

By Senator Boyd

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1 A bill to be entitled
2 An act relating to substance abuse prevention;
3 amending s. 381.887, F.S.; revising legislative
4 intent; revising authorizations for prescribing and
5 dispensing emergency opioid antagonists by authorized
6 health care practitioners; authorizing certain
7 pharmacies, pharmacists, and pharmacy technicians to
8 take certain actions relating to emergency opioid
9 antagonists; conforming provisions to changes made by
10 the act; creating s. 397.335, F.S.; creating the
11 Statewide Council on Opioid Abatement within the
12 Department of Children and Families; providing a
13 purpose for the council; providing for membership of
14 the council; prohibiting members from receiving
15 commissions, fees, or financial benefits in connection
16 with service on the council; authorizing members to be
17 reimbursed for per diem and travel expenses by certain
18 entities; providing meeting requirements for the
19 council; requiring the department and the Department
20 of Legal Affairs to provide staff for the council;
21 authorizing the council to accept certain funds,
22 grants, gifts, and services; requiring members to
23 adhere to specified rules, regulations, and laws;
24 providing duties of the council; requiring the council
25 to work in partnership with the Statewide Drug Policy
26 Advisory Council for specified purposes; requiring
27 counties, municipalities, managing entities, and state
28 agencies that receive settlement funds from an opioid
29 settlement to annually provide specified information

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30 to the council by specified dates; requiring counties,
31 municipalities, managing entities, and state agencies
32 to provide certain information to the council upon
33 request; authorizing the Department of Legal Affairs
34 to acquire data through certain actions on behalf of
35 the council; requiring the council to publish an
36 annual report containing information and
37 recommendations on the Department of Legal Affairs and
38 the Department of Children and Families' websites by a
39 specified date; amending s. 768.13, F.S.; providing
40 legislative intent; exempting certain pharmacies,
41 pharmacists, and pharmacy technicians from liability
42 for damages, penalties, fines, or costs as a result of
43 certain actions relating to emergency opioid
44 antagonists; providing an effective date.

45
46 Be It Enacted by the Legislature of the State of Florida:

47
48 Section 1. Subsection (2), paragraphs (a) and (c) of
49 subsection (3), subsections (4) and (5), paragraph (b) of
50 subsection (6), and subsection (7) of section 381.887, Florida
51 Statutes, are amended, and paragraphs (d) and (e) are added to
52 subsection (3) of that section, to read:

53 381.887 Emergency treatment for suspected opioid overdose.—

54 (2) The purpose of this section is to provide for the
55 prescribing, ordering, and dispensing of emergency opioid
56 antagonists to patients, ~~and~~ caregivers, and emergency
57 responders and to encourage the prescribing, ordering, and
58 dispensing of emergency opioid antagonists by authorized health

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59 care practitioners, pharmacies, and pharmacists.

60 (3) (a) An authorized health care practitioner may prescribe
61 and dispense an emergency opioid antagonist to, and a pharmacist
62 may order an emergency opioid antagonist with an autoinjection
63 delivery system or intranasal application delivery system for, a
64 patient, a ~~or~~ caregiver, or an emergency responder for use in
65 accordance with this section.

66 (c) A patient, a ~~or~~ caregiver, or an emergency responder is
67 authorized to receive, store, and possess approved emergency
68 opioid antagonists and, in an emergency situation when a
69 physician is not immediately available, administer the emergency
70 opioid antagonist to a person believed in good faith to be
71 experiencing an opioid overdose, regardless of whether that
72 person has a prescription for an emergency opioid antagonist.

73 (d) A pharmacy or pharmacist licensed under chapter 465 is
74 authorized to receive, store, possess, and dispense, as
75 applicable, emergency opioid antagonists delivered by a
76 manufacturer or an affiliate of the pharmacy, pursuant to
77 agreements reached with the Department of Legal Affairs for the
78 purpose of dispensing emergency opioid antagonists pursuant to a
79 standing order issued by or at the direction of the State
80 Surgeon General, to any emergency responder identified in the
81 standing order.

82 (e) A pharmacist or pharmacy technician may dispense an
83 emergency opioid antagonist, pursuant to a standing order issued
84 by or at the direction of the State Surgeon General in a manner
85 consistent with the terms of the standing order, to any
86 emergency responder identified in the standing order.

87 (4) The following persons are authorized to receive,

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88 possess, store, and administer emergency opioid antagonists as
89 clinically indicated and are immune from any civil liability or
90 criminal liability as a result of receiving, possessing,
91 storing, or administering an emergency opioid antagonist:

92 (a) Emergency responders, including, but not limited to,
93 law enforcement officers, paramedics, and emergency medical
94 technicians.

95 (b) Crime laboratory personnel for the statewide criminal
96 analysis laboratory system as described in s. 943.32, including,
97 but not limited to, analysts, evidence intake personnel, and
98 their supervisors.

