

Title 24.
Chapter 6J (New)
Overdose
Prevention.
§§1-6 –
C.24:6J-1 to
24:6J-6 & Note to
C.2C:35-30 &
2C:35-31
§§7&8 –
C.2C:35-30 &
2C:35-31
§9 - Note

P.L.2013, CHAPTER 46, *approved May 2, 2013*
Senate, No. 2082 (*Second Reprint*)

1 AN ACT concerning opioid antidotes and overdose prevention, and
2 supplementing Title 24 of the Revised Statutes ²and Title 2C of
3 the New Jersey Statutes².

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. This act shall be known and may be cited as the ²["Opioid
9 Antidote and Overdose"] "Overdose² Prevention Act."

10
11 2. ²["The Legislature finds and declares that naloxone is an
12 inexpensive and easily administered antidote to an opioid overdose.
13 Encouraging the wider prescription and distribution of naloxone or
14 similarly acting drugs to those at risk for an opioid overdose, or to
15 members of their families or peers, would reduce the number of
16 opioid overdose deaths and be in the best interests of the citizens of
17 this State"] The Legislature finds and declares that encouraging
18 witnesses and victims of drug overdoses to seek medical assistance
19 saves lives and is in the best interests of the citizens of this State
20 and, in instances where evidence was obtained as a result of seeking
21 of medical assistance, these witnesses and victims should be
22 protected from arrest, charge, prosecution, conviction, and
23 revocation of parole or probation for possession or use of illegal
24 drugs. Additionally, naloxone is an inexpensive and easily
25 administered antidote to an opioid overdose. Encouraging the wider
26 prescription and distribution of naloxone or similarly acting drugs
27 to those at risk for an opioid overdose, or to members of their

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SHH committee amendments adopted January 14, 2013.

²Senate amendments adopted in accordance with Governor's recommendations April 29, 2013.

1 families or peers, would reduce the number of opioid overdose
2 deaths and be in the best interests of the citizens of this State. It is
3 not the intent of the Legislature to protect individuals from arrest,
4 prosecution or conviction for other criminal offenses, including
5 engaging in drug trafficking, nor is it the intent of the Legislature to
6 in any way modify or restrict the current duty and authority of law
7 enforcement and emergency responders at the scene of a medical
8 emergency or a crime scene, including the authority to investigate
9 and secure the scene².

10
11 3. As used in this act:

12 “Commissioner” means the Commissioner of ¹[Health and
13 Senior] Human¹ Services.

14 ²“Drug overdose” means an acute condition including, but not
15 limited to, physical illness, coma, mania, hysteria, or death resulting
16 from the consumption or use of a controlled dangerous substance or
17 another substance with which a controlled dangerous substance was
18 combined and that a layperson would reasonably believe to require
19 medical assistance.

20 “Medical assistance” means professional medical services that
21 are provided to a person experiencing a drug overdose by a health
22 care professional, acting within the scope of his or her lawful
23 practice, including professional medical services that are mobilized
24 through telephone contact with the 911 telephone emergency
25 service.²

26 “Opioid antidote” means naloxone hydrochloride or any other
27 similarly acting drug approved by the United States Food and Drug
28 Administration for the treatment of an opioid overdose.

29 “Health care professional” means a physician, physician
30 assistant, advanced practice nurse, or other individual who is
31 licensed or whose professional practice is otherwise regulated
32 pursuant to Title 45 of the Revised Statutes, ²other than a
33 pharmacist,² and who, based upon the accepted scope of
34 professional authority, prescribes or dispenses an opioid ²[antitode]
35 antidote².

36 “Patient” includes a person who is not at risk of an opioid
37 overdose but who, in the judgment of a physician, may be in a
38 position to assist another individual during an overdose and who
39 has received patient overdose information as required by section 5
40 of this act on the indications for and administration of an opioid
41 antidote.

