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 THE GENERAL ASSEMBLY OF PENNSYLVANIA
 

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# SENATE BILL

No. 1164 Session of  
2013

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INTRODUCED BY PILEGGI, VULAKOVICH, ERICKSON, FARNESE, RAFFERTY,  
WOZNIAK, ALLOWAY, YAW, BAKER, SOLOBAY, BRUBAKER, HUGHES, WARD  
AND SCHWANK, NOVEMBER 12, 2013

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AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF  
REPRESENTATIVES, AS AMENDED, JUNE 17, 2014

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## AN ACT

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

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

14 Section 1. The act of April 14, 1972 (P.L.233, No.64), known  
15 as The Controlled Substance, Drug, Device and Cosmetic Act, is  
16 amended by adding ~~a section~~ SECTIONS to read: <--

17 Section 13.7. Drug Overdose Response Immunity.--(a) A  
18 person shall be immune from prosecution for any offense listed  
19 in subsection (b) and from a violation of probation or parole if  
20 the person can establish the following:

21 (1) law enforcement officers only became aware of the

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

5 (2) all of the following apply:

6 (i) law enforcement officers only became aware of the <--  
7 person's commission of an offense listed in subsection (b)  
8 because the person reported, in good faith, a drug overdose  
9 event to a law enforcement officer, the 911 system, a campus  
10 security officer or emergency services personnel, based on a <--  
11 THE REPORT WAS MADE ON THE reasonable belief that another person  
12 was in need of immediate medical attention AND WAS NECESSARY to <--  
13 prevent death or serious bodily injury due to a drug overdose;

14 (ii) the person reasonably believed he was the first person <--  
15 to contact a law enforcement officer, the 911 system, a campus  
16 security officer or emergency services personnel to report that  
17 the person needed immediate medical attention to prevent death  
18 or serious bodily injury due to a drug overdose;

19 (iii) (II) the person provided his own name and location and <--  
20 cooperated with the law enforcement officer, 911 system, campus  
21 security officer or emergency services personnel; and

22 (iv) (III) the person remained with the person needing <--  
23 immediate medical attention until a law enforcement officer, a  
24 campus security officer or emergency services personnel arrived.

25 (b) The limited immunity described in subsection (a) bars  
26 prosecution for probation and parole violations and for  
27 violations of section 13(a) (5), (16), (19), (31), (32), (33) and  
28 (37).

29 (c) The immunity described in this section also extends to <--  
30 the person who suffered the drug overdose event if all the

1 ~~conditions of subsection (a) (1) or (2) are satisfied.~~

2 (C) PERSONS EXPERIENCING DRUG OVERDOSE EVENTS SHALL BE <--  
3 IMMUNE FROM PROSECUTION AS PROVIDED IN SUBSECTION (B) IF A  
4 PERSON WHO TRANSPORTED OR REPORTED AND REMAINED WITH THEM IS  
5 ENTITLED TO IMMUNITY UNDER THIS SECTION.

6 (d) The immunity described in this section is limited in the  
7 following respects:

8 (1) This section may not bar prosecutions or penalties for  
9 offenses enumerated in subsection (b) if a law enforcement  
10 officer obtains information prior to or independent of the  
11 action of seeking or obtaining emergency assistance as described  
12 in subsection (a).

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

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

20 (4) This section may not bar the admissibility of any  
21 evidence in connection with the investigation and prosecution of  
22 a crime with regard to another defendant who does not  
23 independently qualify for the immunity provided for by this  
24 section.

25 (e) Definitions.--As used in this section, the following  
26 words and phrases shall have the meanings given to them in this  
27 subsection unless the context clearly indicates otherwise:

28 "911 system." A system, including enhanced 911 service and a  
29 wireless E-911 system, that permits a person dialing 911 by  
30 telephone to be connected to a public safety answering point,

1 via normal telephone facilities, for the reporting of police,  
2 fire, medical or other emergency situations.

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

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

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

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

28 SECTION 13.8. DRUG OVERDOSE MEDICATION.-- (A) THE  
29 DEPARTMENT, IN CARRYING OUT ITS DUTIES UNDER 28 PA. CODE CH.  
30 1023 (RELATING TO PERSONNEL), SHALL HAVE THE FOLLOWING DUTIES:

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1 (1) BY DECEMBER 31, 2014, AMEND THE PREHOSPITAL PRACTITIONER  
2 SCOPE OF PRACTICE OF EMERGENCY MEDICAL SERVICES PROVIDERS TO  
3 INCLUDE THE ADMINISTRATION OF NALOXONE.

