
SUBSTITUTE SENATE BILL 5195

State of Washington

67th Legislature

2021 Regular Session

By Senate Behavioral Health Subcommittee to Health & Long Term Care (originally sponsored by Senators Lias, Muzzall, Das, Dhingra, Nguyen, and Wilson, C.)

READ FIRST TIME 02/08/21.

1 AN ACT Relating to opioid overdose reversal medication; amending
2 RCW 70.41.480; adding a new section to chapter 70.41 RCW; adding a
3 new section to chapter 71.24 RCW; adding a new section to chapter
4 74.09 RCW; and creating a new section.

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

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

7 (a) Opioid use disorder is a treatable brain disease from which
8 people recover;

9 (b) Individuals living with opioid use disorder are at high risk
10 for fatal overdose;

11 (c) Overdose deaths are preventable with lifesaving opioid
12 overdose reversal medications like naloxone;

13 (d) Just as individuals with life-threatening allergies should
14 carry an EpiPen, individuals with opioid use disorder should carry
15 opioid overdose reversal medication;

16 (e) There are 53,000 individuals in Washington enrolled in apple
17 health, Washington's medicaid program, that have a diagnosis of
18 opioid use disorder and yet there are alarmingly few medicaid claims
19 for opioid overdose reversal medication; and

20 (f) Most of the opioid overdose reversal medication distributed
21 in Washington is currently paid for with flexible federal and state

1 dollars and distributed in bulk, rather than appropriately billed to
2 a patient's insurance. Those finite flexible funds should instead be
3 used for nonmedicaid eligible expenses or for opioid overdose
4 reversal medication distributed in nonmedicaid eligible settings or
5 to nonmedicaid eligible persons. The state's current methods for
6 acquisition and distribution of opioid overdose reversal medication
7 are not sustainable and insufficient to reach all Washingtonians
8 living with opioid use disorder.

9 (2) Therefore, it is the intent of the legislature to increase
10 access for all individuals with opioid use disorder to opioid
11 overdose reversal medication so that if they experience an overdose,
12 they will have a second chance. As long as there is breath, there is
13 hope for recovery.

14 **Sec. 2.** RCW 70.41.480 and 2019 c 314 s 18 are each amended to
15 read as follows:

16 (1) The legislature finds that high quality, safe, and
17 compassionate health care services for patients of Washington state
18 must be available at all times. The legislature further finds that
19 there is a need for patients being released from hospital emergency
20 departments to maintain access to emergency medications when
21 community or hospital pharmacy services are not available, including
22 medication for opioid overdose reversal and for the treatment for
23 opioid use disorder as appropriate. It is the intent of the
24 legislature to accomplish this objective by allowing practitioners
25 with prescriptive authority to prescribe limited amounts of
26 prepackaged emergency medications to patients being discharged from
27 hospital emergency departments when access to community or outpatient
28 hospital pharmacy services is not otherwise available.

29 (2) ((A)) Except as provided in section 3 of this act, a hospital
30 may allow a practitioner to prescribe prepackaged emergency
31 medications and allow a practitioner or a registered nurse licensed
32 under chapter 18.79 RCW to distribute prepackaged emergency
33 medications to patients being discharged from a hospital emergency
34 department in the following circumstances:

35 (a) During times when community or outpatient hospital pharmacy
36 services are not available within fifteen miles by road;

37 (b) When, in the judgment of the practitioner and consistent with
38 hospital policies and procedures, a patient has no reasonable ability
39 to reach the local community or outpatient pharmacy; or

1 (c) When, in the judgment of the practitioner and consistent with
2 hospital policies and procedures, a patient is at risk of opioid
3 overdose and the prepackaged emergency medication being distributed
4 is an opioid overdose reversal medication. The labeling requirements
5 of RCW 69.41.050 and 18.64.246 do not apply to opioid overdose
6 reversal medications dispensed, distributed, or delivered pursuant to
7 a prescription, collaborative drug therapy agreement, standing order,
8 or protocol issued in accordance with this section. The individual or
9 entity that dispenses, distributes, or delivers an opioid overdose
10 reversal medication as authorized by this section must ensure that
11 directions for use are provided.