42
43 4. a. A health care professional ²or pharmacist² who, acting in
44 good faith, directly or through a standing order, prescribes or
45 dispenses an opioid antidote to a patient capable, in the judgment of
46 the health care professional, of administering the opioid antidote in
47 an emergency, shall not, as a result of the professional’s acts or

1 omissions, be subject to any criminal or civil liability, or any
2 professional disciplinary action under Title 45 of the Revised
3 Statutes ²for prescribing or dispensing an opioid antidote in
4 accordance with this act².

5 b. A person, other than a health care professional, may in an
6 emergency administer, without fee, an opioid antidote, if the person
7 has received patient overdose information pursuant to section 5 of
8 this act and believes in good faith that another person is
9 experiencing an opioid overdose. The person shall not, as a result
10 of the person's acts or omissions, be subject to any criminal or civil
11 ²liability, including any prosecution for the unlawful possession or
12 administering of a controlled dangerous substance, or disciplinary
13 action under Title 45 of the Revised Statutes for the unlawful
14 practice of medicine liability for administering an opioid antidote
15 in accordance with this act. In addition, the immunity provided for
16 in section 7 or section 8 of P.L. , c. (C.) (pending before the
17 Legislature as this bill) also shall apply to a person acting pursuant
18 to this section, provided that the requirements of section 7 or
19 section 8 also have been met².

20

21 5. a. A health care professional prescribing or dispensing an
22 opioid antidote to a patient shall ensure that the patient receives
23 patient overdose information. This information shall include, but is
24 not limited to: opioid overdose prevention and recognition; how to
25 perform rescue breathing and resuscitation; opioid antidote dosage
26 and administration; the importance of calling 911 emergency
27 telephone service for assistance with an opioid overdose; and care
28 for an overdose victim after administration of the opioid antidote.

29 b. In order to fulfill the distribution of patient overdose
30 information required by subsection a. of this section, the
31 information may be provided by the health care professional, or a
32 community-based organization, substance abuse organization, or
33 other organization which addresses medical or social issues related
34 to drug addiction that the health care professional maintains a
35 written agreement with, and that includes: procedures for providing
36 patient overdose information; information as to how employees or
37 volunteers providing the information will be trained; and standards
38 for documenting the provision of patient overdose information to
39 patients.

40 c. The provision of patient overdose information shall be
41 documented in the patient's medical record by a health care
42 professional, or through similar means as determined by any written
43 agreement between a health care professional and an organization
44 as set forth in subsection b. of this section.

45 d. The Commissioner of ¹Health and Senior Human¹
46 Services, in consultation with Statewide organizations representing
47 physicians, advanced practice nurses, or physician assistants, or

1 community-based programs, substance abuse programs, syringe
2 access programs, or other programs which address medical or social
3 issues related to drug addiction, may develop and disseminate '[, in
4 accordance with promulgated regulations,]' training materials in
5 video, electronic, or other formats to health care professionals or
6 organizations operating community-based programs, substance
7 abuse programs, syringe access programs, or other programs which
8 address medical or social issues related to drug addiction, to
9 facilitate the provision of patient overdose information.

10
11 6. a. The Commissioner of '[Health and Senior] Human'
12 Services may award grants, based upon any monies appropriated by
13 the Legislature, to create or support local opioid overdose
14 prevention, recognition, and response projects. County and
15 municipal health departments, correctional institutions, hospitals,
16 and universities, as well as organizations operating community-
17 based programs, substance abuse programs, syringe access
18 programs, or other programs which address medical or social issues
19 related to drug addiction may apply to the Department of '[Health
20 and Senior] Human' Services for a grant under this section, on
21 forms and in the manner prescribed by the commissioner.

22 b. In awarding any grant, the commissioner shall consider the
23 necessity for overdose prevention projects in various health care
24 facility and non-health care facility settings, and the applicant's
25 ability to develop interventions that will be effective and viable in
26 the local area to be served by the grant.

