

SB19-227: HARM REDUCTION SUBSTANCE USE DISORDERS

Concerning the reduction of harm caused by substance use disorders, and, in connection therewith, authorizing schools to obtain a supply of opiate antagonists; specifying that a licensed or certified hospital may be used as a clean syringe exchange site; creating the opiate antagonist purchase fund; expanding the household medication take-back program in the department of public health and environment; requiring a person that makes an automated external defibrillator available to the public to also make an opiate antagonist available; and requiring the department of human services to create a policy concerning the identification of certain individuals with a substance use disorder.

Details

Bill Sponsors:	House – <i>Kennedy (D) and Herod (D)</i> Senate – <i>Pettersen (D) and Gonzales (D)</i>
Committee:	Senate Health and Human Services Senate Finance Senate Appropriations
Bill History:	4/1/2019- Introduced in Senate 4/11/2019- Senate Health & Human Services Refer Amended to Finance 4/16/2019- Senate Finance Refer to Appropriations 4/19/2019- Senate Appropriations Refer Amended to the Committee of the Whole
Next Action:	Senate Floor Second Reading
Fiscal Note:	<u>4/12/2019 Version</u>

Bill Summary

The bill creates the Opiate Antagonist Bulk Purchase Fund to facilitate bulk purchasing of opiate antagonists at a discounted price. The bill expands the household medication take-back program in the CDPHE for the purpose of allowing the safe collection and disposal of needles, syringes, and other devices used to inject medication. The bill allows schools to develop policies related to supplying and administering opiate antagonists to individuals at risk of experiencing a drug overdose. The bill allows hospitals to operate syringe exchange programs.

Issue Summary

Syringe Access Program

The Heroin Response Work Group from the Colorado Consortium for Prescription Drug Abuse Prevention released a report in April 2017 that detailed the effect of injection drug use (IDU) on Colorado.¹ IDU is associated with acquiring blood borne pathogens like HIV, Hepatitis C, and Hepatitis B through sharing of needles and other equipment. New cases of Hepatitis C in Colorado have increased 80 percent between 2011 and 2015. Although the data cannot directly attribute the increase to IDU, it is the most common method for infection.

¹ Heroin Response Work Group, Colorado Consortium for Prescription Drug Abuse Prevention (Apr 2017). *Heroin in Colorado: Preliminary Assessment*. Retrieved from http://leg.colorado.gov/sites/default/files/heroin_in_colorado_final_4.13.17.pdf . Accessed on Dec 6, 2017.

The Northern Colorado AIDS Project, a part of the Colorado Health Network, in Fort Collins, houses the only syringe access program in the region. Colorado law currently allows local jurisdictions to approve operations of syringe exchange programs.²

Opioid Antagonist Education/Training

Naloxone is a commonly used opioid antagonist utilized to reverse an opioid overdose in order to save a person's life. There are three methods to administer the drug: injectable, auto-injectable, and nasal spray. The auto-injectable, and nasal spray can be used by the lay public. Paramedics utilize intravenous naloxone. As of summer 2017, 400 Colorado pharmacies stock and 140 law enforcement departments carry naloxone.³

In 2016, the Colorado Office of the Attorney General provided funding to make a purchase of 2,500 dual-dose naloxone kits and provide 6 regional trainings.⁴ Some communities with syringe access and harm reduction programs also provide training or education on opioid antagonists as well as provide naloxone to the clients they serve. The Works Program in Boulder County and the Northern Colorado AIDS (NCAP) Project are harm reduction programs that also provide naloxone training to individuals at-risk for an opioid overdose and community members who are likely to be in the presence of someone who might overdose. Colorado's largest organization that works with individuals who inject drugs, the Harm Reduction Action Center, has trained over 1,100 of their clients on the use of naloxone from 2012 to 2016.⁵ In 2015 the National Association of School Nurses took the position that an overdose policy and naloxone deployment should be incorporated into a school's emergency response plan.⁶

In 2015 Larimer County had the 12th highest opioid-related death rate in the state, at 6.5 per 100,000 it was higher than the overall state rate.⁷ In Larimer County, a group of community partners are working to expand the availability of naloxone to save lives. A project of the Mental Health and Substance Use Alliance of Larimer County (managed by the Health District of Northern Larimer County's Community Impact Team) aims to unify, support, and increase local efforts to make naloxone available to those in Larimer and Weld Counties who may be in a position to reverse an opioid overdose. The project began with an initial scan of naloxone distribution and educational activities in the community as related to the Colorado Consortium for Prescription Drug Abuse Preventions' Naloxone Work Group's sector-specific goals. The Team has contacted all pharmacies in Larimer County to determine whether they currently implement standing orders for naloxone, and if not, whether they would be willing to do so. Staff conducted outreach to all 52 pharmacies in Larimer County. 31 out of the 52, or 59 percent, reported carrying naloxone on "Stop the Clock Colorado" website. After outreach, staff confirmed that 50 out of 52 of the pharmacies are carrying naloxone and 37 of 52 are working on best practices around naloxone. The Team is currently providing naloxone and training to Health and Human Service agencies and the general public. In 2018, 561 people were trained and 202

