



IN THE GENERAL ASSEMBLY STATE OF _____

An Act to Support Patient Health and Reduce Harm from Overdose

1 Be it enacted by the People of the State of _____, represented in the General
2 Assembly:

3 **Section 1. Title.** This act shall be known as and may be cited as the “An Act to Support Patient
4 Health and Reduce Harm from Overdose.”

5 **Section 2. Purpose.** The Legislature hereby finds and declares that:

- 6 a) Substance use disorders are chronic, treatable diseases.
- 7 b) Saving lives from an opioid-related overdose through administration of naloxone and
8 timely assistance from first responders and Good Samaritans benefits the public welfare
9 of our state.
- 10 c) Reducing the risk of disease transmission among people who share or inject drugs
11 (PWIDs) and drug paraphernalia constitutes a legitimate medical and public health
12 rationale for removing barriers to the use of new syringes, needles, and related equipment
13 or supplies.
- 14 d) Needle and syringe services programs (SSPs) are evidence-based initiatives that mitigate
15 health risks associated with illicit drug use and other high-risk behaviors.

- 1 e) SSPs connect PWID with important health care services, including treatment options for
2 substance use disorder.
- 3 f) The nation’s drug-related overdose epidemic also requires additional harm reduction
4 strategies such as the use of fentanyl test strips and other drug checking supplies.
- 5 g) The AMA strongly urges federal, state, and local governments to increase funding for
6 prevention and treatment so that people with substance use disorders have immediate
7 access to appropriate care, regardless of ability to pay. This includes actions to reduce the
8 spread of infectious disease, including HIV and hepatitis, among PWIDs.
- 9 h) In addition to expanding access to SSPs and drug checking supplies, including efforts to
10 encourage bystanders to call for help when witnessing a drug-related overdose are
11 needed. To meet this need, most states have enacted Good Samaritan laws that limit the
12 legal liability of the caller or person who experiences the overdose.
- 13 i) Some of these laws, however, have been limited in their effect because they allow for the
14 arrest or detention of the person who calls for help based on factors that may include
15 possession of drug paraphernalia or residual amounts of illicit drugs and may be grounds
16 to revoke parole, terminate public benefits or cause other harms.
- 17 j) Access to and use of harm reduction measures and acts in furtherance of Good Samaritan
18 laws also may be limited by fears that such programs and laws would require an
19 individual to disclose his or her name or other personal identification.
- 20 k) Increased access to naloxone has been helped by state laws that authorize individuals to
21 possess and administer naloxone via prescriptions or through standing orders. These

1 laws, however, do not always allow for health care professionals, harm reduction
2 organizations or individuals to distribute naloxone to everyone who may be at risk of
3 overdose or those who may be in a position to help someone at risk of overdose. There
4 also is a need to ensure that obtaining a prescription for naloxone does not adversely
5 affect an individual’s ability to obtain other forms of insurance, including life insurance.

6 **Section 3. Definitions.**

- 7 a) “Administer naloxone” means to give naloxone intravenously, intranasally,
8 intramuscularly, or through an auto-injector.
- 9 b) “Drug paraphernalia” shall have the same meaning as [insert section of state code]
- 10 c) “First responder” means an emergency medical responder, police officer, firefighter or
11 other authorized person who responds to emergencies in a professional or volunteer
12 capacity.
- 13 d) “Harm reduction organization” means an organization that provides direct assistance
14 and/r referrals to services, including but not limited to counseling, screening, and drug
15 treatment, to individuals at risk of experiencing overdose.
- 16 e) “Health information” means any information, whether oral or recorded in any form or
17 medium, that (1) is created or received by a harm reduction organization, health care
18 provider, health plan, public health authority, employer, life insurer, school or university,
19 or health care clearinghouse; and (2) relates to the past, present, or future physical or
20 mental health or condition of an individual; the provision of health care or other health-

1 related services to an individual; or the past, present, or future payment for the provision
2 of health care to an individual.

3 f) “Health care professional” means a person licensed under the professional licensing
4 statutes of this state to provide care to individuals, including those authorized to prescribe
5 or dispense drugs or devices approved by the U.S. Food and Drug Administration.

