

2SHB 1039 - S COMM AMD
By Committee on Ways & Means

NOT CONSIDERED 12/23/2019

1 Strike everything after the enacting clause and insert the
2 following:

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

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

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

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

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

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

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

31 (2) The legislature recognizes that it has taken steps to respond
32 to the opioid overdose epidemic, including: (a) Permitting health

1 care practitioners to administer, prescribe, and dispense opioid
2 overdose medication to any person who may be present at an overdose;
3 (b) permitting people who may be present at an opioid overdose to
4 possess and administer opioid overdose medication prescribed by an
5 authorized health care practitioner; (c) limiting the liability of
6 practitioners, pharmacists, and other people who possess and
7 administer naloxone; and (d) limiting the liability of people
8 experiencing a drug-related overdose who are in need of medical
9 assistance and people acting in good faith to seek medical assistance
10 for someone experiencing a drug-related overdose.

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

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.210
17 RCW to read as follows:

18 (1) For the purposes of this section:

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

21 (b) "Opioid overdose medication" has the meaning provided in RCW
22 69.41.095;

23 (c) "Opioid-related overdose" has the meaning provided in RCW
24 69.41.095;

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

28 (e) "Standing order" has the meaning provided in RCW 69.41.095.

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

33 (b) Opioid overdose medication may be obtained from donation
34 sources, but must be maintained and administered in a manner
35 consistent with a standing order issued in accordance with RCW
36 69.41.095.

37 (c) A school district with two thousand or more students must
38 obtain and maintain at least one set of opioid overdose medication

1 doses in each of its high schools as provided in (a) and (b) of this
2 subsection.

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

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

16 (4) Training for school personnel who have been designated to
17 distribute or administer opioid overdose medication under this
18 section must meet the requirements for training described in section
19 3 of this act and any rules or guidelines for such training adopted
20 by the office of the superintendent of public instruction. Each high
21 school is encouraged to designate and train at least one school
22 personnel to distribute and administer opioid overdose medication if
23 the high school does not have a full-time school nurse or trained
24 health care clinic staff.

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

27 (b) If a student is injured or harmed due to the administration
28 of opioid overdose medication that a practitioner, as defined in RCW
29 69.41.095, has prescribed and a pharmacist has dispensed to a school
30 under this section, the practitioner and pharmacist may not be held
31 responsible for the injury unless he or she acted with conscious
32 disregard for safety.

33 NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.210
34 RCW to read as follows:

35 (1) For the purposes of this section:

36 (a) "Opioid overdose medication" has the meaning provided in RCW
37 69.41.095; and

38 (b) "Opioid-related overdose" has the meaning provided in RCW
39 69.41.095.

1 (2) (a) To prevent opioid-related overdoses and respond to medical
2 emergencies resulting from overdoses, by January 1, 2020, the office
3 of the superintendent of public instruction, in consultation with the
4 department of health and the Washington state school directors'
5 association, shall develop opioid-related overdose policy guidelines
6 and training requirements for public schools and school districts.

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

15 (ii) The opioid-related overdose policy guidelines may: Include
16 recommendations for the storage and labeling of opioid overdose
17 medications that are based on input from relevant health agencies or
18 experts; and allow for opioid-related overdose medications to be
19 obtained, maintained, distributed, and administered by health care
20 professionals and trained staff located at a health care clinic on
21 public school property or under contract with the school district.

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

27 (3) (a) By March 1, 2020, the Washington state school directors'
28 association must collaborate with the office of the superintendent of
29 public instruction and the department of health to either update
30 existing model policy or develop a new model policy that meets the
31 requirements of subsection (2) of this section.

32 (b) Beginning with the 2020-21 school year, the following school
33 districts must adopt an opioid-related overdose policy: (a) School
34 districts with a school that obtains, maintains, distributes, or
35 administers opioid overdose medication under section 2 of this act;
36 and (b) school districts with two thousand or more students.

37 (c) The office of the superintendent of public instruction and
38 the Washington state school directors' association must maintain the
39 model policy and procedure on each agency's web site at no cost to
40 school districts.

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

10 **Sec. 4.** RCW 28A.210.260 and 2017 c 186 s 2 are each amended to
11 read as follows:

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

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

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

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

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

14 ~~((5))~~ (e) The medication is administered by an employee
15 designated by or pursuant to the policies adopted pursuant to (a) of
16 this subsection ~~((1) of this section)~~ and in substantial compliance
17 with the prescription of a licensed health professional prescribing
18 within the scope of his or her prescriptive authority or the written
19 instructions provided pursuant to (d) of this subsection ~~((4) of~~
20 ~~this section)~~. If a school nurse is on the premises, a nasal spray
21 that is a legend drug or a controlled substance must be administered
22 by the school nurse. If no school nurse is on the premises, a nasal
23 spray that is a legend drug or a controlled substance may be
24 administered by a trained school employee or parent-designated adult
25 who is not a school nurse. The board of directors shall allow school
26 personnel, who have received appropriate training and volunteered for
27 such training, to administer a nasal spray that is a legend drug or a
28 controlled substance. After a school employee who is not a school
29 nurse administers a nasal spray that is a legend drug or a controlled
30 substance, the employee shall summon emergency medical assistance as
31 soon as practicable;

