



GEORGIA'S 911 MEDICAL AMNESTY LAW

Background

Drug overdose is a nationwide epidemic that claims the lives of over 36,000 Americans every year.¹ In Georgia, overdose deaths more than tripled from 1999 to 2013² and the number of prescription overdose deaths increased 10% from 2009 to 2010.³ Nationwide, prescription opioids such as Oxycontin and hydrocodone account for more overdose deaths than heroin and cocaine combined.⁴ Opioid overdose, whether caused by heroin or prescription opioids, is typically reversible through the timely administration of naloxone, a safe and effective medication that reverses the effects of opioids, and the provision of other emergency care.⁵


However, access to naloxone and other emergency treatment is often limited by laws that make it difficult for those likely to be in a position to reverse an overdose to access the drug and discourage overdose witnesses from calling for help.⁶ Additionally, the first responders dispatched to overdose calls often do not carry naloxone and are not trained in its use. In an attempt to reverse this unprecedented increase in preventable overdose deaths, a number of states have recently amended state law to increase access to emergency care and treatment for opiate overdose.⁷

In 2014, Georgia joined their ranks. House Bill 965, "Georgia 9-1-1 Medical Amnesty Law," was passed by overwhelming majorities in the state House and Senate and was signed by the Governor on April 24, 2014. The law went into effect immediately. As explained in more detail below, the law provides limited immunity from arrest, charge, and prosecution for possession of certain drugs and drug paraphernalia for individuals who experience a drug overdose and are in need of medical care and for those who seek medical care in good faith for a person experiencing an overdose. Such persons are also relieved from penalties for violations of protective and restraining orders and violations of conditions of pretrial release, probation and parole if such penalties are "related to the seeking of medical assistance."

The bill also provides limited immunity from certain underage drinking offenses for minors who seek help in the event of an alcohol overdose. It also expands access to naloxone by authorizing trained first responders including law enforcement officers, firefighters, and EMS personnel to administer the medication. Finally, the law establishes limited civil and criminal immunity for medical professionals who prescribe naloxone, and laypeople who administer it to a person suspected of suffering from an opioid overdose.

Limited Immunity for Possession of Certain Drugs

In many cases, overdose bystanders may fail to summon medical assistance because they are afraid that doing so may put them at risk of arrest and prosecution.⁸ The Medical Amnesty Law attempts to address this problem by providing limited immunity from arrest, charge, and prosecution for possession of controlled substances and marijuana for both a person acting in good faith who seeks medical assistance for an individual experiencing a drug-related overdose (whether for himself or another) and the person suffering from the overdose where the evidence for the arrest, charge or prosecution was obtained solely as a result of the seeking of medical assistance.⁹ The law provides immunity from possession charges only; it provides no protection for other crimes such as the sale of illegal drugs. Specifically, the law



provides protection from arrest, charge or prosecution for possession of less than four grams of a solid controlled substance, less than one milliliter of a liquid substance, or a substance “placed into a secondary medium” with a combined weight of less than four grams. For marijuana, protection is provided for possession of less than one ounce.

Limited Immunity for Probation, Parole, and Other Violations

The law also provides that persons who seek medical assistance for themselves or others in event of a drug overdose “shall not be subject to” penalties for a violation of a protective order or restraining order, or sanctions for violation of a condition of pretrial release, probation, or parole. This immunity applies where such penalties or violations are “related to” the seeking of medical assistance.

Limited Immunity for Possession of Drug Paraphernalia

The law also provides immunity from arrest, charge, and prosecution for possession and use of drug-related objects for both the person who seeks medical assistance in good faith for a person experiencing an overdose and the person in need of help, if the evidence for the charge was obtained as a result of the call for medical assistance. Drug paraphernalia includes any “object or materials of any kind” used or intended to be used to introduce a controlled substance or marijuana into the body.¹⁰

Limited Immunity for Possession and Consumption of Alcohol

Under the terms of the law, any person who seeks medical assistance in good faith for someone experiencing an alcohol related overdose “shall not be arrested, charged, or prosecuted” for a number of crimes related to underage alcohol: purchasing, attempting to purchase, or possessing alcohol, misrepresenting one’s age to purchase alcohol, purchasing or acquiring alcohol on behalf of a minor, and misrepresenting one’s identity or using false identification to purchase alcohol.¹¹ Additionally, any such person “shall not be subject to” penalties for a violation of a protective order or restraining order or sanctions for violation of a condition of pretrial release, probation, or parole. This immunity applies where such penalties or violations are “related to” the seeking of medical assistance. All of these immunities apply to the person who seeks medical assistance as well as the victim.