6 g) “Individually Identifiable Health Information” means information that is a subset of
7 health information, including demographic information collected from an individual, and
8 (1) is created or received by a harm reduction organization, health care provider, health
9 plan, employer, or health care clearinghouse; and (2) relates to the past, present, or future
10 physical or mental health or condition of an individual; the provision of health care to an
11 individual; or the past, present, or future payment for the provision of health care to an
12 individual; and (a) that identifies the individual; or (b) with respect to which there is a
13 reasonable basis to believe the information can be used to identify the individual.

14 h) “Opioid antagonist” means a drug that binds to opioid receptors and blocks or inhibits the
15 effects of opioids acting on those receptors, including but not limited to naloxone
16 hydrochloride or any other similarly acting drug approved by the U.S. Food and Drug
17 Administration.

18 i) “Opioid-related drug overdose” means a condition including decreased level of
19 consciousness, including coma, and respiratory depression, resulting from the
20 consumption or use of an opioid or another substance with which an opioid was

1 combined, or a condition that a reasonable person would believe to be an opioid-related
2 drug overdose that requires medical assistance.

3 j) Protected Health Information (PHI) means individually identifiable health information
4 transmitted by electronic media, maintained in electronic media, or transmitted or
5 maintained in any other form or medium.

6 k) “Syringe” includes both hypodermic syringes and needles.

7 **Section 4. Needle and hypodermic syringe services programs.**

8 a) Any governmental or nongovernmental organization, including a local or district health
9 department or an organization, or a harm reduction organization, may establish and
10 operate a needle and hypodermic syringe services program (SSP).

11 b) Prior to commencing operations of a program established pursuant to this section, the
12 governmental or nongovernmental organization shall report to the state department of
13 health, all of the following information:

- 14 1. The name of the organization or agency operating the program.
- 15 2. The areas and populations to be served by the program.
- 16 3. The methods by which the program will meet the requirements of this Act.

17 c) The objectives of the program shall be as follows:

- 18 1. Reduce the spread of HIV, AIDS, viral hepatitis, and other infectious bloodborne
19 diseases in this State.
- 20 2. Reduce needle stick injuries to law enforcement officers and other emergency
21 personnel.

- 1 3. Encourage individuals who inject drugs to enroll in evidence-based treatment.
- 2 4. Provide or provide referrals to opioid antagonists and other reversal agents to help
- 3 save lives from an opioid-related overdose or other substance.
- 4 d) To the extent practicable, and subject to funding and resources provided by the State and
- 5 other external sources, programs established pursuant to this section shall offer the
- 6 following services:
- 7 1. Secure storage and disposal of used needles and hypodermic syringes.
- 8 2. Sterile needles, hypodermic syringes, and other injection supplies at no cost and
- 9 in quantities sufficient to ensure that needles, hypodermic syringes, and other
- 10 injection supplies are not shared or reused. Public funds, grants or other
- 11 appropriations may be used to purchase needles, hypodermic syringes, or other
- 12 injection supplies.
- 13 3. Opioid antagonists.
- 14 4. The State shall provide funding to help a program provide the following
- 15 information to individuals inquiring, seeking or receiving services, but the
- 16 program shall not be required to provide or fund the creation or provision of this
- 17 information as a condition of offering or providing services covered under this
- 18 Act:
- 19 i. Overdose prevention;
- 20 ii. The prevention of HIV, AIDS, and viral hepatitis transmission;
- 21 iii. Prevention of drug-related overdose;

- 1 iv. Treatment for mental illness, including hotlines for treatment referrals;
- 2 v. Treatment for substance use disorders, including referrals for medication
- 3 assisted treatment, locations and contact information for Opioid Treatment
- 4 Programs or other evidence-based sites of care for the treatment of
- 5 substance use disorders;
- 6 vi. Access to naloxone hydrochloride;
- 7 e) For each individual requesting services, the program shall be encouraged, but not
- 8 required as a condition of providing services, to provide information, referral or access to
- 9 a health care professional, program employee or volunteer concerning mental health or
- 10 addiction.
- 11 1. Receipt of an individual’s name or other individually identifiable health
- 12 information shall not be a condition of receiving services, consultations or
- 13 referrals;
- 14 2. Any health information provided to the SSP or harm reduction organization
- 15 subject to this Act shall be considered protected health information and not
- 16 entered into the state PDMP or subject to disclosure to law enforcement or other
- 17 state officials without probable cause.
- 18 f) Notwithstanding any other provision of law, no employee, volunteer, or participant of a
- 19 syringe services program established pursuant to this Act shall not be arrested, charged
- 20 with or prosecuted for possession of any of the following:

