

2014 NALOXONE LEGISLATION FAQ

The Minnesota Legislature enacted "Steve's Law" during the 2014 legislative session. This law allows for more widespread distribution and administration of naloxone in hopes that deaths related to opiate overdoses can be prevented. The language of the law can be found at: <https://www.revisor.mn.gov/laws/?year=2014&type=0&doctype=Chapter&id=232>. The following are answers to questions that the Board has received about this law.

Q: Can a physician prescribe naloxone to a 3rd party (i.e., family member or friend) if there is the risk of witnessing an opioid overdose situation?

A: Yes. The relevant language that was enacted earlier this year is:

Subd. 2. Authority to possess and administer opiate antagonists; release from liability.

(a) A person who is not a health care professional may possess or administer an opiate antagonist that is prescribed, dispensed, or distributed by a licensed health care professional pursuant to subdivision 3.

(b) A person who is not a health care professional who acts in good faith in administering an opiate antagonist to another person whom the person believes in good faith to be suffering a drug overdose is immune from criminal prosecution for the act and is not liable for any civil damages for acts or omissions resulting from the act.

Subd. 3. Health care professionals; release from liability.

A licensed health care professional who is permitted by law to prescribe an opiate antagonist, if acting in good faith, may directly or by standing order prescribe, dispense, distribute, or administer an opiate antagonist to a person without being subject to civil liability or criminal prosecution for the act. This immunity applies even when the opiate antagonist is eventually administered in either or both of the following instances: (1) by someone other than the person to whom it is prescribed; or (2) to someone other than the person to whom it is prescribed.

The language in subd. 3 clearly indicates that naloxone may be prescribed for one person but administered to another.

Q. Are law enforcement and first responders able to obtain naloxone without a prescription?

A. Yes – but not on their own authority. They need to be working with a physician, advanced practice registered nurse or physician assistant. The relevant language that was passed earlier this year is:

Subd. 12. Administration of opiate antagonists for drug overdose.

(a) A licensed physician, a licensed advanced practice registered nurse authorized to prescribe drugs pursuant to section 148.235, or a licensed physician's assistant authorized

to prescribe drugs pursuant to section 147A.18, may authorize the following individuals to administer opiate antagonists, as defined in section 604A.04, subdivision 1:

- (1) an emergency medical responder registered pursuant to section 144E.27;
- (2) a peace officer as defined in section 626.84, subdivision 1, paragraphs (c) and (d); and
- (3) staff of community-based health disease prevention or social service programs.

(b) For the purposes of this subdivision, opiate antagonists may be administered by one of these individuals only if:

- (1) the licensed physician, licensed physician's assistant, or licensed advanced practice registered nurse has issued a standing order to, or entered into a protocol with, the individual; and
- (2) the individual has training in the recognition of signs of opiate overdose and the use of opiate antagonists as part of the emergency response to opiate overdose

So, in order to obtain, possess and administer naloxone, law enforcement (peace) officers and emergency medical responders need to be authorized to do so by a physician, APRN or PA. A standing order or protocol needs to be in place and the peace officer or EMR needs to have had training. Most likely the MD, PA or APRN will obtain the naloxone and provide to the peace officer or EMR.

Q: Have there been any discussions to remove the prescribing restrictions from naloxone to allow pharmacists to dispense under a restricted protocol?

A: Prescribing restrictions don't have to be removed in order for pharmacists to dispense naloxone under a protocol. MN Stats. Sec. 151.01, subd. 27 allows pharmacists to participate in the initiation, management, modification and discontinuation of drug therapy per protocol or collaborative practice agreement with a physician, advanced practice registered nurse or physician assistant. MN Stats. Sec. 151.37 allows a practitioner to "prescribe a legend drug, without reference to a specific patient, by directing a . . . pharmacist according to section 151.01, subdivision 27, to adhere to a particular practice guideline or protocol when treating patients whose condition falls within such guideline or protocol, and when such guideline or protocol specifies the circumstances under which the legend drug is to be prescribed and administered."

So, a MD, PA or APRN can enter into a protocol with one or more pharmacists that allow the pharmacists to prepare a legally valid prescription for naloxone. In this case, the practitioner is still considered to be the prescriber of record. If I was the pharmacist and Dr. Ole Olson was the physician, I would sign the prescription "Cody Wiberg, R.Ph. per naloxone protocol with Ole Olson, MD." Since pharmacists can administer drugs in emergency situations, the pharmacist could even administer the naloxone to a patient who was experiencing an overdose.

Q: Are there any legal implications under the Good Samaritan laws for anyone administering naloxone via a non-FDA approved delivery system (i.e. intranasal)?

A: The Good Samaritan provision of the legislation is silent on this question. It defines “opiate antagonist” as naloxone hydrochloride or any similarly acting drug approved by the federal Food and Drug Administration for the treatment of a drug overdose. This was not meant to include only FDA approved formulations of naloxone and similar drugs.

Q: What about prescribing or dispensing an intra-nasal atomitizer with naloxone in the form of a kit?

A practitioner is allowed to prescribe a naloxone kit such as described and a pharmacy would be allowed to dispense it.