Increased Access to Naloxone

The law also takes several steps to make it easier for those likely to be in the position to save a life to do so by administering naloxone, the standard treatment for opioid overdose. First, the bill authorizes physicians licensed to practice in Georgia acting in good faith and in compliance with the relevant standard of care to prescribe naloxone “for use in accordance with a protocol specified by such practitioner to a person at risk of experiencing an opioid related overdose or to a pain management clinic, first responder, harm reduction organization, family member, friend, or other person in a position to assist a person at risk of experiencing an opioid related overdose.” Pharmacists are permitted to fill such prescriptions, and any person acting with reasonable care and in good faith is permitted to administer naloxone to a person believed to be experiencing an opioid overdose in accordance with protocol. All of these individuals are immune from civil liability, criminal liability, and professional licensing sanctions so long as they act in accordance with the law.¹²

The law also contains provisions specifically regarding first responders, who are defined under the law as “any person or agency who provides on-site care until the arrival of a duly licensed ambulance service” and includes “persons who routinely respond to calls for assistance through an affiliation with law enforcement agencies, fire departments, and rescue agencies.” The law permits these first responders to provide or administer naloxone “for the purpose of saving the life of a person experiencing an opioid related overdose.” Such first responders are required to “obtain appropriate training,” notify the appropriate medical services system that they maintain a supply of naloxone, and make available an electronic report to the ambulance service that transports the patient. Any such first responder who “gratuitously and in good faith” administers or provides naloxone is immune from civil damages for that action so long as they act without gross negligence or intent to harm or as “an ordinary reasonably prudent person would have acted under the circumstances.” Additionally, state law is amended to permit paramedics, cardiac technicians, and emergency medical technicians (EMTs) to administer naloxone.



Conclusion

With the passage of the 9-1-1 Medical Amnesty Law, Georgia joins the approximately 25 other states that have taken legislative action to increase access to emergency medical care for drug overdose.¹³ While it is too early to tell whether this law will reduce overdose deaths, initial data from other states are encouraging. A recent evaluation of a naloxone distribution program in Massachusetts, which trained over 2,900 potential overdose bystanders, reported that opioid overdose death rates were significantly reduced in communities in which the program was implemented compared to those in which it was not.¹⁴ Initial evidence from Washington state, which passed a Medical Amnesty law in 2010, is also positive, with 88 percent of drug users surveyed indicating that they would be more likely to summon emergency personnel during an overdose as a result of the legal change.¹⁵

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¹ MARGARET WARNER, ET AL., NAT'L CTR. FOR HEALTH STATISTICS, DRUG POISONING DEATHS IN THE UNITED STATES, 1980–2008 (2011).

² TRUST FOR AMERICA'S HEALTH, GEORGIA STATE REPORT (2013), *available at* <http://healthyamericans.org/reports/drugabuse2013/release.php?stateid=GA>.

³ GEORGIA BUREAU OF INVESTIGATION, DEATHS RELATED TO PRESCRIPTION DRUG OVERDOSES CONTINUE TO RISE (2014), *available at* <http://gbi.georgia.gov/press-releases/2011-07-21/deaths-related-prescription-drug-overdoses-continue-rise>

⁴ *Supra* note 1.

⁵ See C. Baca, et al., *Take-home Naloxone to Reduce Heroin Death*, 100 ADDICTION 1823 (2005); Centers for Disease Control and Prevention, *Community-Based Opioid Overdose Prevention Programs Providing Naloxone – United States*, 2010, 61 MORBIDITY AND MORTALITY WEEKLY REPORT 101 (2012).

⁶ See Davis CS, Webb D, Burris S. *Changing Law from Barrier to Facilitator of Opioid Overdose Prevention*, 41 JOURNAL OF LAW, MEDICINE AND ETHICS 33 (2013).

⁷ For a comprehensive list of other state efforts, see NETWORK FOR PUBLIC HEALTH LAW, LEGAL INTERVENTIONS TO REDUCE OVERDOSE MORTALITY: NALOXONE ACCESS AND GOOD SAMARITAN LAWS (2014), *available at* <http://www.networkforphl.org/asset/qz5pvn/network-naloxone-10-4.pdf>.

⁸ Karin Tobin, et al., *Calling emergency medical services during drug overdose: an examination of individual, social and setting correlates*, 100 ADDICTION 397 (2005); Robin A. Pollini, et al., *Response to Overdose Among Injection Drug Users*, 31 AMERICAN JOURNAL OF PREVENTIVE MEDICINE 261 (2006).

⁹ Georgia, like a number of states, addresses marijuana and other controlled substances separately.

¹⁰ See O.C.G.A. § 16-13-32.2.

¹¹ These are O.C.G.A. § 3-3-23(a)(2-5).

¹² The immunity does not apply to a physician who administers naloxone under the law.

¹³ For a comprehensive list of other state efforts, see NETWORK FOR PUBLIC HEALTH LAW, LEGAL INTERVENTIONS TO REDUCE OVERDOSE MORTALITY: NALOXONE ACCESS AND GOOD SAMARITAN LAWS (2014), *available at* <http://www.networkforphl.org/asset/qz5pvn/network-naloxone-10-4.pdf>.

¹⁴ Alex Walley, et al., *Opioid overdose rates and implementation of overdose education and nasal naloxone distribution in Massachusetts: interrupted time series analysis*, 346 BMJ f174 (2013).

¹⁵ Banta-Green, C. Washington's 911 Good Samaritan Overdose Law: Initial Evaluation Results (Nov. 2011), *available at* <http://adai.uw.edu/pubs/infobriefs/ADAI-IB-2011-05.pdf>.