27 c. In awarding any grant, the commissioner shall give
28 preference to applications that include one or more of the following
29 elements:

30 (1) prescription and distribution of naloxone hydrochloride or
31 any other similarly acting drug approved by the United States Food
32 and Drug Administration for the treatment of an opioid overdose;

33 (2) policies and projects to encourage persons, including drug
34 users, to call 911 for emergency assistance when they witness a
35 potentially fatal opioid overdose;

36 (3) opioid overdose prevention, recognition, and response
37 education projects in syringe access programs, drug treatment
38 centers, outreach programs, and other programs operated by
39 organizations that work with, or have access to, opioid users and
40 their families and communities;

41 (4) opioid overdose recognition and response training, including
42 rescue breathing, in drug treatment centers and for other
43 organizations that work with, or have access to, opioid users and
44 their families and communities;

45 (5) the production and distribution of targeted or mass media
46 materials on opioid overdose prevention and response;

1 (6) the institution of education and training projects on opioid
2 overdose response and treatment for emergency services and law
3 enforcement personnel; and

4 (7) a system of parent, family, and survivor education and
5 mutual support groups.

6 d. In addition to any moneys appropriated by the Legislature,
7 the commissioner may seek money from the federal government,
8 private foundations, and any other source to fund the grants
9 established pursuant to this section, as well as to fund on-going
10 monitoring and evaluation of the programs supported by the grants.
11

12 7. ²[This act shall take effect on the first day of the second
13 month next following enactment, except that the Commissioner of
14 '[Health and Senior] Human' Services shall take any anticipatory
15 action in advance thereof as shall be necessary for the
16 implementation of the act.] a. A person who, in good faith, seeks

17 medical assistance for someone experiencing a drug overdose shall
18 not be:

19 (1) arrested, charged, prosecuted, or convicted for obtaining,
20 possessing, using, being under the influence of, or failing to make
21 lawful disposition of, a controlled dangerous substance or controlled
22 substance analog pursuant to subsection a., b., or c. of N.J.S.2C:35-
23 10;

24 (2) arrested, charged, prosecuted, or convicted for inhaling the
25 fumes of or possessing any toxic chemical pursuant to subsection b.
26 of section 7 of P.L.1999, c.90 (C.2C:35-10.4);

27 (3) arrested, charged, prosecuted, or convicted for using,
28 obtaining, attempting to obtain, or possessing any prescription
29 legend drug or stramonium preparation pursuant to subsection b., d.,
30 or e. of section 8 of P.L.1999, c.90 (C.2C:35-10.5);

31 (4) arrested, charged, prosecuted, or convicted for acquiring or
32 obtaining possession of a controlled dangerous substance or
33 controlled substance analog by fraud pursuant to N.J.S.2C:35-13;

34 (5) arrested, charged, prosecuted, or convicted for unlawfully
35 possessing a controlled dangerous substance that was lawfully
36 prescribed or dispensed pursuant to N.J.S.2C:35-24;

37 (6) arrested, charged, prosecuted, or convicted for using or
38 possessing with intent to use drug paraphernalia pursuant to
39 N.J.S.2C:36-2 or for having under his control or possessing a
40 hypodermic syringe, hypodermic needle, or any other instrument
41 adapted for the use of a controlled dangerous substance or a
42 controlled substance analog pursuant to subsection a. of
43 N.J.S.2C:36-6;

44 (7) subject to revocation of parole or probation based only upon
45 a violation of offenses described in subsection a. (1) through (6) of
46 this section, provided, however, this circumstance may be
47 considered in establishing or modifying the conditions of parole or
48 probation supervision.

1 b. The provisions of subsection a. of this section shall only
2 apply if:

3 (1) the person seeks medical assistance for another person who
4 is experiencing a drug overdose and is in need of medical
5 assistance; and

6 (2) the evidence for an arrest, charge, prosecution, conviction,
7 or revocation was obtained as a result of the seeking of medical
8 assistance.