99 (c) Personnel of a law enforcement agency or another ~~an~~
100 ~~other~~ agency, including, but not limited to, correctional
101 probation officers and child protective investigators who, while
102 acting within the scope or course of employment, come into
103 contact with a controlled substance or persons at risk of
104 experiencing an opioid overdose.

105 (5) A person, including, but not limited to, an authorized
106 health care practitioner, a dispensing health care practitioner,
107 ~~or~~ a pharmacist, or a pharmacy technician, or a pharmacy, that
108 receives, ~~who~~ possesses, administers, prescribes, dispenses, or
109 stores an approved emergency opioid antagonist in compliance
110 with this section and s. 768.13 is afforded the civil liability
111 immunity protections provided under s. 768.13.

112 (6)

113 (b) A dispensing health care practitioner, ~~or~~ pharmacist,
114 pharmacy technician, or pharmacy acting in good faith and
115 exercising reasonable care, is not subject to discipline or
116 other adverse action under any professional licensure statute or

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117 rule and is immune from any civil or criminal liability as a
118 result of receiving, possessing, storing, dispensing,
119 prescribing, or administering an emergency opioid antagonist in
120 accordance with this section.

121 (7) This section does not limit any existing immunities for
122 emergency responders or other persons which are provided under
123 this chapter or any other applicable provision of law. This
124 section does not create a duty or standard of care for a person
125 to prescribe, dispense, possess, store, or administer an
126 emergency opioid antagonist.

127 Section 2. Section 397.335, Florida Statutes, is created to
128 read:

129 397.335 Statewide Council on Opioid Abatement.—

130 (1) ESTABLISHMENT.—There is established in the department
131 the Statewide Council on the Opioid Abatement. The council is
132 created for the purpose of enhancing the development and
133 coordination of state and local efforts to abate the opioid
134 epidemic and to support the victims of the opioid crisis and
135 their families. The council shall comply with the requirements
136 of s. 20.052 except as otherwise provided in this section.

137 (2) MEMBERSHIP.—

138 (a) Notwithstanding s. 20.052, the council shall be
139 composed of the following members:

140 1. The Attorney General, or a designee, who shall serve as
141 chair.

142 2. The Secretary of the Department of Children and
143 Families, or a designee, who shall serve as vice chair.

144 3. A member appointed by the Governor.

145 4. A member appointed by the President of the Senate.

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146 5. A member appointed by the Speaker of the House.

147 6. Two members who are each a commissioner or mayor of a
148 municipality, appointed by the Florida League of Cities. At
149 least one such member must be from a municipality with a
150 population of less than 50,000 people.

151 7. Two members, one of whom is a county commissioner or
152 mayor of a county with a population of less than 200,000 people
153 and one of whom is a county commissioner or mayor of a county
154 with a population in excess of 200,000 people, appointed by the
155 Florida Association of Counties.

156 8. One member who is either a county commissioner or county
157 mayor, appointed by the Florida Association of Counties, or the
158 commissioner or mayor of a municipality, appointed by the
159 Florida League of Cities. The Florida Association of Counties
160 shall appoint such member for the initial term, and future
161 appointments must alternate between a member appointed by the
162 Florida League of Cities, and the Florida Association of
163 Counties.

164 (b) Each member must be appointed to a 2-year term. Any
165 vacancy must be filled in the same manner as the original
166 appointment for the remainder of the unexpired term.

167 (c) A member may not receive a commission, fee, or
168 financial benefit in connection with service on the council.
169 Council members may be reimbursed for per diem and travel
170 expenses in accordance with s. 112.061 by the state agency that
171 the member represents. If a member is not affiliated with a
172 state agency, the member must be reimbursed by the department.

173 (3) ORGANIZATION AND SUPPORT.—

174 (a) The first meeting of the council must occur no later

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175 than August 31, 2023.

176 (b) The council shall meet quarterly and upon the call of
177 the chair or two other members. Meetings of the council may take
178 place in person or virtually using communications media
179 technology as defined in s. 120.54(5)(b)2.

180 (c) A majority of the members of the council constitutes a
181 quorum.

182 (d) The Department of Legal Affairs and the Department of
183 Children and Families shall provide the council with staff
184 necessary to assist the council in the performance of its
185 duties.

186 (e) The council may apply for and accept funds, grants,
187 gifts, and services from the state, the Federal Government or
188 any of its agencies, or any other public or private source for
189 the purposes of defraying costs or performing its duties.

190 (f) All members must adhere to the rules, regulations, and
191 laws of the state including, but not limited to, s. 112.311
192 relating to disclosure of conflicts of interest and recusal from
193 discussions or votes on conflicted matters.