4 (2) IN CONSULTATION WITH THE PENNSYLVANIA EMERGENCY HEALTH  
5 SERVICES COUNCIL, IMPLEMENT TRAINING, TREATMENT PROTOCOLS,  
6 EQUIPMENT LISTS AND OTHER POLICIES AND PROCEDURES FOR ALL TYPES  
7 OF EMERGENCY MEDICAL SERVICES PROVIDERS.

8 (B) A LAW ENFORCEMENT AGENCY, FIRE DEPARTMENT OR FIRE  
9 COMPANY MAY ENTER INTO WRITTEN AGREEMENTS WITH EMERGENCY MEDICAL  
10 SERVICES AGENCIES, WITH THE CONSENT OF THAT AGENCY'S MEDICAL  
11 DIRECTOR OR A PHYSICIAN, TO DO THE FOLLOWING:

12 (1) OBTAIN A SUPPLY OF NALOXONE.

13 (2) AUTHORIZE A LAW ENFORCEMENT OFFICER OR FIREFIGHTER WHO  
14 HAS COMPLETED TRAINING UNDER SUBSECTION (A) (2) TO ADMINISTER  
15 NALOXONE TO AN INDIVIDUAL UNDERGOING OR BELIEVED TO BE  
16 UNDERGOING AN OPIOID-RELATED DRUG OVERDOSE.

17 (C) NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, A HEALTH  
18 CARE PROFESSIONAL OTHERWISE AUTHORIZED TO PRESCRIBE NALOXONE MAY  
19 DISPENSE, PRESCRIBE OR DISTRIBUTE NALOXONE TO AN AUTHORIZED LAW  
20 ENFORCEMENT OFFICER OR FIREFIGHTER IN ACCORDANCE WITH AN  
21 AGREEMENT UNDER SUBSECTION (B).

22 (D) THE PROVISIONS OF THE ACT OF SEPTEMBER 27, 1961  
23 (P.L.1700, NO.699), KNOWN AS THE "PHARMACY ACT," SHALL NOT APPLY  
24 TO A LAW ENFORCEMENT OFFICER OR FIREFIGHTER WHO STORES NALOXONE  
25 PURSUANT TO AN AGREEMENT UNDER SUBSECTION (B), AND IN ACCORDANCE  
26 WITH DIRECTIONS FROM THE HEALTH CARE PROFESSIONAL THAT  
27 PRESCRIBED, DISPENSED OR DISTRIBUTED THE NALOXONE.

28 (E) (1) A LICENSED HEALTH CARE PROFESSIONAL WHO, ACTING IN  
29 GOOD FAITH, PRESCRIBES OR DISPENSES NALOXONE SHALL NOT BE  
30 SUBJECT TO ANY CRIMINAL OR CIVIL LIABILITY OR ANY PROFESSIONAL

1 DISCIPLINARY ACTION FOR:

2 (I) SUCH PRESCRIBING OR DISPENSING; OR

3 (II) ANY OUTCOMES RESULTING FROM THE EVENTUAL ADMINISTRATION  
4 OF NALOXONE.

5 (2) THE IMMUNITY UNDER PARAGRAPH (1) SHALL NOT APPLY TO A  
6 HEALTH PROFESSIONAL WHO ACTS WITH INTENT TO HARM OR WITH  
7 RECKLESS INDIFFERENCE TO A SUBSTANTIAL RISK OF HARM.

8 (F) (1) A PERSON AUTHORIZED UNDER SUBSECTION (B) (2) WHO,  
9 ACTING IN GOOD FAITH AND WITH REASONABLE CARE, ADMINISTERS  
10 NALOXONE TO ANOTHER PERSON WHOM THE PERSON BELIEVES TO BE  
11 SUFFERING AN OPIOID-RELATED DRUG OVERDOSE:

12 (I) SHALL BE IMMUNE FROM CRIMINAL PROSECUTION, SANCTION  
13 UNDER ANY PROFESSIONAL LICENSING STATUTE AND CIVIL LIABILITY FOR  
14 SUCH ACT.

15 (II) SHALL NOT BE SUBJECT TO PROFESSIONAL REVIEW FOR SUCH  
16 ACT.

17 (III) SHALL NOT BE LIABLE FOR ANY CIVIL DAMAGES FOR ACTS OR  
18 OMISSIONS RESULTING FROM SUCH ACT.

19 (2) RECEIPT OF TRAINING AND INSTRUCTIONAL MATERIALS THAT  
20 MEET THE CRITERIA OF SUBSECTION (A) AND THE PROMPT SEEKING OF  
21 ADDITIONAL MEDICAL ASSISTANCE SHALL CREATE A REBUTTABLE  
22 PRESUMPTION THAT THE PERSON ACTED WITH REASONABLE CARE IN  
23 ADMINISTERING NALOXONE.

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