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

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

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

7 ~~(b))~~ (h) To be eligible to be a parent-designated adult, a
8 school district employee not licensed under chapter 18.79 RCW must
9 file, without coercion by the employer, a voluntary written, current,
10 and unexpired letter of intent stating the employee's willingness to
11 be a parent-designated adult. If a school employee who is not
12 licensed under chapter 18.79 RCW chooses not to file a letter under
13 this section, the employee shall not be subject to any employer
14 reprisal or disciplinary action for refusing to file a letter. A
15 parent-designated adult must be a volunteer, who may be a school
16 district employee, who receives additional training from a health
17 care professional or expert in epileptic seizure care selected by the
18 parents, and who provides care for the child consistent with the
19 individual health plan; and

20 ~~((9))~~ (i) The board of directors shall designate a professional
21 person licensed under chapter 18.71, 18.57, or 18.79 RCW as it
22 applies to registered nurses and advanced registered nurse
23 practitioners, to consult and coordinate with the student's parents
24 and health care provider, and train and supervise the appropriate
25 school district personnel in proper procedures for care for students
26 with epilepsy to ensure a safe, therapeutic learning environment.
27 Training may also be provided by an epilepsy educator who is
28 nationally certified. Parent-designated adults who are school
29 employees are required to receive the training provided under this
30 subsection. Parent-designated adults who are not school employees
31 must show evidence of comparable training. The parent-designated
32 adult must also receive additional training as established in (h) of
33 this subsection ~~((8)(a) of this section))~~ for the additional care
34 the parents have authorized the parent-designated adult to provide.
35 The professional person designated under this subsection is not
36 responsible for the supervision of the parent-designated adult for
37 those procedures that are authorized by the parents~~((7))~~.

38 ~~((10))~~ (2) This section does not apply to:

39 (a) Topical sunscreen products regulated by the United States
40 food and drug administration for over-the-counter use. Provisions

1 related to possession and application of topical sunscreen products
2 are in RCW 28A.210.278; and

3 (b) Opioid overdose medication. Provisions related to maintenance
4 and administration of opioid overdose medication are in section 2 of
5 this act.

6 **Sec. 5.** RCW 28A.210.270 and 2013 c 180 s 2 are each amended to
7 read as follows:

8 (1) In the event a school employee administers oral medication,
9 topical medication, eye drops, ear drops, or nasal spray to a student
10 pursuant to RCW 28A.210.260 in substantial compliance with the
11 prescription of the student's licensed health professional
12 prescribing within the scope of the professional's prescriptive
13 authority or the written instructions provided pursuant to RCW
14 28A.210.260(~~(+4)~~) (1)(d), and the other conditions set forth in RCW
15 28A.210.260 have been substantially complied with, then the employee,
16 the employee's school district or school of employment, and the
17 members of the governing board and chief administrator thereof shall
18 not be liable in any criminal action or for civil damages in their
19 individual or marital or governmental or corporate or other
20 capacities as a result of the administration of the medication.

21 (2) The administration of oral medication, topical medication,
22 eye drops, ear drops, or nasal spray to any student pursuant to RCW
23 28A.210.260 may be discontinued by a public school district or
24 private school and the school district or school, its employees, its
25 chief administrator, and members of its governing board shall not be
26 liable in any criminal action or for civil damages in their
27 governmental or corporate or individual or marital or other
28 capacities as a result of the discontinuance of such administration:
29 PROVIDED, That the chief administrator of the public school district
30 or private school, or his or her designee, has first provided actual
31 notice orally or in writing in advance of the date of discontinuance
32 to a parent or legal guardian of the student or other person having
33 legal control over the student.

34 NEW SECTION. **Sec. 6.** A new section is added to chapter 28B.10
35 RCW to read as follows:

36 (1) For the purposes of this section:

37 (a) "Opioid overdose medication" has the meaning provided in RCW
38 69.41.095; and

1 (b) "Opioid-related overdose" has the meaning provided in RCW
2 69.41.095.

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

14 NEW SECTION. **Sec. 7.** If specific funding for the purposes of
15 this act, referencing this act by bill or chapter number, is not
16 provided by June 30, 2019, in the omnibus appropriations act, this
17 act is null and void."

2SHB 1039 - S COMM AMD
By Committee on Ways & Means

NOT CONSIDERED 12/23/2019

18 On page 1, line 1 of the title, after "at" strike the remainder
19 of the title and insert "high schools and higher education
20 institutions; amending RCW 28A.210.260 and 28A.210.270; adding new
21 sections to chapter 28A.210 RCW; adding a new section to chapter
22 28B.10 RCW; and creating new sections."

EFFECT: (1) Requires OSPI to consult with the Washington State
School Directors' Association on developing opioid-related overdose
policy guidelines and training requirements for public schools and
school districts.

(2) Requires the Washington State School Directors' Association
to collaborate with OSPI and the Department of Health to either
update existing model policy or develop a new model policy that meets
the policy and training requirements developed by OSPI.

(3) Requires OSPI and the Washington State School Directors'
Association to maintain the model policy and procedure on each of
their web sites at no cost to the school districts.

(4) Removes kindergarten through twelfth grade schools from the title and replaces it with high schools.

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