9 c. Nothing in this section shall be construed to limit the
10 admissibility of any evidence in connection with the investigation
11 or prosecution of a crime with regard to a defendant who does not
12 qualify for the protections of this act or with regard to other crimes
13 committed by a person who otherwise qualifies for protection
14 pursuant to this act. Nothing in this section shall be construed to
15 limit any seizure of evidence or contraband otherwise permitted by
16 law. Nothing herein shall be construed to limit or abridge the
17 authority of a law enforcement officer to detain or take into custody
18 a person in the course of an investigation or to effectuate an arrest
19 for any offense except as provided in subsection a. of this section.
20 Nothing in this section shall be construed to limit, modify or
21 remove any immunity from liability currently available to public
22 entities or public employees by law.²

23
24 ²8. a. A person who experiences a drug overdose and who seeks
25 medical assistance or is the subject of a good faith request for
26 medical assistance pursuant to section 4 of this act shall not be:

27 (1) arrested, charged, prosecuted, or convicted for obtaining,
28 possessing, using, being under the influence of, or failing to make
29 lawful disposition of, a controlled dangerous substance or controlled
30 substance analog pursuant to subsection a., b., or c. of N.J.S.2C:35-
31 10;

32 (2) arrested, charged, prosecuted, or convicted for inhaling the
33 fumes of or possessing any toxic chemical pursuant to subsection b.
34 of section 7 of P.L.1999, c.90 (C.2C:35-10.4);

35 (3) arrested, charged, prosecuted, or convicted for using,
36 obtaining, attempting to obtain, or possessing any prescription
37 legend drug or stramonium preparation pursuant to subsection b., d.,
38 or e. of section 8 of P.L.1999, c.90 (C.2C:35-10.5);

39 (4) arrested, charged, prosecuted, or convicted for acquiring or
40 obtaining possession of a controlled dangerous substance or
41 controlled substance analog by fraud pursuant to N.J.S.2C:35-13;

42 (5) arrested, charged, prosecuted, or convicted for unlawfully
43 possessing a controlled dangerous substance that was lawfully
44 prescribed or dispensed pursuant to N.J.S.2C:35-24;

45 (6) arrested, charged, prosecuted, or convicted for using or
46 possessing with intent to use drug paraphernalia pursuant to
47 N.J.S.2C:36-2 or for having under his control or possessing a
48 hypodermic syringe, hypodermic needle, or any other instrument

1 adapted for the use of a controlled dangerous substance or a
2 controlled substance analog pursuant to subsection a. of
3 N.J.S.2C:36-6;

4 (7) subject to revocation of parole or probation based only upon
5 a violation of offenses described in subsection a. (1) through (6) of
6 this section, provided, however, that this circumstance may be
7 considered in establishing or modifying the conditions of parole or
8 probation supervision

9 b. The provisions of subsection a. of this section shall only
10 apply if the evidence for an arrest, charge, prosecution, conviction
11 or revocation was obtained as a result of the seeking of medical
12 assistance.

13 c. Nothing in this section shall be construed to limit the
14 admissibility of any evidence in connection with the investigation
15 or prosecution of a crime with regard to a defendant who does not
16 qualify for the protections of this act or with regard to other crimes
17 committed by a person who otherwise qualifies for protection
18 pursuant to this act. Nothing in this section shall be construed to
19 limit any seizure of evidence or contraband otherwise permitted by
20 law. Nothing herein shall be construed to limit or abridge the
21 authority of a law enforcement officer to detain or take into custody
22 a person in the course of an investigation or to effectuate an arrest
23 for any offense except as provided in subsection a. of this section.
24 Nothing in this section shall be construed to limit, modify or
25 remove any immunity from liability currently available to public
26 entities or public employees by law.²

27
28 ²9. Sections 1 through 6 of this act shall take effect on the first
29 day of the second month next following enactment, except that the
30 Commissioner of Human Services shall take any anticipatory action
31 in advance thereof as shall be necessary for the implementation of
32 the act and sections 7 and 8 shall take effect immediately.²

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“Overdose Prevention Act.”