12 (3) A hospital may only allow this practice if: The director of
13 the hospital pharmacy, in collaboration with appropriate hospital
14 medical staff, develops policies and procedures regarding the
15 following:

16 (a) Development of a list, preapproved by the pharmacy director,
17 of the types of emergency medications to be prepackaged and
18 distributed;

19 (b) Assurances that emergency medications to be prepackaged
20 pursuant to this section are prepared by a pharmacist or under the
21 supervision of a pharmacist licensed under chapter 18.64 RCW;

22 (c) Development of specific criteria under which emergency
23 prepackaged medications may be prescribed and distributed consistent
24 with the limitations of this section;

25 (d) Assurances that any practitioner authorized to prescribe
26 prepackaged emergency medication or any nurse authorized to
27 distribute prepackaged emergency medication is trained on the types
28 of medications available and the circumstances under which they may
29 be distributed;

30 (e) Procedures to require practitioners intending to prescribe
31 prepackaged emergency medications pursuant to this section to
32 maintain a valid prescription either in writing or electronically in
33 the patient's records prior to a medication being distributed to a
34 patient;

35 (f) Establishment of a limit of no more than a forty-eight hour
36 supply of emergency medication as the maximum to be dispensed to a
37 patient, except when community or hospital pharmacy services will not
38 be available within forty-eight hours. In no case may the policy
39 allow a supply exceeding ninety-six hours be dispensed;

1 (g) Assurances that prepackaged emergency medications will be
2 kept in a secure location in or near the emergency department in such
3 a manner as to preclude the necessity for entry into the pharmacy;
4 and

5 (h) Assurances that nurses or practitioners will distribute
6 prepackaged emergency medications to patients only after a
7 practitioner has counseled the patient on the medication.

8 (4) The delivery of a single dose of medication for immediate
9 administration to the patient is not subject to the requirements of
10 this section.

11 (5) Nothing in this section restricts the authority of a
12 practitioner in a hospital emergency department to distribute opioid
13 overdose reversal medication under RCW 69.41.095.

14 (6) For purposes of this section:

15 (a) "Emergency medication" means any medication commonly
16 prescribed to emergency department patients, including those drugs,
17 substances or immediate precursors listed in schedules II through V
18 of the uniform controlled substances act, chapter 69.50 RCW, as now
19 or hereafter amended.

20 (b) "Distribute" means the delivery of a drug or device other
21 than by administering or dispensing.

22 (c) "Opioid overdose reversal medication" has the same meaning as
23 provided in RCW 69.41.095.

24 (d) "Practitioner" means any person duly authorized by law or
25 rule in the state of Washington to prescribe drugs as defined in RCW
26 18.64.011(29).

27 ~~((d))~~ (e) "Nurse" means a registered nurse as defined in RCW
28 18.79.020.

29 NEW SECTION. Sec. 3. A new section is added to chapter 70.41
30 RCW to read as follows:

31 (1) A hospital shall provide a person with opioid overdose
32 reversal medication upon discharge, unless the provider deems it
33 clinically inappropriate to dispense opioid overdose reversal
34 medication, if the person:

35 (a) Presents to an emergency department with symptoms of an
36 opioid overdose, opioid use disorder, or other adverse event related
37 to opioid use, and the person is discharged from the emergency
38 department without being admitted to a medical floor; or

1 (b) Is admitted for treatment on a medical floor with symptoms of
2 an opioid overdose, opioid use disorder, or other adverse event
3 related to opioid use.

4 (2) The opioid overdose reversal medication may be dispensed with
5 technology used to dispense medications.

6 (3) Effective January 1, 2022, a person who is provided opioid
7 overdose reversal medication under this section must be provided
8 information and resources about medication for opioid use disorder
9 and harm reduction strategies and services which may be available,
10 such as substance use disorder treatment services and substance use
11 disorder peer counselors. This information should be available in all
12 languages relevant to the communities that the hospital serves.

13 (4) The labeling requirements of RCW 69.41.050 and 18.64.246 do
14 not apply to opioid overdose reversal medications dispensed or
15 delivered in accordance with this section.

