

# 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, narcan 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 icipation 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 warrant 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.