



Bureau of Justice Assistance (BJA)

Comprehensive Opioid, Stimulant, and Substance Abuse Program (COSSAP)

# State-Level Policies That Affect Opioid-Related Overdose Responses: Naloxone Access and Good Samaritan Laws

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## Introduction

The United States' continuing drug overdose epidemic is driven by illicit opioids, particularly illicitly manufactured fentanyl. In 2020, more than 90,000 people died from drug overdoses.<sup>1</sup> Access to and use of naloxone, an opioid overdose reversal drug, is an important public health approach to combatting high rates of overdose deaths. (Read more about naloxone and its importance in the opioid overdose epidemic in a previous COSSAP article: [How Law Enforcement Agencies and Officers Can Work Proactively with Health-Adjacent Programming—Part I: Naloxone.](#))

In response to the opioid crisis, state lawmakers have enacted two main types of laws that encourage direct intervention to prevent or reverse an opioid overdose: naloxone access laws and Good Samaritan laws. Naloxone access laws promote widespread access to the prescription-only naloxone drug by offering civil, criminal, or disciplinary protection to medical providers, other professionals, and laypeople who prescribe, dispense, administer, or possess naloxone. Good Samaritan laws provide legal protection from arrest, criminal charges, or prosecution for people who possess illicit drugs or drug paraphernalia at the time that they seek medical assistance for a person

who may be overdosing. Research on the impact of these laws has demonstrated that they can significantly reduce opioid overdose mortality.<sup>2</sup> This article will discuss these two types of laws, consider how they affect overdose prevention programming, and offer guidance on how to interpret these laws in individual jurisdictions.

## Naloxone Access Laws

Naloxone access laws comprise three main parts: (1) the type of legal protection from civil, criminal, or professional liability that is offered for promoting access to naloxone; (2) eligibility for one or more of these legal protections; (3) the specific action that is being legally protected.

Naloxone access laws offer legal protection from civil suits, criminal charges, or both for promoting access to naloxone. Civil or criminal immunity is available under many state laws to both laypeople and various types of medical providers and professionals. Some states additionally offer disciplinary protection. With this type of legal protection, an employee who prescribes, dispenses, or administers naloxone as part of their professional duties during the regular course of employment is protected from a suspension or

revocation of their medical license or another type of employment-related penalty.

Naloxone access laws vary as to which types of laypeople or professionals are eligible for protection from liability. The scope of legal actions can also vary across professions. For example, prescribing physicians may be protected from civil, criminal, and disciplinary liability, whereas pharmacists who dispense naloxone may be protected only from civil and criminal penalties. In addition to naloxone access laws that encourage laypeople and various professionals to promote more widespread access to naloxone, most states have further removed barriers to accessing naloxone through standing orders. A standing order authorizes a pharmacist or other authorized professional to dispense naloxone without a prescription to people who meet certain criteria. Some states narrowly authorize a person to receive naloxone under a standing order only if the recipient has a family member or close friend known to be at risk of an opioid-related overdose. Other states more broadly authorize people to receive naloxone if they may at some point be in a position to intervene and prevent an opioid-related overdose death. Standing orders may have separate criteria that authorize naloxone to be dispensed to certain organizations or agencies, such as community-based drug treatment programs or first responders.

Naloxone access laws can affect overdose response programming by designating which people are able to access naloxone, how people are able to access naloxone, and which people are able to administer naloxone in an opioid overdose emergency. **Standing orders** provide broader access to naloxone and may allow local community-based programs to dispense naloxone to those who need it. Civil and criminal protections for laypeople and first responders who possess and administer naloxone allow more people to respond to an overdose emergency without fear of legal

retribution. Below are examples of state-level naloxone access laws and how they might affect local overdose prevention programming.

## Examples From the Field

### Standing Order for Naloxone in Washington

Pictured below is the statewide standing order to dispense naloxone in the State of Washington.

The text in the **red box** defines the people authorized to dispense naloxone under this standing order: pharmacists.

The text in the **green box** defines the group of people who can receive naloxone under the state's standing order. Washington's standing order broadly authorizes the dispensing of naloxone to anyone who



## STANDING ORDER TO DISPENSE NALOXONE

**Authority:** This standing order is issued in accordance with RCW 69.41.095(5), which allows for "[t]he secretary or the secretary's designee [to] issue a standing order prescribing opioid overdose reversal medications to any person at risk of experiencing an opioid-related overdose or any person or entity in a position to assist a person at risk of experiencing an opioid-related overdose." The physician issuing this standing order has been designated to do so by the Secretary of Health.

**Purpose:** The purpose of this standing order is to aid persons experiencing an opioid related overdose by facilitating distribution of the opioid antagonist naloxone to people in Washington.

**Authorization:** This standing order shall be considered a naloxone prescription for an eligible person or entity. **This standing order authorizes a pharmacist to dispense naloxone to any eligible person or entity.** This standing order authorizes any eligible person or entity in the State of Washington, including but not limited to any wholesaler licensed in the State of Washington, to possess, store, deliver, distribute, or administer naloxone.