² C.R. S. §25-1-520

³ Colorado Office of Behavioral Health, prepared by Colorado Health Institute (July 28, 2018). *Needs Assessment for the SAMHSA State Targeted Response to the Opioid Crisis Grant*. Retrieved from [https://coag.gov/sites/default/files/contentuploads/oce/Substance_Abuse_SA/SATF-reports/11th annual substance abuse task force report 2016 final 2.pdf](https://coag.gov/sites/default/files/contentuploads/oce/Substance_Abuse_SA/SATF-reports/11th%20annual%20substance%20abuse%20task%20force%20report%202016%20final%202.pdf)

⁴ Colorado Substance Abuse Trend and Response Task Force (Jan 2017). *Eleventh Annual Report*. Retrieved from [https://coag.gov/sites/default/files/contentuploads/oce/Substance_Abuse_SA/SATF-reports/11th annual substance abuse task force report 2016 final 2.pdf](https://coag.gov/sites/default/files/contentuploads/oce/Substance_Abuse_SA/SATF-reports/11th%20annual%20substance%20abuse%20task%20force%20report%202016%20final%202.pdf)

⁵ Colorado Office of Behavioral Health, prepared by Colorado Health Institute (July 28, 2018). *Needs Assessment for the SAMHSA State Targeted Response to the Opioid Crisis Grant*. Retrieved from [https://coag.gov/sites/default/files/contentuploads/oce/Substance_Abuse_SA/SATF-reports/11th annual substance abuse task force report 2016 final 2.pdf](https://coag.gov/sites/default/files/contentuploads/oce/Substance_Abuse_SA/SATF-reports/11th%20annual%20substance%20abuse%20task%20force%20report%202016%20final%202.pdf)

⁶ National Association of School Nurses (2017). *Naloxone Use in the School Setting: The Role of the School Nurse (Adopted June 2015)*. Retrieved from <https://schoolnursesnet.nasn.org/blogs/nasn-profile/2017/03/13/naloxone-use-in-the-school-setting-the-role-of-the-school-nurse>.

⁷ Colorado Department of Public Health and Environment (July 2017). *Larimer County Prescription Drug Profile*. Retrieved from https://www.colorado.gov/pacific/sites/default/files/PW_ISVP_Larimer%20County%20Rx%20Drug%20Data%20Profile.pdf.

naloxone kits were distributed. So far in 2019, 248 people have been trained. The Team is also planning large scale Overdose Awareness events.

Standing Orders

SB15-053 expanded access to Naloxone, allowing the chief medical officer of the Colorado Department of Public Health and Environment (CDPHE) to issue standing orders for naloxone to be dispensed by pharmacies and harm reduction organization employees and volunteers to help expand statewide naloxone access to those who need it most.⁸

Drug Testing Equipment

A proliferating form of harm reduction is utilizing drug testing equipment in order to check a drug for what has been mixed into the substance. Drug checking is a new, evidence-based approach to reduce drug overdoses often resulting from inadvertent taking of drugs.⁹ Reagent testing kits (spot/colorimetric tests) are used to identify a variety of substances, including methamphetamines, which may be mixed into substances, such as MDMA (ecstasy), unbeknownst to the individual. Fentanyl Testing kits are a more recent development that allow drugs to be dissolved and tested very quickly for the presence of fentanyl. These kits are highly-effective, cheap, and easy to use, leading to a number of states (California, New York, Ohio, Maryland, North Carolina, and Massachusetts) setting up programs to distribute kits to needle-exchange programs. However, only the District of Columbia (D.C.) and Maryland have explicit exemptions for drug checking supplies in state paraphernalia restrictions while California includes drug testing in in exempted harm reduction materials.¹⁰ A recent study found that using fentanyl testing strips and receiving a positive test result was associated with changes in drug use behavior¹¹ and perceptions of overdose safety.¹²

This Legislation

School Policy for Opiate Antagonist

The bill permits a school district board of education, the Colorado Charter School Institute, or the governing body of a nonpublic school to adopt and implement a policy that allows a school to acquire and maintain a stock of an opiate antagonist. A school employee, after receiving appropriate training, can administer the drug on school grounds to assist an individual at-risk of opioid overdose. The training must include risk factors for overdose, recognizing an overdose, calling emergency services, rescue breathing, and administering the opiate antagonist. An employee of a school that acts in accordance with the adopted policy is not subject to civil liability or criminal prosecution.

