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**SUBSTITUTE SENATE BILL 5464**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senate Health & Long Term Care (originally sponsored by Senators Frockt, Das, Darneille, Takko, Palumbo, Sheldon, Keiser, Wilson, C., Hunt, Saldaña, and Kuderer)

READ FIRST TIME 02/22/19.

1 AN ACT Relating to opioid overdose medication at schools with  
2 grades five through twelve and higher education institutions;  
3 amending RCW 28A.210.260 and 28A.210.270; adding new sections to  
4 chapter 28A.210 RCW; adding a new section to chapter 28B.10 RCW; and  
5 creating a new section.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

8 (a) According to the centers for disease control and prevention,  
9 the United States is in the midst of an opioid overdose epidemic;

10 (b) In 2017, opioids, including prescription opioids, heroin, and  
11 fentanyl, killed more than forty-nine thousand people in the United  
12 States. In 2017, opioids killed six hundred ninety-three people in  
13 Washington and caused over one thousand six hundred hospitalizations  
14 for opioid overdose;

15 (c) One way to prevent opioid overdose deaths is to expand access  
16 to and use of nonaddictive, opioid overdose medications, such as  
17 naloxone, that can reverse the effects of an opioid overdose when  
18 administered in time;

19 (d) The centers for disease control and prevention indicates that  
20 access to naloxone can be expanded through: Standing orders at  
21 pharmacies; distribution through local, community-based

1 organizations; access to and use by law enforcement officials; and  
2 training for basic emergency medical service staff on how to  
3 administer the drug;

4 (e) In 2016, syringe service programs in Washington distributed  
5 three thousand six hundred forty naloxone kits and reported six  
6 hundred ninety overdose reversals; and

7 (f) It is unknown: How many opioid overdose incidents occur on  
8 the property of schools and higher education institutions each year;  
9 whether these schools and institutions maintain opioid overdose  
10 medication through a standing order for the purpose of assisting a  
11 person at risk of experiencing an opioid-related overdose; or whether  
12 these schools and institutions train staff to administer opioid  
13 overdose medication.

14 (2) The legislature recognizes that it has taken steps to respond  
15 to the opioid overdose epidemic, including: (a) Permitting health  
16 care practitioners to administer, prescribe, and dispense opioid  
17 overdose medication to any person who may be present at an overdose;  
18 (b) permitting people who may be present at an opioid overdose to  
19 possess and administer opioid overdose medication prescribed by an  
20 authorized health care practitioner; (c) limiting the liability of  
21 practitioners, pharmacists, and other people who possess and  
22 administer naloxone; and (d) limiting the liability of people  
23 experiencing a drug-related overdose who are in need of medical  
24 assistance and people acting in good faith to seek medical assistance  
25 for someone experiencing a drug-related overdose.

26 (3) Using its general police power to prescribe laws tending to  
27 promote the health and welfare of the people of the state, the  
28 legislature intends to increase access to opioid overdose medication  
29 at postelementary grade schools and higher education institutions.

30 NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.210  
31 RCW to read as follows:

32 (1) For the purposes of this section:

33 (a) "Opioid overdose medication" means any drug used to reverse  
34 an opioid overdose that binds to opioid receptors and blocks or  
35 inhibits the effects of opioids acting on those receptors. "Opioid  
36 overdose medication" does not include autoinjectors or intentional  
37 administration via the intravenous route;

38 (b) "Opioid-related overdose" has the meaning provided in RCW  
39 69.41.095;

1 (c) "School" means a public school, school district, or  
2 educational service district with any of grades kindergarten through  
3 twelve; and

4 (d) "Standing order" has the meaning provided in RCW 69.41.095.

5 (2)(a) For the purpose of assisting a person at risk of  
6 experiencing an opioid-related overdose, a school may obtain and  
7 maintain opioid overdose medication through a standing order  
8 prescribed and dispensed in accordance with RCW 69.41.095.

9 (b) Opioid overdose medication may be obtained from donation  
10 sources, but must be maintained and administered in a manner  
11 consistent with a standing order issued in accordance with RCW  
12 69.41.095.

13 (c) A school district with two thousand or more students must  
14 obtain and maintain at least one set of opioid overdose medication  
15 doses in each of its schools as provided in (a) and (b) of this  
16 subsection. Schools with any of the grades kindergarten through four  
17 are not required to obtain and maintain at least one set of opioid  
18 overdose medication doses.

