



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bills 858 and 859 (as reported without amendment)
Senate Bill 860 (Substitute S-2 as reported)
Sponsor: Senator Tonya Schuitmaker
Committee: Judiciary

CONTENT

The bills would amend the Public Health Code relative to the use of an opioid antagonist in response to an opioid-related overdose.

Senate Bill 858 would do the following:

- Specify that a person complying with the opioid antagonist prescribing and dispensing authority granted under Senate Bill 860 (S-2) would not be in violation of the Code's controlled substance prohibitions.
- Specify that a person who in good faith administered an opioid antagonist to a person whom he or she believed was suffering from an opioid-related overdose would not be subject to criminal prosecution or professional sanction.

Senate Bill 859 would do the following:

- Require emergency medical protocols to include requirements that life support vehicles have opioid antagonists and that emergency personnel were trained to administer them.
- Grant liability protection to certain people for the administration of an opioid antagonist to someone who was suffering or exhibiting symptoms of an opioid-related overdose.

Part 209 (Emergency Medical Services) of the Code requires a medical control authority to establish written protocols for the practice of life support agencies and licensed emergency medical services personnel within its region. Within six months after the bill's effective date, an authority would have to include protocols to ensure that each life support vehicle that provided medical first response life support, basic life support, or limited advanced life support was equipped with opioid antagonists and that each emergency services personnel was properly trained to administer the opioid antagonists.

Under Part 209, unless an act or omission is the result of gross negligence or willful misconduct, the acts or omissions of certain medical professionals do not impose liability in the treatment of a patient on those individuals or certain other people and entities. The bill would apply this liability protection to the administration of an opioid antagonist to an individual who was suffering or exhibiting symptoms of an opioid-related overdose.

Senate Bill 860 (S-2) would do the following:

- Authorize a prescriber to issue a prescription for, and a dispensing prescriber or pharmacist to dispense, an opioid antagonist.
- Grant civil liability protection to a prescriber, dispensing prescriber, or pharmacist who prescribed or dispensed an opioid antagonist that was administered or not administered, resulting in injury or death.
- Require the Department of Community Health (DCH) to publish an annual report on opioid-related overdoses in Michigan.

Specifically, the bill would amend Part 177 (Pharmacy Practice and Drug Control) of the Code to authorize a prescriber to issue a prescription for, and allow a dispensing prescriber or pharmacist to dispense, an opioid antagonist to an individual patient at risk of experiencing an opioid-related overdose; a family member, friend, or other individual in a position to assist a person at risk of experiencing an opioid-related overdose; or a person, other than an individual, that met all of the following requirements:

- Acted at the direction of the prescriber or dispensing prescriber.
- Upon receipt of an opioid antagonist, stored it in compliance with Part 177.
- Dispensed or administered an opioid antagonist under a valid prescription issued to an individual or a patient.
- Performed those requirements without charge or compensation.

A person acting in good faith and with reasonable care could possess and dispense an opioid antagonist.

A prescriber who issued a prescription for, or a dispensing prescriber or pharmacist who dispensed, an opioid antagonist as authorized under the bill would not be liable in a civil action for a properly stored and dispensed opioid antagonist that was a proximate cause of injury or death to an individual due to the administration of or failure to administer the opioid antagonist.

The bill would define "opioid-related overdose" as a condition that results from the consumption or use of an opioid or another substance with which an opioid was combined or that a layperson would reasonably believe to be an opioid-related overdose that requires medical assistance.

"Opioid antagonist" would mean naloxone hydrochloride or any other similarly acting and equally safe drug approved by the Food and Drug Administration for the treatment of drug overdose.

Each of the bills is tie-barred to the others and to Senate Bill 721, which would amend the Good Samaritan law to excuse from civil liability a person who in good faith believed that another individual was suffering from an opioid overdose and administered naloxone to that person.

Proposed MCL 333.7422 & 333.17744c (S.B. 858) Legislative Analyst: Patrick Affholter
MCL 333.20919 & 333.20965 (S.B. 859)
333.1106 et al. (S.B. 860)

FISCAL IMPACT

The immunity provision of Senate Bill 858 could potentially reduce the number of prosecutions and convictions for possession of controlled substances or sanctions for violation of professional licensing provisions, thus potentially reducing court and corrections costs and costs to the Department of Licensing and Regulatory Affairs. It is unclear how many current prosecutions would be averted, so a more precise estimate of savings cannot be derived. Senate Bill 859 would require the DCH to establish procedures that would be used to develop written protocols for medical control authorities. The DCH would incur minor administrative costs in establishing these procedures. Senate Bill 860 (S-2) would require an annual report from the DCH each year on opioid-related overdose fatalities in Michigan. The work necessary to create this annual report also would result in minor administrative costs for the DCH.

Date Completed: 5-2-14

Fiscal Analyst: Steve Angelotti

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