
SECOND SUBSTITUTE SENATE BILL 5195

State of Washington

67th Legislature

2021 Regular Session

By Senate Ways & Means (originally sponsored by Senators Lias, Muzzall, Das, Dhingra, Nguyen, and Wilson, C.)

READ FIRST TIME 02/22/21.

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 hospital may allow a practitioner to prescribe prepackaged
30 emergency medications and allow a practitioner or a registered nurse
31 licensed under chapter 18.79 RCW to distribute prepackaged emergency
32 medications to patients being discharged from a hospital emergency
33 department in the following circumstances:

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

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

1 (c) ~~When (, in the judgment of the practitioner and consistent~~
2 ~~with 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.)~~ the hospital is distributing
12 opioid overdose reversal medication under section 3 of this act.

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

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

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

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

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

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

36 (f) Establishment of a limit of no more than a forty-eight hour
37 supply of emergency medication as the maximum to be dispensed to a
38 patient, except when community or hospital pharmacy services will not
39 be available within forty-eight hours. In no case may the policy
40 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 who presents to an
32 emergency department with symptoms of an opioid overdose, opioid use
33 disorder, or other adverse event related to opioid use with opioid
34 overdose reversal medication upon discharge, unless the treating
35 practitioner determines in their clinical and professional judgment
36 that dispensing opioid overdose reversal medication is not
37 appropriate or is not needed. If the hospital dispenses opioid
38 overdose reversal medication it shall provide directions for use.

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

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

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

13 (5) (a) If the patient is enrolled in medical assistance programs
14 under chapter 74.09 RCW, the hospital must bill the patient's
15 medicaid benefit for the patient's opioid overdose reversal
16 medication utilizing the appropriate billing codes established by the
17 health care authority. This billing shall be separate from and in
18 addition to the payment for the other services provided during the
19 hospital visit.

20 (b) If the patient has available insurance coverage other than
21 medical assistance under chapter 74.09 RCW, the hospital shall bill
22 the patient's insurance for the cost of the opioid overdose reversal
23 medication.

24 (c) Medicaid managed care organizations shall reimburse hospitals
25 for dispensing opioid overdose reversal medication under this section
26 to patients enrolled in medical assistance under chapter 74.09 RCW.
27 If the person is not enrolled in medical assistance and does not have
28 any other available insurance coverage, the Washington state health
29 care authority shall reimburse the hospital.

30 (d) This section does not prohibit a hospital from dispensing
31 opioid overdose reversal medication to a patient at no cost to the
32 patient out of the hospital's prepurchased supply.

33 (6) Nothing in this section prohibits or modifies a hospital's
34 ability or responsibility to bill a patient's health insurance or to
35 provide financial assistance as required by state or federal law.

36 (7) A hospital, its employees, and its practitioners are immune
37 from suit in any action, civil or criminal, or from professional or
38 other disciplinary action, for action or inaction in compliance with
39 this section.

40 (8) For purposes of this section:

1 (a) "Opioid overdose reversal medication" has the meaning
2 provided in RCW 69.41.095.

3 (b) "Practitioner" has the meaning provided in RCW 18.64.011.

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

6 (1) During an intake, discharge, or outpatient treatment plan
7 review for any client presenting with symptoms of an opioid use
8 disorder, or who reports recent use of opioids outside legal
9 authority, all outpatient community mental health agencies that
10 provide individual treatment, outpatient substance use disorder
11 providers, residential substance use disorder providers, withdrawal
12 management providers, secure withdrawal management and stabilization
13 facility providers, and opioid treatment programs shall:

14 (a) Confirm that the client has opioid overdose reversal
15 medication; or

16 (b) If a client does not possess opioid overdose reversal
17 medication, unless the behavioral health agency determines using
18 clinical and professional judgment that opioid overdose reversal
19 medication is not appropriate or not needed, prescribe the client
20 opioid overdose reversal medication or utilize the statewide naloxone
21 standing order and assist the client in directly obtaining opioid
22 overdose reversal medication as soon as practical by:

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

25 (ii) Partnering with a pharmacy to obtain the opioid overdose
26 reversal medication on the client's behalf and distributing the
27 opioid overdose reversal medication to the client;

28 (iii) Assisting the client in utilizing a mail order pharmacy or
29 pharmacy that mails prescription drugs directly to the facility,
30 provider, or client and distributing the opioid overdose reversal
31 medication to the client, if necessary; or

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

34 (2) If a behavioral health agency listed in subsection (1) of
35 this section prescribes opioid overdose reversal medication or
36 utilizes the statewide naloxone standing order and assists the client
37 in directly obtaining the opioid overdose reversal medication, the
38 program or provider shall bill the client's insurance to the extent
39 possible if the client has health insurance coverage.

1 (3) The labeling requirements of RCW 69.41.050 and 18.64.246 do
2 not apply to opioid overdose reversal medications dispensed or
3 delivered in accordance with this section.

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

7 (5) A behavioral health agency, and its employees and
8 practitioners, are immune from suit in any action, civil or criminal,
9 or from professional or other disciplinary action, for action or
10 inaction in compliance with this section.

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

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

15 (1) The authority, in consultation with the department of health
16 and the office of the insurance commissioner, shall provide technical
17 assistance to hospitals and community behavioral health agencies to
18 assist these entities and providers in complying with sections 3 and
19 4 of this act.

20 (2) The authority shall develop written materials in all relevant
21 languages for each hospital to comply with section 3 of this act,
22 including directions for the use of opioid overdose reversal
23 medication, and provide them to all hospitals by January 1, 2022.

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