19 (3)(a) The following personnel may distribute or administer the  
20 school-owned opioid overdose medication to respond to symptoms of an  
21 opioid-related overdose pursuant to a prescription or a standing  
22 order issued in accordance with RCW 69.41.095: (i) A school nurse;  
23 (ii) a health care professional or trained staff person located at a  
24 health care clinic on public school property or under contract with  
25 the school district; or (iii) designated trained school personnel.

26 (b) Opioid overdose medication may be used on school property,  
27 including the school building, playground, and school bus, as well as  
28 during field trips or sanctioned excursions away from school  
29 property. A school nurse or designated trained school personnel may  
30 carry an appropriate supply of school-owned opioid overdose  
31 medication on field trips or sanctioned excursions.

32 (4) Training for school personnel who have been designated to  
33 distribute or administer opioid overdose medication under this  
34 section must meet the requirements for training described in section  
35 3 of this act and any rules or guidelines for such training adopted  
36 by the office of the superintendent of public instruction. Each  
37 school is encouraged to designate and train at least one school  
38 personnel to distribute and administer opioid overdose medication if  
39 the school does not have a full-time school nurse or trained health  
40 care clinic staff.

1 (5) (a) The liability of a person or entity who complies with this  
2 section and RCW 69.41.095 is limited as described in RCW 69.41.095.

3 (b) If a student is injured or harmed due to the administration  
4 of opioid overdose medication that a practitioner, as defined in RCW  
5 69.41.095, has prescribed and a pharmacist has dispensed to a school  
6 under this section, the practitioner and pharmacist may not be held  
7 responsible for the injury unless he or she acted with conscious  
8 disregard for safety.

9 NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.210  
10 RCW to read as follows:

11 (1) For the purposes of this section:

12 (a) "Opioid overdose medication" means any drug used to reverse  
13 an opioid overdose that binds to opioid receptors and blocks or  
14 inhibits the effects of opioids acting on those receptors. "Opioid  
15 overdose medication" does not include autoinjectors or intentional  
16 administration via the intravenous route; and

17 (b) "Opioid-related overdose" has the meaning provided in RCW  
18 69.41.095.

19 (2) (a) To prevent opioid-related overdoses and respond to medical  
20 emergencies resulting from overdoses, by the 2019-20 school year, the  
21 office of the superintendent of public instruction, in consultation  
22 with the department of health, shall develop opioid-related overdose  
23 policy guidelines and training requirements for public schools and  
24 school districts.

25 (b) (i) The opioid-related overdose policy guidelines and training  
26 requirements must include information about: The identification of  
27 opioid-related overdose symptoms; how to obtain and maintain opioid  
28 overdose medication on school property issued through a standing  
29 order in accordance with section 2 of this act; the distribution and  
30 administration of opioid overdose medication by designated trained  
31 school personnel; and sample standing orders for opioid overdose  
32 medication.

33 (ii) The opioid-related overdose policy guidelines may: Include  
34 recommendations for the storage and labeling of opioid overdose  
35 medications that are based on input from relevant health agencies or  
36 experts; and allow for opioid-related overdose medications to be  
37 obtained, maintained, distributed, and administered by health care  
38 professionals and trained staff located at a health care clinic on  
39 public school property or under contract with the school district.

1 (c) In addition to being offered by the school, training on the  
2 distribution or administration of opioid overdose medication that  
3 meets the requirements of this subsection (2) may be offered by  
4 nonprofit organizations, higher education institutions, and local  
5 public health organizations.

6 (3) Beginning January 1, 2020, the following school districts  
7 must adopt a policy that meets the requirements of subsection (2) of  
8 this section: (a) School districts with a school that obtains,  
9 maintains, distributes, or administers opioid overdose medication  
10 under section 2 of this act; and (b) school districts with two  
11 thousand or more students.

12 (4) Subject to the availability of amounts appropriated for this  
13 specific purpose, the office of the superintendent of public  
14 instruction shall develop and administer a grant program to provide  
15 funding to public schools and public higher education institutions to  
16 train personnel on the administration of opioid overdose medication  
17 to respond to symptoms of an opioid-related overdose. The office must  
18 publish on its web site a list of annual grant recipients, including  
19 award amounts.