Opiate Antagonist Standing Order

The bill adds law enforcement agencies, school districts, schools, employees of schools, and people that are required by the bill to furnish an opiate antagonist because they have an automated external defibrillator (AED), to the group of individuals that physicians, physician assistants, advanced practice nurses, and other prescribers can prescribe or dispense an opiate antagonist or a standing order for the drug under state law. Pharmacists can dispense an opiate antagonist pursuant to a standing order.

⁸ CDPHE (n.d.) *Standing Orders*. Retrieved from <https://www.colorado.gov/pacific/cdphe/naloxoneorders>

⁹ Drug Policy Alliance (n.d.). *Drug Checking*. Retrieved from <http://www.drugpolicy.org/issues/drug-checking>

¹⁰ Drug Policy Alliance (2018). *Preventing Overdose Deaths with Drug Checking*. Retrieved from http://www.drugpolicy.org/sites/default/files/factsheet_drugcheckingmaryland_0.pdf

¹¹ Indicators for safer drug use included: used less drug than usual; administered a tester shot; pushed syringe plunger slower than usual; and snorted drug instead of injected.

¹² Peiper, N.C., et al. (Jan. 2019). Fentanyl test strips as an opioid overdose prevention strategy: Findings from a syringe services program in the Southeastern United States. *Intl. Journal of Drug Policy*. Retrieved from <https://www.sciencedirect.com/science/article/pii/S0955395918302135>

Immunity Related to Use of Opiate Antagonist

The bill adds to the civil immunity for individuals, other than a health provider or facility, for any act or omission made if the opiate antagonist is stolen from that individual. This immunity and immunity for acting in good faith to furnish or administer an opiate antagonist is expanded to include law enforcement agencies, school districts, schools, school employees, and those people that are required by the bill to furnish an opiate antagonist because they have an AED.

Definition of Drug Paraphernalia

The bill states that “drug paraphernalia” does not include testing equipment used, intended for use, or designed for use in identifying or analyzing the strength, effectiveness, or purity of controlled substances.

Syringe Access Programs in Hospitals

The bill allows for a syringe access program to be operate in hospital that is licensed or certified by the Department of Public Health and Environment (CDPHE).

Opiate Antagonist Bulk Purchase Fund

The bill creates the “Opiate Antagonist Bulk Purchase Fund.” The fund consists of payments made to CDPHE from eligible entities, gifts, grants, and donations, as well as any money appropriated or transferred to the fund by the General Assembly. Money within the fund is continuously appropriated to CDPHE to purchase naloxone in bulk. Eligible entities can purchase the opiate antagonists from CDPHE. In order to facilitate the bulk purchasing and distribution of the opiate antagonists, CDPHE can contract with a prescription drug outlet. CDPHE is to also provide technical assistance to ensure that the eligible entities complete all training and registration requirements. Through rulemaking, CDPHE is to specify the amount that an eligible entity must pay to purchase the opiate antagonists. By October 1, 2020, and every October 1 thereafter, CDPHE is to report to the Senate and House Appropriations Committees on the activities of the fund. The report must include:

- Revenue received by the fund
- Revenue and expenditure projections for the forthcoming fiscal year and details of all expenditures
- Eligible entities that purchased opiate antagonists
- Amount of opiate antagonists purchased by each eligible entity
- Discount procured through bulk purchasing

An “eligible entity” is defined as:

- A unit of local government¹³
- A person that is required by the bill to furnish an opiate antagonist because they have an AED
- If the entity has adopted a related policy: a school district, the Colorado Charter School Institute, or governing board of a nonpublic school

Collection and Disposal of Syringes

The bill expands the household medication take-back program within CDPHE. Starting in state fiscal year 2020-2021, CDPHE is to implement a process for the safe collection and disposal of needles, syringes, and other devices that are used to inject medication. The process and locations for the safe collection and disposal of these injection devices is to be determined by CDPHE. For state fiscal year 2020-2021 and afterwards, the General Assembly is to appropriate money from the General Fund to CDPHE to expand the household medication take-back program to include this safe collection and disposal.

¹³ A county, city and county, city, town, service authority, school district, local improvement district, law enforcement authority, water, sanitation, fire protection, metropolitan, irrigation, drainage, or other special district, or any other kind of municipal, quasi-municipal, or public corporation organized pursuant to law. C.R.S. 29-3.5-101 (4)

Requirement to Make an Opiate Antagonist Available

A person, who is not a private entity, who makes an AED available to aid the general public must also make an opiate antagonist available. A person who acts in good faith to furnish or administer an opiate antagonist to an individual that they believe to be suffering from an overdose event, or to another person who is in a position to assist the individual at risk the individual at-risk of overdose, is not subject to civil liability or criminal prosecution. This does not apply to schools.

