

CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT - DRUG  
OVERDOSE RESPONSE IMMUNITY

Act of Sep. 30, 2014, P.L. 2487, No. 139

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No. 2014-139

SB 1164

AN ACT

Amending the act of April 14, 1972 (P.L.233, No.64), entitled "An act relating to the manufacture, sale and possession of controlled substances, other drugs, devices and cosmetics; conferring powers on the courts and the secretary and Department of Health, and a newly created Pennsylvania Drug, Device and Cosmetic Board; establishing schedules of controlled substances; providing penalties; requiring registration of persons engaged in the drug trade and for the revocation or suspension of certain licenses and registrations; and repealing an act," providing for drug overdose response immunity.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, is amended by adding sections to read:

**Section 13.7. Drug Overdose Response Immunity.--(a) A person may not be charged and shall be immune from prosecution for any offense listed in subsection (b) and for a violation of probation or parole if the person can establish the following:**

(1) law enforcement officers only became aware of the person's commission of an offense listed in subsection (b) because the person transported a person experiencing a drug overdose event to a law enforcement agency, a campus security office or a health care facility; or

(2) all of the following apply:

(i) the person reported, in good faith, a drug overdose event to a law enforcement officer, the 911 system, a campus security officer or emergency services personnel and the report was made on the reasonable belief that another person was in need of immediate medical attention and was necessary to prevent death or serious bodily injury due to a drug overdose;

(ii) the person provided his own name and location and cooperated with the law enforcement officer, 911 system, campus security officer or emergency services personnel; and

(iii) the person remained with the person needing immediate medical attention until a law enforcement officer, a campus security officer or emergency services personnel arrived.

(b) The prohibition on charging or prosecuting a person as described in subsection (a) bars charging or prosecuting a person for probation and parole violations and for violations of section 13(a)(5), (16), (19), (31), (32), (33) and (37).

(c) Persons experiencing drug overdose events may not be charged and shall be immune from prosecution as provided in subsection (b) if a person who transported or reported and remained with them may not be charged and is entitled to immunity under this section.

(d) The prohibition on charging or prosecuting a person as described in this section is limited in the following respects:

(1) This section may not bar charging or prosecuting a person for offenses enumerated in subsection (b) if a law enforcement officer obtains information prior to or independent of the action of seeking or obtaining emergency assistance as described in subsection (a).

(2) This section may not interfere with or prevent the investigation, arrest, charging or prosecution of a person for the delivery or distribution of a controlled substance, drug-induced homicide or any other crime not set forth in subsection (b).

(3) This section may not bar the admissibility of any evidence in connection with the investigation and prosecution for any other prosecution not barred by this section.

(4) This section may not bar the admissibility of any evidence in connection with the investigation and prosecution of a crime with regard to another defendant who does not independently qualify for the prohibition on charging or prosecuting a person as provided for by this section.

(e) In addition to any other applicable immunity or limitation on civil liability, a law enforcement officer or prosecuting attorney who, acting in good faith, charges a person who is thereafter determined to be entitled to immunity under this section shall not be subject to civil liability for the filing of the charges.

(f) As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"911 system." A system, including enhanced 911 service and a wireless E-911 system, that permits a person dialing 911 by telephone to be connected to a public safety answering point, via normal telephone facilities, for the reporting of police, fire, medical or other emergency situations.

"Campus security officer." An employee of an institution of higher education charged with maintaining the safety and security of the property of the institution and the persons on the property.

"Drug overdose event." An acute medical condition, including, but not limited to, severe physical illness, coma, mania, hysteria or death, which is the result of consumption or use of one or more controlled substances causing an adverse reaction. A patient's condition shall be deemed to be a drug overdose if a prudent layperson, possessing an average knowledge of medicine and health, would reasonably believe that the condition is in fact a drug overdose and requires immediate medical attention.

"Emergency services personnel." Individuals, including a trained volunteer or a member of the armed forces of the United States or the National Guard, whose official or assigned responsibilities include performing or directly supporting the performance of emergency medical and rescue services or firefighting.

"Law enforcement officer." A person who by virtue of the person's office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses, or a person on active State duty under 51 Pa.C.S. § 508 (relating to active duty for emergency).

Section 13.8. Drug Overdose Medication.--(a) The department, in carrying out its duties under 28 Pa. Code Ch. 1023 (relating to personnel), shall have the following duties:

(1) By December 31, 2014, amend the prehospital practitioner scope of practice of emergency medical services providers to include the administration of naloxone.

(2) In consultation with the Pennsylvania Emergency Health Services Council, implement training, treatment protocols, equipment lists and other policies and procedures for all types of emergency medical services providers.

(3) In consultation with the Department of Drug and Alcohol Programs, develop or approve training and instructional materials about recognizing opioid-related overdoses, administering naloxone and promptly seeking medical attention. The training and instruction materials shall be provided free of charge on the Internet.

(b) A law enforcement agency, fire department or fire company may enter into written agreements with emergency medical services agencies, with the consent of that agency's medical director or a physician, to do the following:

(1) Obtain a supply of naloxone.

(2) Authorize a law enforcement officer or firefighter who has completed training under subsection (a)(2), or who has received the training and instructional materials under subsection (a)(3), to administer naloxone to an individual undergoing or believed to be undergoing an opioid-related drug overdose.

(c) Notwithstanding any other law to the contrary, a health care professional otherwise authorized to prescribe naloxone may dispense, prescribe or distribute naloxone directly or by a standing order to an authorized law enforcement officer or firefighter in accordance with an agreement under subsection (b) or to a person at risk of experiencing an opioid-related overdose or family member, friend or other person in a position to assist a person at risk of experiencing an opioid-related overdose.

(d) The provisions of the act of September 27, 1961 (P.L.1700, No.699), known as the "Pharmacy Act," shall not apply to a law enforcement officer or firefighter who stores naloxone pursuant to an agreement under subsection (b), and in accordance with directions from the health care professional that prescribed, dispensed or distributed the naloxone, or to a person or organization acting at the direction of a health care professional authorized to prescribe naloxone so long as such activities are undertaken without charge or compensation.

(e) (1) A licensed health care professional who, acting in good faith, prescribes or dispenses naloxone shall not be subject to any criminal or civil liability or any professional disciplinary action for:

(i) such prescribing or dispensing; or

(ii) any outcomes resulting from the eventual administration of naloxone.

(2) The immunity under paragraph (1) shall not apply to a health professional who acts with intent to harm or with reckless indifference to a substantial risk of harm.

(f) (1) A person, law enforcement agency, fire department or fire company under subsection (b)(2) or (c) who, acting in good faith and with reasonable care, administers naloxone to another person whom the person believes to be suffering an opioid-related drug overdose:

(i) Shall be immune from criminal prosecution, sanction under any professional licensing statute and civil liability for such act.

(ii) Shall not be subject to professional review for such act.

(iii) Shall not be liable for any civil damages for acts or omissions resulting from such act.

(2) Receipt of training and instructional materials that meet the criteria of subsection (a) and the prompt seeking of additional medical assistance shall create a rebuttable presumption that the person acted with reasonable care in administering naloxone.

(g) Nothing in this section shall be interpreted to limit any existing immunities for emergency response providers and others provided for under 42 Pa.C.S. § 8332 (relating to emergency response provider and bystander good Samaritan civil immunity).

Section 2. This act shall take effect in 60 days.

APPROVED--The 30th day of September, A.D. 2014.

TOM CORBETT