must be trained; and

(3) standards for documenting the provision of patient overdose information to patients.

(C) A health care professional shall document the provision of patient overdose information in the patient’s medical record, or through similar means as determined by a written agreement between the health care professional and an organization as set forth in subsection (B).

(D) The director, in consultation with statewide organizations representing physicians, advanced practice nurses, physician assistants, community‑based programs, substance abuse programs, syringe access programs, or other programs that address medical or social issues related to drug addiction, may develop and disseminate training materials in video, electronic, or other formats to health care professionals or organizations operating community‑based programs, substance abuse programs, syringe access programs, or other programs that address medical or social issues related to drug addiction, to facilitate the provision of patient overdose information.

Section 44‑130‑50. (A) The director may award grants from legislative appropriations to create or support local opioid overdose prevention, recognition, and response projects. County and municipal health departments, correctional institutions, hospitals, and universities, as well as organizations operating community‑based programs, substance abuse programs, syringe access programs, or other programs that address medical or social issues related to drug addiction may apply to the department for a grant pursuant to this section, on forms and in the manner prescribed by the director.

(B) In awarding a grant, the director shall consider the necessity for overdose prevention projects in various health care facility and nonhealth care facility settings, and the applicant’s ability to develop interventions that will be effective and viable in the local area to be served by the grant.

(C) In awarding a grant, the director shall give preference to applications that include one or more of the following elements:

(1) prescription and distribution of naloxone hydrochloride or another similarly acting drug approved by the United States Food and Drug Administration for the treatment of an opioid overdose;

(2) policies and projects to encourage a person, including a drug user, to call 911 for emergency assistance if the person witnesses or experiences a potentially fatal opioid overdose, as applicable;

(3) opioid overdose prevention, recognition, and response education projects in syringe access programs, drug treatment centers, outreach programs, and other programs operated by organizations that work with, or have access to, opioid users and their families and communities;

(4) opioid overdose recognition and response training, including rescue breathing, in drug treatment centers and for other organizations that work with, or have access to, opioid users and their families and communities;

(5) the production and distribution of targeted or mass media materials on opioid overdose prevention and response;

(6) the institution of education and training projects on opioid overdose response and treatment for emergency services and law enforcement personnel; and

(7) a system of parent, family, and survivor education and mutual support groups.

(D) In addition to any monies appropriated by the General Assembly, the director may seek money from the federal government, private foundations, and any other source to fund the grants established as provided in this section, as well as to fund ongoing monitoring and evaluation of the programs supported by the grants.

Section 44‑130‑60. (A) A health care professional, pharmacist, patient, or other person who is immune from criminal and civil liability and professional disciplinary action for prescribing, dispensing, or administering an opioid antidote pursuant to Section 44‑130‑30, as applicable, is not immune from criminal and civil liability for conduct relating to prescribing, dispensing, administering, possessing, or using an opioid antidote that is not authorized pursuant to this chapter.

(B) This chapter does not prevent or relieve law enforcement and emergency responders notified of, responding to, or at the scene of an opioid overdose medical emergency or crime scene from performing their legal responsibilities, including the responsibilities to investigate and secure the scene.”

SECTION 2. This act takes effect upon approval by the Governor.

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