State Policy for Verifying Identity

The Department of Human Services (DHS) is to establish a policy on how a SUD treatment program must verify the identity of individuals entering withdrawal management or maintenance treatment for a SUD. The policy must include verification requirements for individuals without identification and individuals experiencing homelessness.

Effective Date

The bill is effective upon the Governor's signature or if the Governor allows it to become law without their signature. The sections of the bill regarding prescribing and dispensing in accordance with a standing order will take effect on October 1, 2019 if HB19-1172 becomes law.

Fiscal Note

The fiscal note assumes that under the Opiate Antagonist Bulk Purchase Fund, naloxone would cost \$95. For the 2019-2020 state fiscal year, the bill requires a \$659,472 appropriation to CDPHE. This includes the approximately \$475,000 in cash funds that would come from the Bulk Purchase Fund. The remaining costs for the fiscal year would mainly be for the staffing costs associated with overseeing the Bulk Purchase Fund and the expansion of the medication take-back program to include syringe safe disposal sites. The assumed appropriation for the 2020-2021 will be greater as the expansion of the medication take-back program will be implemented during that period.

Reasons to Support

Supporters assert that expanding the locations of syringe access programs can improve public safety and decrease the amount of discarded needles in the community. According to the Centers for Disease Control and Prevention (CDC) these programs increase entry into substance use disorder treatment.¹⁴ Additionally, the CDC asserts that syringe access programs reduce overdose deaths, new HIV diagnoses among IDUs, and needle-stick injuries by first responders. Allowing for safe disposal sites for syringes may increase the proper disposal of injection tools and mitigate risk of syringes being left in public places. Supporters of placing naloxone in schools make the comparison that it is like having a defibrillator on a gym wall, it is a tool meant to save a life. Further, the bill may mitigate risk of fentanyl overdoses by not criminalizing apparatuses that aim to assist individuals in determining if the substance that they are going to consume contains the deadly drug. Currently, individuals that seek SUD treatment must provide the facility a form of identification, such as a driver's license. However, those with a SUD that are homeless may not have a form of identification to provide, making it difficult for them to access treatment. Having DHS work to develop a policy regarding identification verification that works to address these issues may improve access, especially for vulnerable populations.

Supporters

- Colorado Consortium for Prescription Drug Abuse Prevention
- Colorado Department of Human Services
- Colorado Pharmacist Society
- Colorado Society of Addiction Medicine
- Drug Policy Alliance

¹⁴ Centers for Disease Control and Prevention (Aug. 2017). *Reducing Harm from Injection Drug Use and Opioid Use Disorder with Syringe Services Programs*. Retrieved from <https://www.cdc.gov/hiv/pdf/risk/cdchiv-fs-syringe-services.pdf>.

- Harm Reduction Action Center
- Mental Health Colorado

Reasons to Oppose

Some assert that syringe access programs condone drug use and misuse. Furthermore, opponents may claim that expanding the places that can administer syringe access programs will increase the necessity for law enforcement to police issues that they believe will develop due to the program. However, according to the CDC these claims are not substantiated. Some say that allowing schools to have naloxone on the premises sends the wrong message to kids - that they can take drugs because opioid antagonists are on hand to save them – or that its presence is a crutch that will stop students from taking personal responsibility. Opponents may also cite the cost to the taxpayers to purchase naloxone. Some may assert that allowing for drug testing equipment to not be included as drug paraphernalia condones the use of illicit substances.

Opponents

- Any opposition has not been made public at this time.

Other Considerations

In regards to the section that requires a “person, who is not a private entity” that has an AED to also have naloxone. It is unknown what person would fall into this category as typically a private entity purchases and provides access to an AED. Further, it is unknown how this requirement would be enforced as there is no education or penalty component to the bill. There is no clarification whether there would be a liability issue if a person that has an AED available to the public is not aware of this requirement and has not stocked naloxone but an overdose occurs on or near the premises where the AED is located.

About this Analysis

This analysis was prepared by Health District of Northern Larimer County staff to assist the Health District Board of Directors in determining whether to take an official stand on various health-related issues. The Health District is a special district of the northern two-thirds of Larimer County, Colorado, supported by local property tax dollars and governed by a publicly elected five-member board. The Health District provides medical, mental health, dental, preventive and health planning services to the communities it serves. This analysis is accurate to staff knowledge as of date printed. For more information about this summary or the Health District, please contact Alyson Williams, Policy Coordinator, at (970) 224-5209, or e-mail at awilliams@healthdistrict.org.