16 (5) The individual or entity that dispenses, distributes, or
17 delivers an opioid overdose reversal medication in accordance with
18 this section shall ensure that the directions for use are provided.

19 (6) (a) If the patient is enrolled in medical assistance programs
20 under chapter 74.09 RCW, the hospital must bill the patient's
21 medicaid benefit for the patient's opioid overdose reversal
22 medication.

23 (b) Medicaid, including medicaid managed care plans, shall
24 reimburse providers for opioid overdose reversal medication dispensed
25 by a hospital and billed on a medical claim for medicaid members.

26 (c) This section does not prohibit a hospital from dispensing
27 opioid overdose reversal medication to a patient at no cost to the
28 patient out of the hospital's prepurchased supply.

29 (7) Nothing in this section prohibits or modifies a hospital's
30 ability or responsibility to bill a patient's health insurance or to
31 provide financial assistance as required by state or federal law.

32 (8) A violation of this section shall not be considered
33 unprofessional conduct under RCW 18.130.180 and is not subject to
34 disciplinary action under chapter 18.130 RCW.

35 (9) For purposes of this section, "opioid overdose reversal
36 medication" has the meaning provided in RCW 69.41.095.

37 NEW SECTION. **Sec. 4.** A new section is added to chapter 71.24
38 RCW to read as follows:

1 (1) During an intake, discharge, or outpatient treatment plan
2 review for any client presenting with symptoms of an opioid use
3 disorder, or who reports recent use of opioids outside legal
4 authority, all community behavioral health providers must:

5 (a) Confirm that the client has opioid overdose reversal
6 medication; or

7 (b) If a client does not possess opioid overdose reversal
8 medication, prescribe the client opioid overdose reversal medication
9 or utilize the statewide naloxone standing order, and assist the
10 client in directly obtaining opioid overdose reversal medication by:

11 (i) Directly dispensing the opioid overdose reversal medication,
12 if authorized by state law;

13 (ii) Partnering with a pharmacy to obtain the opioid overdose
14 reversal medication on the client's behalf and distributing the
15 opioid overdose reversal medication to the client;

16 (iii) Assisting the client in utilizing a mail order pharmacy or
17 pharmacy that mails prescription drugs directly to the facility,
18 provider, or client and distributing the opioid overdose reversal
19 medication to the client, if necessary; or

20 (iv) Any other means authorized by state law to ensure that the
21 client has opioid overdose reversal medication.

22 (2) A community behavioral health provider shall provide opioid
23 overdose reversal medication under subsection (1) of this section to
24 a client as soon as practical if the provider learns that the client
25 has used their supply of opioid overdose reversal medication or
26 otherwise believes based on clinical judgment that it is appropriate
27 to provide the medication.

28 (3) If a program or provider listed in subsection (1) of this
29 section prescribes opioid overdose reversal medication or utilizes
30 the statewide naloxone standing order and assists the client in
31 directly obtaining the opioid overdose reversal medication, the
32 program or provider shall bill the client's insurance to the extent
33 possible if the client has health insurance coverage.

34 (4) The labeling requirements of RCW 69.41.050 and 18.64.246 do
35 not apply to opioid overdose reversal medications dispensed or
36 delivered in accordance with this section.

37 (5) The individual or entity that dispenses, distributes, or
38 delivers an opioid reversal medication in accordance with this
39 section shall ensure that the directions for use are provided.

1 (6) For purposes of this section, "opioid overdose reversal
2 medication" has the meaning provided in RCW 69.41.095.

3 NEW SECTION. **Sec. 5.** A new section is added to chapter 74.09
4 RCW to read as follows:

5 (1) The authority, in consultation with the department of health
6 and the office of the insurance commissioner, shall provide technical
7 assistance to hospitals and community behavioral health agencies to
8 assist these entities and providers in complying with sections 3 and
9 4 of this act.

10 (2) The authority shall develop written materials for hospitals
11 to comply with section 3(3) of this act and provide them to all
12 affected hospitals by January 1, 2022.

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