SENATE BILL REPORT
SB 5195

As of February 18, 2021

Title: An act relating to prescribing opioid overdose reversal medication.

Brief Description: Concerning prescribing opioid overdose reversal medication. [**Revised for 1st Substitute:** Concerning opioid overdose reversal medication.]

Sponsors: Senators Liias, Muzzall, Das, Dhingra, Nguyen and Wilson, C..

Brief History:
Committee Activity: Health & Long Term Care: 1/20/21 [w/oRec-BH].
Behavioral Health Subcommittee to Health & Long Term Care: 1/22/21, 2/05/21 [DPS-WM, w/oRec].
Ways & Means: 2/18/21.

Brief Summary of First Substitute Bill

- Requires a hospital to dispense opioid overdose reversal medication to a patient with symptoms of an opioid overdose, opioid use disorder, or another adverse event related to opioid use upon discharge.
- Requires a community behavioral health system provider to prescribe or dispense opioid reversal medication to a client with symptoms of an opioid use disorder or who reports recent unauthorized opioid use if the client does not already have a prescription.
- Requires Medicaid managed care organizations to reimburse hospitals for providing opioid overdose reversal medication to Medicaid patients.
- Requires the Health Care Authority to assist hospital emergency departments and providers in complying with this act.

SENATE COMMITTEE ON BEHAVIORAL HEALTH SUBCOMMITTEE TO HEALTH & LONG TERM CARE

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: That Substitute Senate Bill No. 5195 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.
Signed by Senators Dhingra, Chair; Frockt and Nobles.

Minority Report: That it be referred without recommendation.
Signed by Senators Wagoner, Ranking Member; Warnick.

Staff: Kevin Black (786-7747)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Corban Nemeth (786-7736)

Background: The Department of Health (DOH) licenses and regulates healthcare professions and facilities in Washington State. Under current law, practitioners that have prescribing authority include licensed physicians, physician assistants, osteopaths, optometrists, dentists, podiatrists, veterinarians, nurse practitioners, naturopaths, and pharmacists.

Opioids include prescription pain medications, heroin, and synthetic opioids such as fentanyl. An excess amount of opioid in the body can cause extreme physical illness, decreased level of consciousness, respiratory depression, coma, or death. Opioid overdose reversal medications, such as Narcan, Naloxone, and Evzio, can be administered to an individual experiencing an opioid overdose to rapidly restore normal breathing. These medications may be injected intravenously in muscle, or sprayed into the nose.

Opioid reversal medication is defined in law as any drug used to reverse an opioid overdose that binds to opioid receptors and blocks or inhibits the effects of opioids acting on those receptors. It does not include intentional administration via the intravenous route.

Summary of Bill (First Substitute): A hospital must provide a patient with opioid overdose reversal medication upon discharge, unless the provider deems in to be clinically inappropriate to do so, if the person presents with symptoms of an opioid overdose, opioid use disorder, or other adverse event related to opioid use in an emergency department or medical floor of the hospital. The medication may be dispensed using technology used to dispense opioid medications. Effective January 1, 2022, the hospital must provide information and resources to a person who receives the medication prepared by the Health Care Authority about medication for opioid use disorder, harm reduction strategies, and services which may be available such as substance use disorder treatment and peer counselors. The information should be provided in all languages relevant to the community which the hospital serves.

All community behavioral health system providers must confirm that each client who presents with symptoms of an opioid use disorder or who reports recent use of opioids

outside of legal authority has opioid reversal medication. If the client does not, they must prescribe an opioid reversal medication to the client, or use the statewide Naloxone standing order to assist the client in directly obtaining opioid reversal medication, by directly dispensing, partnering with a pharmacy, or other means. The times when this requirement applies are at intake, discharge, during an outpatient treatment plan review, and when the provider learns that the client has used their supply of opioid overdose reversal medication or otherwise believes based on clinical judgment that it is appropriate to provide the medication. The provider must bill the client's insurance to the extent possible.

The Health Care Authority (HCA) must provide technical assistance to hospitals and community behavioral health agencies to assist them in complying with this act. In doing so, HCA must collaborate with the DOH and the Office of the Insurance Commissioner.

Hospitals and community behavioral health providers must bill the patient's insurance to the extent possible to receive reimbursement for dispensing or assisting with opioid overdose reversal medication. Medicaid, including managed care plans, must reimburse providers for opioid overdose reversal medication dispensed by a hospital and billed on a medical claim for Medicaid members. Labelling requirements are waived for opioid overdose reversal medication dispensed under this act, but directions for use must be provided.

Violations of requirements relating to dispensing opioid overdose reversal medication in hospitals are not considered unprofessional conduct and shall not be subject to disciplinary action by the Department of Health.

EFFECT OF CHANGES MADE BY BEHAVIORAL HEALTH SUBCOMMITTEE TO HEALTH & LONG TERM CARE COMMITTEE (First Substitute):

- Expands the settings and the criteria in which patients or clients must be assisted with obtaining opioid overdose reversal medication.
- Requires hospitals to provide information and resources provided by the Health Care Authority about opioid use disorder, harm reduction, and treatment options when the hospitals dispense opioid overdose reversal medication, effective January 1, 2022.
- Requires Medicaid managed care plans to reimburse providers for opioid overdose reversal medication dispensed by a hospital and billed on a medical claim for Medicaid members.
- Exempts hospital personnel from charges of unprofessional conduct or disciplinary action for failing to provide opioid overdose reversal medication to discharging patients.
- Waives labelling requirements for opioid overdose reversal medication provided by a hospital or community behavioral health provider under this act, and requires directions to be provided for using the opioid overdose reversal medication.