20 **Sec. 4.** RCW 28A.210.260 and 2017 c 186 s 2 are each amended to  
21 read as follows:

22 (1) Public school districts and private schools which conduct any  
23 of grades kindergarten through the twelfth grade may provide for the  
24 administration of oral medication, topical medication, eye drops, ear  
25 drops, or nasal spray, of any nature to students who are in the  
26 custody of the school district or school at the time of  
27 administration, but are not required to do so by this section,  
28 subject to the following conditions:

29 ~~((1))~~ (a) The board of directors of the public school district  
30 or the governing board of the private school or, if none, the chief  
31 administrator of the private school shall adopt policies which  
32 address the designation of employees who may administer oral  
33 medications, topical medications, eye drops, ear drops, or nasal  
34 spray to students, the acquisition of parent requests and  
35 instructions, and the acquisition of requests from licensed health  
36 professionals prescribing within the scope of their prescriptive  
37 authority and instructions regarding students who require medication  
38 for more than fifteen consecutive school days, the identification of  
39 the medication to be administered, the means of safekeeping

1 medications with special attention given to the safeguarding of  
2 legend drugs as defined in chapter 69.41 RCW, and the means of  
3 maintaining a record of the administration of such medication;

4 ~~((2))~~ (b) The board of directors shall seek advice from one or  
5 more licensed physicians or nurses in the course of developing the  
6 foregoing policies;

7 ~~((3))~~ (c) The public school district or private school is in  
8 receipt of a written, current and unexpired request from a parent, or  
9 a legal guardian, or other person having legal control over the  
10 student to administer the medication to the student;

11 ~~((4))~~ (d) The public school district or the private school is  
12 in receipt of ~~((a))~~: (i) A written, current and unexpired request  
13 from a licensed health professional prescribing within the scope of  
14 his or her prescriptive authority for administration of the  
15 medication, as there exists a valid health reason which makes  
16 administration of such medication advisable during the hours when  
17 school is in session or the hours in which the student is under the  
18 supervision of school officials~~((r))~~; and ~~((b))~~ (ii) written,  
19 current and unexpired instructions from such licensed health  
20 professional prescribing within the scope of his or her prescriptive  
21 authority regarding the administration of prescribed medication to  
22 students who require medication for more than fifteen consecutive  
23 workdays;

24 ~~((5))~~ (e) The medication is administered by an employee  
25 designated by or pursuant to the policies adopted pursuant to (a) of  
26 this subsection ~~((1) of this section)~~ and in substantial compliance  
27 with the prescription of a licensed health professional prescribing  
28 within the scope of his or her prescriptive authority or the written  
29 instructions provided pursuant to (d) of this subsection ~~((4) of~~  
30 ~~this section)~~. If a school nurse is on the premises, a nasal spray  
31 that is a legend drug or a controlled substance must be administered  
32 by the school nurse. If no school nurse is on the premises, a nasal  
33 spray that is a legend drug or a controlled substance may be  
34 administered by a trained school employee or parent-designated adult  
35 who is not a school nurse. The board of directors shall allow school  
36 personnel, who have received appropriate training and volunteered for  
37 such training, to administer a nasal spray that is a legend drug or a  
38 controlled substance. After a school employee who is not a school  
39 nurse administers a nasal spray that is a legend drug or a controlled

1 substance, the employee shall summon emergency medical assistance as  
2 soon as practicable;

3 ~~((+6))~~ (f) The medication is first examined by the employee  
4 administering the same to determine in his or her judgment that it  
5 appears to be in the original container and to be properly labeled;  
6 and

7 ~~((+7))~~ (g) The board of directors shall designate a professional  
8 person licensed pursuant to chapter 18.71 RCW or chapter 18.79 RCW as  
9 it applies to registered nurses and advanced registered nurse  
10 practitioners, to delegate to, train, and supervise the designated  
11 school district personnel in proper medication procedures;

12 ~~((+8)(a) For the purposes of this section, "parent-designated  
13 adult" means a volunteer, who may be a school district employee, who  
14 receives additional training from a health care professional or  
15 expert in epileptic seizure care selected by the parents, and who  
16 provides care for the child consistent with the individual health  
17 plan.~~

18 ~~(b))~~ (h) To be eligible to be a parent-designated adult, a  
19 school district employee not licensed under chapter 18.79 RCW must  
20 file, without coercion by the employer, a voluntary written, current,  
21 and unexpired letter of intent stating the employee's willingness to  
22 be a parent-designated adult. If a school employee who is not  
23 licensed under chapter 18.79 RCW chooses not to file a letter under  
24 this section, the employee shall not be subject to any employer  
25 reprisal or disciplinary action for refusing to file a letter;

