

SENATE BILL No. 165

By Committee on Public Health and Welfare

2-7

1 AN ACT concerning opioids; providing insurance coverage for abuse-
2 deterrent opioid analgesic drug products; relating to standards
3 governing the use and administration of emergency opioid antagonists;
4 education requirements; civil and criminal liability; amending K.S.A.
5 2016 Supp. 40-2,103 and 40-19c09 and repealing the existing sections.
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 New Section 1. (a) As used in this section:

9 (1) "Abuse-deterrent opioid analgesic drug product" means a brand
10 name or generic opioid analgesic drug product approved by the United
11 States food and drug administration that has abuse-deterrence labeling
12 claims that indicate the drug is expected to result in a meaningful
13 reduction of opioid abuse.

14 (2) "Opioid analgesic drug product" means a drug product in the
15 opioid analgesic drug class that is prescribed to treat moderate to severe
16 pain or other conditions, whether in immediate-release form or extended-
17 release, long-acting form and whether or not combined with other drug
18 substances to form a single drug product or dosage form.

19 (3) "Emergency opioid antagonist" means the same as defined in
20 section 2, and amendments thereto.

21 (b) Every individual or group health insurance policy, medical service
22 plan, contract, hospital service corporation contract, hospital and medical
23 service corporation contract, fraternal benefit society, health maintenance
24 organization, municipal group-funded pool and the state employee health
25 care benefits plan that provides medical, surgical or hospital expense
26 coverage and that is delivered, issued for delivery, amended or renewed on
27 or after January 1, 2018:

28 (1) Shall provide coverage for at least one abuse-deterrent opioid
29 analgesic drug product per opioid analgesic active ingredient drug product
30 on the policy's, plan's, contract's, society's, organization's or pool's drug
31 formulary or similar list;

32 (2) shall not require that a covered individual first use an opioid
33 analgesic drug product without abuse-deterrence labeling claims before
34 providing coverage for an abuse-deterrent opioid analgesic drug product;
35 and

36 (3) shall provide coverage for emergency opioid antagonists

1 prescribed to inhibit the effects of opioids or for the treatment of an opioid
2 overdose.

3 (c) The coverage required by this section shall be subject to the same
4 annual deductibles, copayments or coinsurance limits as established for all
5 other covered benefits under the individual or group policy of accident and
6 sickness insurance referred to in subsection (b).

7 (d) This section shall not be construed to prevent any individual or
8 group health insurance policy, medical service plan, contract, hospital
9 service corporation contract, hospital and medical service corporation
10 contract, fraternal benefit society, health maintenance organization,
11 municipal group-funded pool and the state employee health care benefits
12 plan from applying prior authorization requirements to abuse-deterrent
13 opioid analgesic products, provided that such requirements are applied to
14 all opioid analgesic products with the same drug release mechanism,
15 whether immediate-release form or extended-release, long-acting form.

16 (e) The provisions of this section shall not apply to any policy or
17 certificate that provides coverage for any specified disease, specified
18 accident or accident only coverage, credit, dental, disability income,
19 hospital indemnity, long-term care insurance as defined by K.S.A. 40-
20 2227, and amendments thereto, vision care or any other limited
21 supplemental benefit nor to any medicare supplement policy of insurance
22 as defined by the commissioner of insurance by rule and regulation, any
23 coverage issued as a supplement to liability insurance, workers'
24 compensation or similar insurance, automobile medical-payment insurance
25 or any insurance under which benefits are payable with or without regard
26 to fault, whether written on a group, blanket or individual basis.

27 New Sec. 2. (a) As used in this section:

28 (1) "Bystander" means a family member, friend, caregiver or other
29 person in a position to assist a person who the family member, friend,
30 caregiver or other person believes, in good faith, to be experiencing an
31 opioid overdose.

32 (2) "Emergency opioid antagonist" means any drug that inhibits the
33 effects of opioids and that is approved by the United States food and drug
34 administration for the treatment of an opioid overdose.

35 (3) "First responder" includes any attendant, as defined by K.S.A. 65-
36 6112, and amendments thereto, any law enforcement officer, as defined by
37 K.S.A. 22-2202, and amendments thereto, and any actual member of any
38 organized fire department, whether regular or volunteer.

