

# Legislative Analysis



## ADMINISTRATION OF OPIOID ANTAGONISTS ACT

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<http://www.house.mi.gov/hfa>

**House Bill 4367 as enacted**  
**Public Act 39 of 2019**  
**Sponsor: Rep. Jason M. Sheppard**

Analysis available at  
<http://www.legislature.mi.gov>

**Senate Bill 200 as enacted**  
**Public Act 36 of 2019**  
**Sponsor: Sen. Paul Wojno**

**Senate Bill 282 as enacted**  
**Public Act 37 of 2019**  
**Sponsor: Sen. Curtis S. VanderWall**

**Senate Bill 283 as enacted**  
**Public Act 38 of 2019**  
**Sponsor: Sen. Peter J. Lucido**

**House Committee: Government Operations**  
**Senate Committee: Health Policy and Human Services**  
**Complete to 7-2-19**

**BRIEF SUMMARY:** House Bill 4367 creates a new act called the Administration of Opioid Antagonists Act, which allows a governmental agency to purchase and possess an opioid antagonist and distribute it to an employee or agent who has been trained in its use. The employee or agent may administer it under certain circumstances; the bill provides immunity for its good-faith administration. Senate Bills 200, 282, and 283 make complementary changes to the Public Health Code and the Revised School Code.

**FISCAL IMPACT:** House Bill 4367 would have no fiscal impact on the state or local units of government because the bill permits, rather than requires, agencies to carry opioid antagonists. Senate Bills 200, 282, and 283 would have no fiscal impact on state or local government.

### **THE APPARENT PROBLEM:**

Naloxone hydrochloride is a nonaddictive drug that can safely and rapidly reverse the effects of an opioid overdose. It is commonly known by the brand names Narcan (a nasal spray) and Evzio (a prefilled auto-injection device). Administered to an individual whose breathing has slowed or stopped due to overdosing with heroin or a prescription opioid, naloxone can very quickly restore normal breathing. That is, it can save lives, especially if it is available to be administered during the crucial moments before emergency medical help is on the scene.

In 2016, Michigan passed a naloxone standing order law, which allows a pharmacist to dispense the drug without the need to identify a particular patient. This allows friends or family members—or any individual—to obtain naloxone to use in an emergency.

Michigan has also enacted “Good Samaritan” protections from civil and criminal liability for individuals who administer naloxone in good faith to someone whom they believe to be suffering the immediate effects of an opioid-related overdose. Other laws have more specifically provided greater access to naloxone, and have limited individual and institutional liability for its good-faith use, for law enforcement, emergency services, and school personnel

and entities. Legislation was offered to consolidate and expand these Good Samaritan laws and laws concerning opioid antagonist accessibility, to make opioid antagonists more readily available in the interest of preventing further opioid-related overdose deaths.

### ***THE CONTENT OF THE BILLS:***

**House Bill 4367** creates a new act called the *Administration of Opioid Antagonists Act*. The act allows an ***agency*** to purchase and possess an ***opioid antagonist*** and distribute it to an ***employee or agent*** who has been trained in its use. The employee or agent may possess an opioid antagonist given to him or her by the agency. If trained in the proper administration of the opioid antagonist, the employee or agent may administer it to an individual who he or she has reason to believe is experiencing an opioid-related overdose.

***Agency*** means any of the following (but does not include a life support agency or other provider of emergency medical services):

- This state and its agencies, departments, commissions, courts, boards, and statutorily created task forces
- A public university or college of this state.
- A city, village, or township or any combination of them when acting jointly.
- A county, county road commission, school district, public library, port district, metropolitan district, or transportation authority; a combination of these entities acting jointly; a district or authority authorized by law or formed by one or more of these entities; or an agency, department, court, board, or council of any of these entities.

***Employee or agent*** means an individual who is employed by an agency, who is under contract with an agency, who serves on the governing body of an agency, or who volunteers with an agency.

***Opioid antagonist*** means naloxone hydrochloride or an equally safe and effective drug approved by the Food and Drug Administration for the treatment of drug overdose.

Under the new act, the agency and the employee or agent are immune from civil liability for injuries or damages arising from the good-faith administration of an opioid antagonist to an individual unless that conduct amounts to gross negligence that is the proximate cause of the injury or damage. The agency and the employee or agent are not subject to a criminal prosecution for purchasing, possessing, distributing, or administering an opioid antagonist, as applicable, under the act. The immunity described in this paragraph is in addition to any immunity otherwise provided by law.

HB 4367 also repeals 2014 PA 462, which provided access to opioid antagonists for certain law enforcement agencies and police officers and provided immunity for their use similar to that described above.