194 (4) DUTIES.—

195 (a) The council must advise the state and local governments
196 on resolving or abating the opioid epidemic and must review how
197 settlement monies recovered from the opioid litigation brought
198 by the state and political subdivisions have been spent, and the
199 results that have been achieved from such expenditures.

200 (b) The council shall work with and provide and receive
201 information from the Statewide Drug Policy Advisory Council and
202 make sure that its recommendations and actions are consistent
203 with the recommendations of that council to the extent possible.

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204 (c) The council shall review data from local, state, and
205 national agencies, both on a regional and a statewide basis, to
206 advise state and local governments on the status, severity, and
207 stage of the opioid epidemic.

208 (d) The council shall review data from local, state, and
209 national agencies regarding how moneys are being spent to abate
210 the opioid epidemic, the success of such programs, and the
211 appropriate metrics needed to assess the epidemic and progress
212 in abating it.

213 (e) By July 30 of each year, each county, municipality,
214 managing entity, or state agency that receives settlement funds
215 from an opioid settlement shall provide information to the
216 council related to how it intends to use settlement funds and
217 how it intends to collect data regarding its use of funds.

218 (f) By August 31 of each year, each county, municipality,
219 managing entity, or state agency that receives settlement funds
220 from an opioid settlement must provide information to the
221 council related to its expenditure of settlement funds and the
222 results obtained from those expenditures.

223 (g) The council shall develop and recommend metrics,
224 measures, or data sets to assess the progress and success of
225 programs funded by expenditures of opioid settlement funds. The
226 council must attempt to keep such metrics, measures, or data
227 sets consistent with those used by the state with managing
228 entities as well as any metrics, measures, or data sets required
229 by the Substance Abuse and Mental Health Services Administration
230 of the United States Department of Health and Human Services in
231 connection with any grants received by the state. Upon request
232 of the council, a county, municipality, managing entity, or

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233 state agency must provide the council data or information
234 required to develop such metrics, measures, or data sets.

235 (h) If a county, municipality, managing entity, or agency
236 fails to provide data or information requested under paragraph
237 (g), the Department of Legal Affairs, acting on behalf of the
238 council, may acquire such data through a civil investigative
239 demand or a subpoena or by commencing an action seeking the
240 turnover of such data or information.

241 (i) The council, with assistance and support of the
242 department, shall provide a system of documentation and
243 reporting commensurate with the requirements of federal and
244 other agencies providing funding to the state, including, but
245 not limited to, auditing expenditures consistent with any
246 requirements imposed by the Legislature.

247 (j) Beginning December 1, 2023, the council shall publish
248 an annual report on the websites of the Department of Legal
249 Affairs and the Department of Children and Families no later
250 than December 1st or the first business day after December 1, if
251 December 1 falls on a weekend or holiday. The report must
252 contain information on how settlement funds were spent the
253 previous fiscal year by the state and by each of the managing
254 entities, counties, and municipalities. The report must also
255 contain recommendations to the Governor, the Legislature, and
256 local governments for the prioritization of how funds should be
257 spent during the subsequent fiscal year to effectively respond
258 to the opioid epidemic.

259 Section 3. Paragraph (e) is added to subsection (2) of
260 section 768.13, Florida Statutes, to read:

261 768.13 Good Samaritan Act; immunity from civil liability.-

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262 (2)

263 (e)1. As a response to the recognized health emergency in
264 this state caused by the opioid crisis, the Legislature intends
265 to:

266 a. Maximize the ability of law enforcement officers,
267 emergency medical technicians, firefighters, and other emergency
268 responders to store, possess, and administer emergency opioid
269 antagonists as defined in s. 381.887(1) to persons who are
270 experiencing an opioid overdose, appear to be experiencing an
271 opioid overdose, or are at risk of experiencing an opioid
272 overdose; and

273 b. Encourage every licensed pharmacy, pharmacist, and
274 pharmacy technician to dispense emergency opioid antagonists,
275 pursuant to a standing order issued by or at the direction of
276 the State Surgeon General, to law enforcement officers,
277 emergency medical technicians, firefighters, and other emergency
278 responders identified in such standing order, without fear of
279 litigation or costs or damages arising from such litigation.

280 2. Any licensed pharmacy, pharmacist, or pharmacy
281 technician that does either of the following may not be held
282 liable for any damages, penalties, fines, or costs as a result
283 of any act or omission relating to such act:

284 a. Possesses or stores an emergency opioid antagonist for
285 the purpose of dispensing the emergency opioid antagonist to any
286 law enforcement officer, emergency medical technician,
287 firefighter, or other emergency responder.

288 b. Dispenses an emergency opioid antagonist to any law
289 enforcement officer, emergency medical technician, firefighter,
290 or other emergency responder in compliance with the terms and

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291 conditions set forth in a standing order issued by or at the
292 direction of the State Surgeon General.

293 Section 4. This act shall take effect upon becoming a law.