

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AN ACT

RELATING TO HEALTH; AMENDING SECTIONS OF THE PUBLIC HEALTH ACT AND THE PHARMACY ACT TO PROVIDE FOR THE AUTHORIZED POSSESSION, STORAGE, DISTRIBUTION, PRESCRIBING AND ADMINISTRATION OF OPIOID ANTAGONISTS; PROVIDING FOR IMMUNITY FROM CIVIL AND CRIMINAL LIABILITY; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 24-23-1 NMSA 1978 (being Laws 2001, Chapter 228, Section 1) is amended to read:

"24-23-1. AUTHORITY TO POSSESS, STORE, DISTRIBUTE, DISPENSE, PRESCRIBE AND ADMINISTER OPIOID ANTAGONISTS-- RELEASE FROM LIABILITY--RULEMAKING.--

A. A person may possess an opioid antagonist, regardless of whether the person holds a prescription for the opioid antagonist.

B. Any person acting under a standing order issued by a licensed prescriber may store or distribute an opioid antagonist.

C. Pursuant to a valid prescription, a pharmacist may dispense an opioid antagonist to a person:

(1) at risk of experiencing an opioid-related drug overdose; or

(2) in a position to assist another person at risk of experiencing an opioid-related drug overdose.

1 D. A pharmacist may distribute an opioid
2 antagonist to a registered overdose prevention and education
3 program.

4 E. A person may administer an opioid antagonist to
5 another person if the person:

6 (1) in good faith, believes the other person
7 is experiencing a drug overdose; and

8 (2) acts with reasonable care in
9 administering the drug to the other person.

10 F. A licensed prescriber may directly or by
11 standing order prescribe, dispense or distribute an opioid
12 antagonist to:

13 (1) a person at risk of experiencing an
14 opioid-related drug overdose;

15 (2) a family member, friend or other person
16 in a position to assist a person at risk of experiencing an
17 opioid-related drug overdose;

18 (3) an employee, volunteer or representative
19 of a community-based entity providing overdose prevention and
20 education services that is registered with the department; or

21 (4) a first responder.

22 G. A registered overdose prevention and education
23 program that possesses, stores, distributes or administers an
24 opioid antagonist in accordance with department rules and on
25 standing orders from a licensed prescriber pursuant to this

1 section shall not be subject to civil liability, criminal
2 prosecution or professional disciplinary action arising from
3 the possession, storage, distribution or administration of
4 the opioid antagonist; provided that actions are taken with
5 reasonable care and without willful, wanton or reckless
6 behavior.

7 H. A person who possesses or who administers,
8 dispenses or distributes an opioid antagonist to another
9 person pursuant to this section shall not be subject to civil
10 liability, criminal prosecution or professional disciplinary
11 action as a result of the possession, administration,
12 distribution or dispensing of the opioid antagonist; provided
13 that actions are taken with reasonable care and without
14 willful, wanton or reckless behavior.

15 I. The department shall create, collect and
16 maintain any individually identifiable information pursuant
17 to this section in a manner consistent with state and federal
18 privacy laws.

19 J. The secretary shall promulgate rules relating
20 to overdose prevention and education programs:

21 (1) establishing requirements and protocols
22 for the registration of overdose prevention and education
23 programs that are not licensed pharmacies;

24 (2) monitoring registered overdose
25 prevention and education programs' storage and distribution

1 of opioid antagonists;

2 (3) gathering data from overdose prevention
3 and education programs to inform public health efforts to
4 address overdose prevention efforts; and

5 (4) authorizing standards for overdose
6 prevention education curricula, training and the
7 certification of individuals to store and distribute opioid
8 antagonists for the overdose prevention and education
9 program.

10 K. As used in this section:

11 (1) "administer" means the direct
12 application of a drug to the body of an individual by
13 injection, inhalation, ingestion or any other means;

14 (2) "department" means the department of
15 health;

16 (3) "dispense" means to evaluate and
17 implement a prescription for an opioid antagonist, including
18 the preparation and delivery of a drug or device to a patient
19 or patient's agent;

20 (4) "distribute" means to deliver an opioid
21 antagonist drug or opioid antagonist device by means other
22 than by administering or dispensing;

23 (5) "first responder" means any public
24 safety employee or volunteer whose duties include responding
25 rapidly to an emergency, including:

1 (a) a law enforcement officer;

2 (b) a firefighter or certified
3 volunteer firefighter; or

4 (c) emergency medical services
5 personnel;

6 (6) "licensed prescriber" means any
7 individual who is authorized by law to prescribe an opioid
8 antagonist in the state;

9 (7) "opioid antagonist" means a drug
10 approved by the federal food and drug administration that,
11 when administered, negates or neutralizes in whole or in part
12 the pharmacological effects of an opioid in the body.

13 "Opioid antagonist" shall be limited to naloxone or other
14 like medications that are indicated for use in reversing an
15 opioid overdose and are approved by the department for such
16 purpose;

17 (8) "possess" means to have physical control
18 or custody of an opioid antagonist;

19 (9) "registered overdose prevention and
20 education program" means any community-based organization,
21 law enforcement agency, detention facility or school that has
22 registered with the department in accordance with department
23 rules and uses an approved department curriculum to teach
24 overdose prevention and opioid antagonist administration;

25 (10) "standing order" means a licensed

1 prescriber's instruction or prescribed procedure that is
2 either patient specific or non-patient specific that can be
3 exercised by other persons until changed or canceled by a
4 licensed prescriber; and

5 (11) "storage" means possession of an opioid
6 antagonist with the intent to dispense or distribute it."