- 1 1. Sterile or used needles, hypodermic syringes, or other injection supplies obtained
2 from or intended to be returned to a program established pursuant to this section,
3 including drug checking supplies.
- 4 2. Residual amounts of a controlled substance contained in a used needle, used
5 hypodermic syringe, or used injection supplies obtained from or intended to be
6 returned to a program established by or subject to this Act.
- 7 g) In addition to any other applicable immunity or limitation on civil liability, a law
8 enforcement officer who, acting on good faith, arrests or charges a person who is
9 thereafter determined to be entitled to immunity from prosecution under this section shall
10 not be subject to civil liability for the arrest or filing of charges.
- 11 h) An individual who is wrongly detained, arrested or prosecuted under this section shall
12 have the public record associated with the detainment, arrest or prosecution expunged.
- 13 i) A health care professional, or an employee or volunteer of an SSP or harm reduction
14 organization subject to this Act shall not be subject to professional sanction, detainment,
15 arrest or prosecution for carrying out the provisions of this Act.

16 **Section 5. Recording and Evaluation.**

- 17 a) The SSP or harm reduction organization subject to this Act shall put in place protocols
18 for recording and evaluation of its program, including:
- 19 1. Number of SSPs operated in the State;
20 2. Number of needles and syringes accepted for disposal;
21 3. Number of needles and syringes distributed; and

1 4. Number of individuals who were provided services, including the type of service
2 provided.

3 b) The information required under this Section shall be provided to the state department of
4 health on a semi-annual basis.

5 **Section 6. Extension of Good Samaritan Protections.**

6 a) A person acting in good faith who seeks medical assistance for another person who is
7 experiencing a drug-related overdose may not be arrested, charged, prosecuted or
8 otherwise penalized under the laws of this State for possession, sharing or use of any of
9 the following:

- 10 1. controlled substance(s), whether or not the controlled substance(s) were
11 prescribed to the individual
- 12 2. sterile or used needles and syringes
- 13 3. drug paraphernalia, including drug checking products that are used to determine
14 whether a controlled substance contains fentanyl or a fentanyl analog.
- 15 4. residual amounts of illicit drugs; or
- 16 5. an opioid antagonist

17 b) Distribution of naloxone authorized

- 18 1. Notwithstanding any other provision of law, all of the following may lawfully
19 purchase, possess, administer, and distribute an opioid antagonist or other FDA-
20 approved overdose reversal agent to a patient, third party, employee or other

1 individual who may be at risk of overdose or in a position to help someone at risk
2 of overdose:

- 3 i. Physician or other licensed health care professional
- 4 ii. Employee or volunteer with a harm reduction organization
- 5 iii. Individual who has obtained an opioid antagonist or other overdose
6 reversal agent via a prescription, standing order or means authorized under
7 this section
- 8 iv. Employer or employer's representative

9 c) Prohibition against adverse actions

- 10 1. When determining whether to issue, renew, cancel, or modify a policy of life
11 insurance, health insurance, or any other line of insurance, an insurer may not
12 decline applications, rescind coverage, or charge a higher premium based on
13 information revealing that a proposed insured has a prescription for an opioid
14 antagonist, carries an opioid antagonist or other FDA-approved overdose reversal
15 agent, or FDA-approved medication for the treatment of opioid use disorder.
- 16 2. The Department of Insurance shall promulgate regulations that prohibit any
17 policies by entities not engaged in the sale of health insurance that require
18 personally identifiable information associated with naloxone prescriptions or
19 purchases to be tracked, monitored, or utilized for non-clinical or non-public
20 health care purposes.

1 3. Violations under this section shall be subject to such fines and corrective actions
2 as determined by the Department.

3 **Section 7. Effective Date.** This Act shall become effective immediately upon being enacted
4 into law.

5 **Section 8. Severability.** If any provision of this Act is held by a court to be invalid, such
6 invalidity shall not affect the remaining provisions of this Act, and to this end the provisions of
7 this Act are hereby declared severable.