**An eligible person or entity is any person at risk of experiencing an opioid-related overdose or any person or entity in a position to assist a person at risk of experiencing an opioid-related overdose.** These could include a natural person, such as an individual at risk of an opioid-related overdose or a family member, friend or acquaintance of that individual; or a legal person, such as an ambulance service, police department, or school or other educational institution that could be in a position to assist a person at risk of experiencing an opioid-related overdose.

**Terms and Conditions:** Any pharmacist dispensing naloxone to eligible persons or entities, as defined above, must provide written instructions on the proper response to an opioid-related overdose, including instructions for seeking immediate medical attention.

Pharmacists using this standing order to dispense naloxone should list the provider who signed this order as the prescriber.

Any individual or entity that dispenses, distributes, or delivers an opioid overdose reversal medication as authorized by this section shall ensure that directions for use are provided. Pharmacies and other entities are strongly encouraged to provide in-person training and allow hands-on practice with a demonstration kit and/or show a training video to persons receiving naloxone for the first time. Training may include information on the proper response to an opioid-related overdose; instructions on the role of naloxone; recognizing a potential opioid-related overdose; verifying unresponsiveness; calling 911; administering naloxone; starting rescue breathing; administering a second dose of naloxone if needed; and providing post-overdose care.

## Section 2925.61 | Lawful administration of naloxone.

Ohio Revised Code / Title 29 Crimes-Procedure / Chapter 2925 Drug Offenses

◀ Previous      Next ▶

Effective: December 16, 2020    Latest Legislation: House Bill 341 - 133rd General Assembly    PDF: Download Authenticated PDF

(E)(1) If a peace officer, acting in good faith administers naloxone to an individual who is apparently experiencing an opioid-related overdose, both of the following apply:

(a) The peace officer is not subject to administrative action, criminal prosecution for a violation of section 4731.41 of the Revised Code, or criminal prosecution under this chapter.

(b) The peace officer is not liable for damages in a civil action for injury, death, or loss to person or property for an act or omission that allegedly arises from obtaining, maintaining, accessing, or administering the naloxone.

is at risk of experiencing an opioid overdose or is in a position to assist a person at risk of an overdose. Designated agencies and organizations, such as police departments and schools, are also authorized to receive naloxone under this standing order.

Finally, the text in the orange box defines the requirements that dispensing pharmacists must meet to lawfully dispense naloxone to laypeople or organizational entities under Washington's standing order, such as the requirement for "written instructions on the proper response to an opioid-related overdose."

Washington's standing order provides a broad range of eligibility for recipients of naloxone, so overdose prevention efforts can be made available to a wide variety of people, including law enforcement officers, school personnel, and anyone who may regularly come into contact with people at risk of an opioid overdose.

### Civil, Criminal, and Disciplinary Immunity for Peace Officers Administering Naloxone in Ohio

Pictured above is the Ohio law granting legal protections to peace officers who administer naloxone to someone experiencing an opioid overdose.

The text in the red box defines the people receiving protection: peace officers.

The text in the purple box defines the action that peace officers are receiving protection for: administering naloxone.

And finally, the text in the blue box defines the protections that peace officers receive when administering naloxone. Part (a) states that peace officers receive protection from administrative action and criminal charges; part (b) states that they also receive protection from civil lawsuits.

Ohio's law provides comprehensive liability protections for peace officers administering naloxone to people experiencing opioid overdoses. To receive these legal protections, peace officers need to act in good faith, which means administering naloxone in a way that is not designed to harm or injure the person who is being revived. The broad scope of these protections for peace officers may result in broad support among law enforcement agencies, thereby encouraging individual officers to carry and administer naloxone.

### Good Samaritan Laws

In general, Good Samaritan laws encourage bystanders to get involved in emergency situations without fear that they will face the consequences if their actions inadvertently contribute to a person's injury or death. In regard to overdoses specifically, these laws protect people from arrest, criminal charges, or prosecution if they possess illicit drugs or drug paraphernalia when they seek medical attention for someone who may be experiencing an overdose. One of the greatest barriers to calling 911 or seeking medical help during an overdose event is fear of arrest or criminal justice involvement on the part of the

caller.<sup>3, 4</sup> Good Samaritan laws address this fear.

Through those laws, a person who may be in a position to act does not need to weigh the potential benefit of saving a person's life against the risk of being arrested, charged, prosecuted, and convicted for breaking the law. As with the specific eligibility criteria outlined in naloxone access laws, Good Samaritan laws similarly define the requirements that must be met to receive these legal protections. For instance, some Good Samaritan laws require that the person call 911, provide their real name, remain on the scene until first responders arrive, or some combination of these. In these circumstances, a person who does not comply with all the requirements for legal protection may indeed face legal consequences for having or using controlled substances or drug paraphernalia.