39 (4) "First responder agency" includes, but is not limited to, any law
40 enforcement agency, fire department, ambulance service or criminal
41 forensic laboratory of any city, county or the state of Kansas.

42 (5) "Opioid antagonist protocol" means the protocol established by
43 the state board of pharmacy pursuant to subsection (b).

1 (6) "Opioid overdose" means an acute condition including, but not
2 limited to, extreme physical illness, decreased level of consciousness,
3 respiratory depression, coma, mania or death, resulting from the
4 consumption or use of an opioid or another substance with which an
5 opioid was combined, or that a layperson would reasonably believe to be
6 resulting from the consumption or use of an opioid or another substance
7 with which an opioid was combined, and for which medical assistance is
8 required.

9 (7) "Patient" means a person believed to be at risk of experiencing an
10 opioid overdose.

11 (8) "School nurse" means a professional nurse licensed by the board
12 of nursing and employed by a school district to perform nursing
13 procedures in a school setting.

14 (9) "Healthcare provider" means a physician licensed to practice
15 medicine and surgery by the state board of healing arts, a licensed dentist,
16 a mid-level practitioner as defined by K.S.A. 65-1626, and amendments
17 thereto, or any person authorized by law to prescribe medication, except
18 that "healthcare provider" does not include a certified nurse-midwife.

19 (b) The state board of pharmacy shall issue a statewide opioid
20 antagonist protocol that establishes requirements for a licensed pharmacist
21 to dispense emergency opioid antagonists to a person pursuant to this
22 section. The opioid antagonist protocol shall include procedures to ensure
23 accurate recordkeeping and education of the person to whom the
24 emergency opioid antagonist is furnished, including, but not limited to:
25 Opioid overdose prevention, recognition and response; safe administration
26 of an emergency opioid antagonist; potential side effects or adverse events
27 that may occur as a result of administering an emergency opioid
28 antagonist; a requirement that the administering person immediately
29 contact emergency medical services for a patient; and the availability of
30 drug treatment programs.

31 (c) A pharmacist may furnish an emergency opioid antagonist to a
32 patient or bystander subject to the requirements of this section, the
33 pharmacy act of the state of Kansas and any rules and regulations adopted
34 by the state board of pharmacy thereunder.

35 (d) A pharmacist furnishing an emergency opioid antagonist pursuant
36 to this section may not permit the person to whom the emergency opioid
37 antagonist is furnished to waive any consultation required by this section
38 or any rules and regulations adopted thereunder.

39 (e) Any first responder, scientist or technician operating under a first
40 responder agency or school nurse is authorized to possess, store and
41 administer emergency opioid antagonists as clinically indicated, provided
42 that all personnel with access to emergency opioid antagonists are trained,
43 at a minimum, on the following:

- 1 (1) Techniques to recognize signs of an opioid overdose;
 - 2 (2) standards and procedures to store and administer an emergency
3 opioid antagonist;
 - 4 (3) emergency follow-up procedures, including the requirement to
5 summon emergency ambulance services either immediately before or
6 immediately after administering an emergency opioid antagonist to a
7 patient; and
 - 8 (4) inventory requirements and the reporting of any administration of
9 an emergency opioid antagonist to a healthcare provider.
- 10 (f) (1) Any first responder agency electing to provide an emergency
11 opioid antagonist for the purpose of administering the emergency opioid
12 antagonist shall procure the services of a physician to serve as physician
13 medical director for the first responder agency's emergency opioid
14 antagonist program.
- 15 (2) The first responder agency shall utilize the physician medical
16 director or a licensed pharmacist for the purposes of:
 - 17 (A) Obtaining a supply of emergency opioid antagonists;
 - 18 (B) receiving assistance in developing necessary policies and
19 procedures that comply with this section and any rules and regulations
20 adopted thereunder;
 - 21 (C) training personnel; and
 - 22 (D) coordinating agency activities with local emergency ambulance
23 services and medical directors to provide quality assurance activities.
 - 24 (g) (1) Any healthcare provider or pharmacist who, in good faith and
25 with reasonable care, prescribes or dispenses an emergency opioid
26 antagonist pursuant to this section shall not, by an act or omission, be
27 subject to civil liability, criminal prosecution or any disciplinary or other
28 adverse action by a professional licensure entity arising from the
29 healthcare provider or pharmacist prescribing or dispensing the emergency
30 opioid antagonist.
 - 31 (2) Any patient, bystander, first responder or school nurse who, in
32 good faith and with reasonable care, receives and administers an
33 emergency opioid antagonist pursuant to this section to a person
34 experiencing a suspected opioid overdose shall not, by an act or omission,
35 be subject to civil liability or criminal prosecution, unless personal injury
36 results from the gross negligence or willful or wanton misconduct in the
37 administration of the emergency opioid antagonist.
 - 38 (3) Any first responder agency employing or contracting any person
39 who, in good faith and with reasonable care, administers an emergency
40 opioid antagonist pursuant to this section to a person experiencing a
41 suspected opioid overdose shall not, by an act or omission, be subject to
42 civil liability, criminal prosecution, any disciplinary or other adverse
43 action by a professional licensure entity or any professional review.

