

STATE OF NEW YORK

8633

IN SENATE

March 23, 2022

Introduced by Sen. COMRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Alcoholism and Substance Abuse

AN ACT to amend the public health law, in relation to establishing the nightlife opioid antagonist program

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The public health law is amended by adding a new section
2 3309-b to read as follows:

3 § 3309-b. Nightlife opioid antagonist program. 1. Definitions. As used
4 in this section the following terms shall have the following meanings:

5 a. "Nightlife establishment" means an establishment that is open to
6 the public for entertainment or leisure, serves alcohol or where alcohol
7 is consumed on the premises, and conducts a large volume of business at
8 night. Such term includes, but is not limited to, bars, entertainment
9 venues, clubs and restaurants.

10 b. "Opioid antagonist" means naloxone, nalcen or any other medication
11 approved by the department and the federal food and drug administration
12 that, when administered, negates or neutralizes in whole or in part the
13 pharmacological effects of an opioid in the human body.

14 2. Program. The commissioner shall establish a program whereby a
15 nightlife establishment may apply to receive an opioid antagonist, free
16 of charge, to be administered to patrons, staff or individuals on prem-
17 ises of such establishment. Such program shall be operated in compliance
18 with existing laws, rules and regulations relating to the distribution
19 of an opioid antagonist. The department shall publish on its website a
20 list of each participating establishment.

21 3. Eligibility. a. To be eligible to participate in the program
22 created by this section, a nightlife establishment shall agree to comply
23 with the requirements of this section and any rule or regulation promul-
24 gated pursuant to this section.

25 b. A nightlife establishment applying to participate in the program
26 shall submit an application by mail or online through the department's
27 website on a form promulgated by the commissioner.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 4. Approval. Except as otherwise provided by law, the commissioner
2 shall approve an application submitted pursuant to subdivision three of
3 this section if the application satisfies all of the requirements of
4 this section. If an application does not satisfy the requirements of
5 this section, the commissioner shall notify the applicant in writing the
6 deficiencies in the application without prejudice to reapply.

7 5. Fees. The commissioner shall not charge a fee to a participating
8 establishment for receipt of an opioid antagonist or participation in
9 the program.

10 6. Terms and conditions of participation. a. Each participating estab-
11 lishment is permitted to request to receive a maximum of ten doses of an
12 opioid antagonist at one time. After a report has been made to the
13 department pursuant to paragraph b of this subdivision, such establish-
14 ment may apply to receive additional doses of an opioid antagonist up to
15 the maximum of ten such doses per establishment.

16 b. A participating establishment shall report to the department each
17 time:

18 (i) A dose of an opioid antagonist received pursuant to the program is
19 used on a person experiencing an emergency; or

20 (ii) A dose of an opioid antagonist received pursuant to the program
21 has been accidentally or improperly discharged or may otherwise no long-
22 er be administered effectively.

23 c. An opioid antagonist received pursuant to the program shall only be
24 used by a participating establishment at the location of such establish-
25 ment in the state.

26 d. The commissioner shall promulgate rules and regulations that shall
27 govern the use of opioid antagonists by participating establishments.
28 Such rules and regulations shall include, but shall not be limited to,
29 best practices, standards and policies that participating establishments
30 shall meet in connection with:

31 (i) The conduct of participating establishments;

32 (ii) The administration of an opioid antagonist;

33 (iii) Advertisement of the program, including the dangers of opioid
34 use and the effects of the administration of an opioid antagonist;

35 (iv) The privacy of information for participating establishment staff
36 and individuals who receive a dose of an opioid antagonist;

37 (v) Communication between participating establishments and their
38 patrons regarding the program;

39 (vi) Communication between the department and participating establish-
40 ments; and

41 (vii) Any other best practices, standards or policies that the commis-
42 sioner determines would further the purposes of this section.

43 e. A participating establishment shall comply with all applicable
44 federal, state and local laws, rules and regulations, including the
45 requirements of this section and the rules and regulations promulgated
46 thereunder, and shall keep records of opioid antagonist administration
47 on site and available for inspection upon request of an employee or an
48 agent of the department.

49 7. Supervision of program. a. Where a participating establishment
50 violates any federal, state or local law, rule or regulation or the
51 requirements of this section, the commissioner may suspend such estab-
52 lishment's participation in the program, upon due notice and opportunity
53 to be heard.

54 b. The commissioner may immediately suspend a participating establish-
55 ment's participation in the program without a prior hearing where the
56 commissioner determines that such establishment's continued partic-

1 ipation poses a serious danger to public health, safety or welfare,
2 provided that after such suspension an opportunity for hearing shall be
3 provided on an expedited basis.

4 c. Suspension from the program under this section shall be in addition
5 to any other penalties provided by applicable laws, rules or regu-
6 lations.

7 d. A participating establishment may participate in the program after
8 a suspension has been imposed pursuant to this section if such estab-
9 lishment has:

10 (i) cured all violations;

11 (ii) demonstrated full compliance with all applicable federal, state
12 and local laws, rules and regulations; and

13 (iii) applied for reinstatement and such reinstatement has been grant-
14 ed by the commissioner.

15 e. Where a participating establishment has had its participation in
16 the program suspended two times or more, and the participating estab-
17 lishment subsequently violates any applicable law, rule or regulation or
18 the requirements of this section, the commissioner may suspend its
19 participation in the program indefinitely.

20 8. Training. The department shall offer to staff of participating
21 establishments resources and training on overdose prevention and admin-
22 istration of an opioid antagonist. Only staff who have received such
23 training, or who have received training through a program approved
24 pursuant to section thirty-three hundred nine of this article, may
25 administer an opioid antagonist in the event of an emergency.

26 9. Disclaimer of liability. The state shall not be liable for any use
27 or administration of an opioid antagonist by a participating establish-
28 ment. The state does not warranty the completeness, accuracy, content
29 or fitness for any particular purpose of any information made available
30 by a participating establishment regarding the program, nor are any such
31 warranties to be implied or inferred with respect to the information
32 furnished therein. The state shall not be liable for any deficiencies in
33 the completeness, accuracy, content or fitness for any particular
34 purpose or use of information provided by any third party and made
35 available by a participating establishment regarding the program.

36 10. Report. No later than March first, two thousand twenty-three, and
37 annually thereafter, the department shall submit a report to the gover-
38 nor, temporary president of the senate and speaker of the assembly on
39 the administration of opioid antagonists pursuant to the program. The
40 report shall include, but need not be limited to, the following informa-
41 tion for the previous calendar year:

42 a. The total number of doses of an opioid antagonist provided to
43 participating establishments;

44 b. The total number of doses of an opioid antagonist received by each
45 participating establishment;

46 c. The total number of times an opioid antagonist was administered by
47 a participating establishment, disaggregated by establishment; and

48 d. The total number of times an opioid antagonist was improperly
49 administered by a participating establishment, including the reasons for
50 such improper administration, disaggregated by establishment.

51 § 2. This act shall take effect on the one hundred twentieth day after
52 it shall have become a law.