**Senate Bill 200** amends section 17744b of the Public Health Code, which previously allowed an opioid antagonist to be prescribed and dispensed to a school board and to be possessed and administered by a school employee who had been trained in its use.

The bill instead allows an opioid antagonist to be prescribed and dispensed to an agency authorized under the *Administration of Opioid Antagonists Act* and to be possessed and administered by an employee or agent of the agency under that act.

MCL 333.17744b

**Senate Bill 282** amends the Public Health Code. Under section 20919, by October 15, 2015, a medical control authority had to establish written protocols for life support agencies and emergency medical services (EMS) personnel within its region that ensured that each life support vehicle dispatched was equipped with opioid antagonists and that all EMS personnel were properly trained in their administration. Beginning October 14, 2017, a medical control authority may elect to rescind or continue this protocol at its discretion.

The bill makes no substantive change to this section; it removes reference to the past dates when these provisions became effective.

MCL 333.20919

**Senate Bill 283** amends the Revised School Code to remove provisions that previously provided immunity from civil or criminal liability for a school employee who administered an opioid antagonist in good faith (except for acts or omissions amounting to gross negligence or willful and wanton misconduct). The bill also repeals section 1179b, which, among other things, allowed a school board to require that at least two employees in each school it operated had to be trained in the proper administration of an opioid antagonist.

Under the *Administration of Opioid Antagonists Act*, a school district may purchase and possess an opioid antagonist and distribute it to an employee trained in its use. That act also governs the drug's administration by an employee and provides for immunity for its good-faith use.

MCL 380.5 and 380.1178; MCL 380.1179b (repealed)

The bills take effect September 24, 2019.

#### **ARGUMENTS:**

##### **For:**

According to DHHS, the number of drug overdose deaths in Michigan rose to 2,729 in 2017, continuing an upward trend since 2012. Over 70% of these deaths (1,941 cases) were opioid-related.<sup>1</sup> (By comparison, there were 1,028 traffic crash fatalities in Michigan in 2017.) The number of opioid-related overdose deaths in Michigan has nearly tripled since 2012, when 681

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<sup>1</sup> [https://www.michigan.gov/opioids/0,9238,7-377-88143\\_88334\\_88340-480039--,00.html](https://www.michigan.gov/opioids/0,9238,7-377-88143_88334_88340-480039--,00.html)

such deaths were recorded. Nationally, opioid overdoses kill an estimated 130 Americans every day.<sup>2</sup>

As part of the continuing efforts to address opioid use in this state, the Michigan Prescription Drug and Opioid Abuse Task Force released its report of findings and recommendations for action in October of 2015.<sup>3</sup> Among its findings and recommendations were the following:

- “Naloxone is a safe and life-saving drug that should be more accessible... The Task Force recommends pharmacists be allowed to dispense Naloxone to the public in similar fashion to how pseudoephedrine is currently dispensed.”
- “Responding to an emergency should be the priority when administering Naloxone. It is essential that anyone administering Naloxone should not be hesitant to do so because of criminal and civil liabilities.”

Supporters of the bills argued that they would help make opioid antagonists such as naloxone more accessible and more readily available for use in an emergency.

***For:***

Libraries in particular, according to news reports and committee testimony, are becoming more frequent sites of drug use and overdose deaths, in Michigan and nationwide. As *American Libraries* put it, “[T]he fact that libraries are open to all, offer relative anonymity, and generally allow patrons to stay as long as they like make them uniquely vulnerable to those seeking a place to use drugs.”<sup>4</sup> According to committee testimony, although Michigan’s Good Samaritan laws would shield from liability an individual who administers an opioid antagonist to someone suffering an overdose, libraries themselves may be hesitant to keep or provide such drugs because institutionally they would not be so shielded.<sup>5</sup> Supporters argued that the bills would address these concerns.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

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<sup>2</sup> <https://www.cdc.gov/drugoverdose/epidemic/index.html>

<sup>3</sup> [http://www.michigan.gov/documents/snyder/Prescription\\_Drug\\_and\\_Opioid\\_Task\\_Force\\_Report\\_504140\\_7.pdf](http://www.michigan.gov/documents/snyder/Prescription_Drug_and_Opioid_Task_Force_Report_504140_7.pdf)

<sup>4</sup> <https://americanlibrariesmagazine.org/2017/06/21/saving-lives-in-the-stacks/>

<sup>5</sup> The Public Health Code allows a *person* to administer naloxone, and limits the liability of a *person* for doing so in good faith, but the term *person* as defined in that act expressly does not include governmental entities.