1 (h) The state board of pharmacy shall adopt rules and regulations as
2 may be necessary to implement the provisions of this section prior to
3 January 1, 2018.

4 (i) This section shall be part of and supplemental to the pharmacy act
5 of the state of Kansas.

6 Sec. 3. K.S.A. 2016 Supp. 40-2,103 is hereby amended to read as
7 follows: 40-2,103. The requirements of K.S.A. 40-2,100, 40-2,101, 40-
8 2,102, 40-2,104, 40-2,105, 40-2,114, 40-2,160, 40-2,165 through 40-2,170,
9 inclusive, 40-2250, K.S.A. 2016 Supp. 40-2,105a, 40-2,105b, 40-2,184,
10 40-2,190 ~~and~~, 40-2,194 *and section 1*, and amendments thereto, shall apply
11 to all insurance policies, subscriber contracts or certificates of insurance
12 delivered, renewed or issued for delivery within or outside of this state or
13 used within this state by or for an individual who resides or is employed in
14 this state.

15 Sec. 4. K.S.A. 2016 Supp. 40-19c09 is hereby amended to read as
16 follows: 40-19c09. (a) Corporations organized under the nonprofit medical
17 and hospital service corporation act shall be subject to the provisions of
18 the Kansas general corporation code, articles 60 to 74, inclusive, of
19 chapter 17 of the Kansas Statutes Annotated, and amendments thereto,
20 applicable to nonprofit corporations, to the provisions of K.S.A. 40-214,
21 40-215, 40-216, 40-218, 40-219, 40-222, 40-223, 40-224, 40-225, 40-229,
22 40-230, 40-231, 40-235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250,
23 40-251, 40-252, 40-2,100, 40-2,101, 40-2,102, 40-2,103, 40-2,104, 40-
24 2,105, 40-2,116, 40-2,117, 40-2,125, 40-2,153, 40-2,154, 40-2,160, 40-
25 2,161, 40-2,163 through 40-2,170, inclusive, 40-2a01 et seq., 40-2111 to
26 40-2116, inclusive, 40-2215 to 40-2220, inclusive, 40-2221a, 40-2221b,
27 40-2229, 40-2230, 40-2250, 40-2251, 40-2253, 40-2254, 40-2401 to 40-
28 2421, inclusive, and 40-3301 to 40-3313, inclusive, K.S.A. 2016 Supp. 40-
29 2,105a, 40-2,105b, 40-2,184, 40-2,190 ~~and~~, 40-2,194 *and section 1*, and
30 amendments thereto, except as the context otherwise requires, and shall
31 not be subject to any other provisions of the insurance code except as
32 expressly provided in this act.

33 (b) No policy, agreement, contract or certificate issued by a
34 corporation to which this section applies shall contain a provision which
35 excludes, limits or otherwise restricts coverage because medicaid benefits
36 as permitted by title XIX of the social security act of 1965 are or may be
37 available for the same accident or illness.

38 (c) Violation of subsection (b) shall be subject to the penalties
39 prescribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.

40 Sec. 5. K.S.A. 2016 Supp. 40-2,103 and 40-19c09 are hereby
41 repealed.

42 Sec. 6. This act shall take effect and be in force from and after
43 January 1, 2018, and its publication in the statute book.