26 ~~((+9))~~ (i) The board of directors shall designate a professional  
27 person licensed under chapter 18.71, 18.57, or 18.79 RCW as it  
28 applies to registered nurses and advanced registered nurse  
29 practitioners, to consult and coordinate with the student's parents  
30 and health care provider, and train and supervise the appropriate  
31 school district personnel in proper procedures for care for students  
32 with epilepsy to ensure a safe, therapeutic learning environment.  
33 Training may also be provided by an epilepsy educator who is  
34 nationally certified. Parent-designated adults who are school  
35 employees are required to receive the training provided under this  
36 subsection. Parent-designated adults who are not school employees  
37 must show evidence of comparable training. The parent-designated  
38 adult must also receive additional training as established in  
39 subsection ~~((+8)(a))~~ (2) of this section for the additional care the  
40 parents have authorized the parent-designated adult to provide. The

1 professional person designated under this subsection is not  
2 responsible for the supervision of the parent-designated adult for  
3 those procedures that are authorized by the parents;

4 ~~((+10+))~~ (j) This section does not apply to topical sunscreen  
5 products regulated by the United States food and drug administration  
6 for over-the-counter use. Provisions related to possession and  
7 application of topical sunscreen products are in RCW 28A.210.278; and

8 (k) This section does not apply to opioid overdose medication.  
9 Provisions related to maintenance and administration of opioid  
10 overdose medication are in section 2 of this act.

11 (2) For the purposes of this section, "parent-designated adult"  
12 means a volunteer, who may be a school district employee, who  
13 receives additional training from a health care professional or  
14 expert in epileptic seizure care selected by the parents, and who  
15 provides care for the child consistent with the individual health  
16 plan.

17 **Sec. 5.** RCW 28A.210.270 and 2013 c 180 s 2 are each amended to  
18 read as follows:

19 (1) In the event a school employee administers oral medication,  
20 topical medication, eye drops, ear drops, or nasal spray to a student  
21 pursuant to RCW 28A.210.260 in substantial compliance with the  
22 prescription of the student's licensed health professional  
23 prescribing within the scope of the professional's prescriptive  
24 authority or the written instructions provided pursuant to RCW  
25 28A.210.260~~((+4+))~~ (1)(d), and the other conditions set forth in RCW  
26 28A.210.260 have been substantially complied with, then the employee,  
27 the employee's school district or school of employment, and the  
28 members of the governing board and chief administrator thereof shall  
29 not be liable in any criminal action or for civil damages in their  
30 individual or marital or governmental or corporate or other  
31 capacities as a result of the administration of the medication.

32 (2) The administration of oral medication, topical medication,  
33 eye drops, ear drops, or nasal spray to any student pursuant to RCW  
34 28A.210.260 may be discontinued by a public school district or  
35 private school and the school district or school, its employees, its  
36 chief administrator, and members of its governing board shall not be  
37 liable in any criminal action or for civil damages in their  
38 governmental or corporate or individual or marital or other  
39 capacities as a result of the discontinuance of such administration:



1 PROVIDED, That the chief administrator of the public school district  
2 or private school, or his or her designee, has first provided actual  
3 notice orally or in writing in advance of the date of discontinuance  
4 to a parent or legal guardian of the student or other person having  
5 legal control over the student.

6 NEW SECTION. **Sec. 6.** A new section is added to chapter 28B.10  
7 RCW to read as follows:

8 (1) For the purposes of this section:

9 (a) "Opioid overdose medication" has the meaning provided in RCW  
10 69.41.095; and

11 (b) "Opioid-related overdose" has the meaning provided in RCW  
12 69.41.095.

13 (2) By the beginning of the 2019-20 academic year, a public  
14 institution of higher education with a residence hall housing at  
15 least one hundred students must develop a plan: (a) For the  
16 maintenance and administration of opioid overdose medication in and  
17 around the residence hall; and (b) for the training of designated  
18 personnel to administer opioid overdose medication to respond to  
19 symptoms of an opioid-related overdose. The plan may identify: The  
20 ratio of residents to opioid overdose medication doses; the  
21 designated trained personnel, who may include residence hall  
22 advisers; and whether the designated trained personnel covers more  
23 than one residence hall.

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