7 SECTION 2. Section 61-11-7 NMSA 1978 (being Laws 1969,
8 Chapter 29, Section 6, as amended) is amended to read:

9 "61-11-7. DRUG DISPENSATION--LIMITATIONS.--

10 A. The Pharmacy Act does not prohibit:

11 (1) a hospital or state or county
12 institution or clinic without the services of a staff
13 pharmacist from acquiring and having in its possession a
14 dangerous drug for the purpose of dispensing if it is in a
15 dosage form suitable for dispensing and if the hospital,
16 institution or clinic employs a consulting pharmacist, and if
17 the consulting pharmacist is not available, the withdrawal of
18 a drug from stock by a licensed professional nurse on the
19 order of a licensed practitioner in such amount as needed for
20 administering to and treatment of a patient;

21 (2) the extemporaneous preparation by a
22 licensed professional nurse on the order of a licensed
23 practitioner of simple solutions for injection when the
24 solution may be prepared from a quantity of drug that has
25 been prepared previously by a pharmaceutical manufacturer or

1 pharmacist and obtained by a hospital, institution or clinic
2 in a form suitable for the preparation of the solution;

3 (3) the sale of nonnarcotic, nonpoisonous or
4 nondangerous nonprescription medicines or preparations by
5 nonregistered persons or unlicensed stores when sold in their
6 original containers;

7 (4) the sale of drugs intended for
8 veterinary use; provided that if the drugs bear the legend:
9 "Caution: federal law restricts this drug to use by or on
10 the order of a licensed veterinarian", the drug may be sold
11 or distributed only as provided in Subsection A of Section
12 26-1-15 NMSA 1978, by a person possessing a license issued by
13 the board pursuant to Subsection B of Section 61-11-14 NMSA
14 1978;

15 (5) the sale to or possession or
16 administration of topical ocular pharmaceutical agents by
17 licensed optometrists who have been certified by the board of
18 optometry for the use of the agents;

19 (6) the sale to or possession or
20 administration of oral pharmaceutical agents as authorized in
21 Subsection A of Section 61-2-10.2 NMSA 1978 by licensed
22 optometrists who have been certified by the board of
23 optometry for the use of the agents;

24 (7) pharmacy technicians from providing
25 assistance to pharmacists;

1 (8) a pharmacist from prescribing dangerous
2 drug therapy, including vaccines and immunizations, under
3 rules and protocols adopted by the board after approval by
4 the New Mexico medical board and the board of nursing;

5 (9) a pharmacist from exercising the
6 pharmacist's professional judgment in refilling a
7 prescription for a prescription drug, unless prohibited by
8 another state or federal law, without the authorization of
9 the prescribing licensed practitioner, if:

10 (a) failure to refill the prescription
11 might result in an interruption of a therapeutic regimen or
12 create patient suffering;

13 (b) the pharmacist is unable to contact
14 the licensed practitioner after reasonable effort;

15 (c) the quantity of prescription drug
16 dispensed does not exceed a seventy-two-hour supply;

17 (d) the pharmacist informs the patient
18 or the patient's agent at the time of dispensing that the
19 refill is being provided without authorization and that
20 authorization of the licensed practitioner is required for
21 future refills; and

22 (e) the pharmacist informs the licensed
23 practitioner of the emergency refill at the earliest
24 reasonable time; or

25 (10) the possession, storage, distribution,

1 dispensing, administration or prescribing of an opioid
2 antagonist in accordance with the provisions of Section
3 24-23-1 NMSA 1978.

4 B. All prescriptions requiring the preparation of
5 dosage forms or amounts of dangerous drugs not available in
6 the stock of a hospital, institution or clinic or a
7 prescription requiring compounding shall be either compounded
8 or dispensed only by a pharmacist."

9 SECTION 3. Section 61-11-22 NMSA 1978 (being Laws 1969,
10 Chapter 29, Section 21, as amended) is amended to read:

11 "61-11-22. EXEMPTIONS FROM ACT.--

12 A. The Pharmacy Act does not apply to licensed
13 practitioners in this state in supplying to their patients
14 any drug if the licensed practitioner is practicing the
15 licensed practitioner's profession and does not keep a
16 pharmacy, advertised or otherwise, for the retailing of
17 dangerous drugs.

18 B. The Pharmacy Act does not prevent:

19 (1) the personal administration of drugs
20 carried by a licensed practitioner in order to supply the
21 immediate needs of the licensed practitioner's patients;

22 (2) the sale of nonnarcotic proprietary
23 preparations; or

24 (3) the possession, storage, dispensing,
25 distribution, administration or prescribing of an opioid

1 antagonist in accordance with the provisions of Section
2 24-23-1 NMSA 1978."

3 SECTION 4. REPEAL.--Section 24-23-2 NMSA 1978 (being
4 Laws 2001, Chapter 228, Section 2) is repealed.

5 SECTION 5. EMERGENCY.--It is necessary for the public
6 peace, health and safety that this act take effect
7 immediately. _____

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25