Appropriation: None.

Fiscal Note: Requested on January 20, 2021.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Proposed Substitute (Behavioral Health Subcommittee to Health & Long Term Care): *The committee recommended a different version of the bill than what was heard.* PRO: There are 131 Americans that die every day from an opioid overdose. Over the last 20 years, over 450,000 people have died for this reason. This is a public health emergency, and we have life-saving medication which can reverse this crisis. Unfortunately, not enough people have the medication who need it. We currently pay to give Naloxone to people who are Medicaid eligible using flexible federal funds, instead of using their Medicaid prescription benefit, which ties up funds that could be deployed for other purposes. The goal is to save lives; we are not succeeding where we should. COVID-19 has made support groups that people rely on less effective or out of reach for many, despite digital tools, which not everyone can access because of poverty. Fatal ovedoses have spiked in the previous year. Opioid overdoses are preventable and reversible. Making Naloxone kits part of the discharge process in Washington State would save countless lives. I woke up in the ER in 2017 to find out I had been in a coma for five days after overdosing on heroin. Naloxone saved my life. As a person in recovery and have had more than one overdose experience, two doses of Naloxone were required to save my life when the paramedics arrived. Now I have 18 months in recovery and another chance at life and motherhood. My son was so ashamed of his addiction he would never fill a prescription for Naloxone. He overdosed without access to Naloxone and died. Recovery is possible. If we make opioid reversal medication more easily accessible we will save more lives. In 2020, 531 people lost their lives due to overdose deaths in King County, 100 more than in the previous year, a three-fold expansion of the rate of increase. The trend is continuing in 2021. Two thirds of overdoes would have been reversible with Naloxone. The tools are there but we are not implementing them. Only 38 out of over 10,000 Medicaid clients with opioid use disorder attempted to fill a prescription for Naloxone last year. People need to leave care with Naloxone, not just a prescription for Naloxone. Providers tell us you have to put the drug in people's hands or they will not get it. We need your help. We cannot allow bureaucratic and administrative barriers to stand in the way of saving the lives of our most vulnerable citizens. My brother died of an overdose and could have been saved by Naloxone.

OTHER: We agree with the concept but have concerns how to make the bill work. Not all hospitals can dispense drugs, because they do not have pharmacy resources. We have not confirmed that Medicaid will reimburse for Naloxone as a take-home medication because of a three-day dose requirement, and there might be a need for a waiver. These questions should be answered before adopting a mandate. Some hospitals try to provide Naloxone but it is a patchwork approach and reimbursement is often not available. Emergency departments may not know which clients have an opioid use disorder; they would have to

do an assessment which is difficult. Substance use disorder peers are not widely available or available outside of the Medicaid program. We have concerns about legislating the practice of medicine. We see several hundred overdoes per year in our pharmacy; we did not get reimbursed last year for Naloxone prescriptions except for two occasions. Not all hospitals have adequate resources to absorb the costs. There might not be access to sufficient supply of the medications. The logistics of how to determine when clients have access to Naloxone are confusing. Referrals to substance disorder peers specialists are not as straightforward as they seem. The billing requirements seem overly prescriptive. Billing processes and entities change over time. This mandate would require additional staff and would have a financial impact.

Persons Testifying (Behavioral Health Subcommittee to Health & Long Term Care): PRO: Senator Marko Liias, Prime Sponsor; Ely Hernandez, Washington Recovery Alliance; Sevon Hill, citizen; Liza Lyubomirski, citizen; Colleen Keefe, citizen; Brad Finegood, Public Health of Seattle and King County.

OTHER: Cameron Buck MD, Washington Chapter, American College of Emergency Physicians; Katie Kolan, Washington State Psychiatric Association, Washington State Hospital Association, Washington State Medical Association; Terri Card, Greater Lakes Mental Healthcare.

Persons Signed In To Testify But Not Testifying (Behavioral Health Subcommittee to Health & Long Term Care): No one.

Staff Summary of Public Testimony (Ways & Means): PRO: The goal of this bill is to get more Naloxone into the hands of those who need it, at a low cost, and to save lives. I recently went through a relapse. The next thing I knew I was surrounded by paramedics and they asked me to go to the ER. They gave me two doses of Naloxone. After that, I knew I needed to get better, for me and my son. Naloxone gave me another chance at life and another chance at motherhood. We continue to see overdose deaths rise this year, and these deaths are preventable with Naloxone. Progress has stalled when attempting to integrate Medicaid. Agencies felt that they did not need to bill Medicaid because of a Department of Health distribution. This bill ensures we maximize Medicaid benefits instead of relying on grant funding that can be used strategically elsewhere.

OTHER: This is a good bill and an important strategy. We need to reduce opiate overdose deaths. The main outstanding point is the funding source for medication. Specifically, we want to make sure Medicaid reimburses for costs under Section 3 of the bill. The Health Care Authority currently reimburses for costs when this is dispersed in emergency departments. We are very thankful for the work done on the bill so far. One option would be to scope this bill back to focusing on emergency rooms. The Medical Association is proud to work on removing barriers to opioid reversal medication. More work needs to be done on this bill. The Medical Association supports access to this medication and is committed to get this right.

Persons Testifying (Ways & Means): PRO: Liza Lyubomirski, Washington Recovery Alliance; Mandy Sladky, Public Health, Seattle & King County.

OTHER: Katie Kolan, Washington State Hospital Association and Washington State Psychiatric Association; Jeb Shepard, Washington State Medical Association.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.