Individuals involved in community programming for overdose prevention should consider providing education or resources for people who may be involved in an opioid overdose event.

## Examples From the Field

### Arizona's Good Samaritan Law for Overdose Emergencies

Pictured below is an excerpt of Arizona's Good Samaritan law for overdose emergencies.

The text in the **blue boxes** defines individuals who receive protections under this law, which covers both people who seek medical assistance for someone experiencing overdose and people for whom medical assistance is sought.

The text in the **red boxes** defines the protections these people receive. Arizona's law provides protection from criminal charges and prosecution when evidence of possession or use of illicit drugs is gained in the course of the person's overdose and need for medical assistance.

The text in the **orange boxes** defines the specific drug-related state laws that a Good Samaritan will not be charged with or prosecuted for if they meet the requirements of the Good Samaritan law.

The text in the **green boxes** defines the specific circumstances under which legal protections against criminal charges or prosecution are available. In Arizona, a Good Samaritan will not face criminal charges or prosecution for possessing drugs or drug paraphernalia if the discovery of such illegal activity

#### 13-3423. Medical assistance requests; prohibited prosecution of Good Samaritans; mitigating factor; definitions

(Revised 7/1/23)

A. A person who, in good faith, seeks medical assistance for someone experiencing a drug-related overdose may not be charged or prosecuted for the possession or use of a controlled substance or drug paraphernalia or a preparatory offense if the evidence for the violation was gained as a result of the person's seeking medical assistance.

B. A person who experiences a drug-related overdose, who is in need of medical assistance and for whom medical assistance is sought pursuant to subsection A of this section may not be charged or prosecuted for the possession or use of a controlled substance or drug paraphernalia if the evidence for the violation was gained as a result of the person's overdose and need for medical assistance.

C. The act of seeking medical assistance for someone who is experiencing a drug-related overdose may be used as a mitigating factor in a criminal prosecution for a violation of this chapter.

D. This section does not limit either:

1. The admissibility of any evidence in connection with the investigation or prosecution of a crime with regard to a defendant who does not qualify under subsection A or B of this section or with regard to any other crime.

2. The ability to seize contraband or make an arrest for any other offense.

E. This section does not prohibit a person specified in subsection A or B of this section from being offered a diversion program for an offense other than the possession or use of a controlled substance or drug paraphernalia or a preparatory offense.

occurred as a direct result of the call for medical attention to help prevent an overdose death.

## Next Steps for COSSAP Grantees

### 1. How do I interpret the naloxone access and Good Samaritan laws in my state and jurisdiction?

To understand the naloxone access and Good Samaritan laws as they apply to your overdose response, consider the scope of your state's naloxone access and Good Samaritan laws. Does your state offer a broadly applicable standing order? Do the laws in your jurisdiction provide civil, criminal, and disciplinary protections to people who promote broader access to naloxone to various professionals and laypeople who prescribe, dispense, administer, or possess it? Does your state offer protection from drug and drug paraphernalia-related arrest, criminal charges, and prosecution for people who act as Good Samaritans? Understanding these laws will help inform overdose prevention programming by defining potential limitations or strengths in naloxone access, aiding in obtaining buy-in from various stakeholders (such as law enforcement agencies), and by helping people to know the legal protections they are afforded when responding to an overdose event.

### 2. Ensure that others (especially people who use drugs) understand the laws.

As stated in the introduction, research demonstrates that naloxone access laws and Good Samaritan laws are associated with decreases in rates of opioid overdose mortality. For these laws to be a key component of the effective efforts to decrease opioid overdose mortality rates,<sup>5, 6</sup> people need to know about them. Overdose prevention programming efforts should consider informing

people of the naloxone access laws and Good Samaritan laws in their area through educational events or provision of materials, such as the training videos and wallet cards provided at [stopoverdose.org](http://stopoverdose.org), for example.

## Endnotes

1. Ahmad, F. B., Rossen, L. M., & Sutton, P., August 2021, *Provisional Drug Overdose Death Counts*, Centers for Disease Control and Prevention, National Center for Health Statistics, retrieved from <https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm>.
2. McClellan, Chandler, Barrot H. Lambdin, Mir M. Ali, Ryan Mutter, Corey S. Davis, Eliza, Wheeler, Michael Pemberton, & Alex H. Kral, 2018, "Opioid-Overdose Laws Association With Opioid Use and Overdose Mortality," *Addictive Behaviors* 86: 90–95, retrieved from <https://doi.org/10.1016/j.addbeh.2018.03.014>.
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6. Schneider, Kristin E., Ju Nyeong Park, Sean T. Allen, Brian W. Weir, & Susan G. Sherman, 2020, "Knowledge of Good Samaritan Laws and Beliefs About Arrests Among Persons Who Inject Drugs a Year After Policy Change in Baltimore, Maryland," *Public Health Reports* 135(3): 393–400, retrieved from <https://pubmed.ncbi.nlm.nih.gov/32264789/>.

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