STATE OF NEW YORK

8633--A

IN SENATE

March 23, 2022

Introduced by Sens. COMRIE, GAUGHRAN, HOYLMAN, SALAZAR, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Alcoholism and Substance Abuse -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

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

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

b. "Opioid antagonist" means a drug approved by the Food and Drug Administration that, when administered, negates or neutralizes in whole or in part the pharmacological effects of an opioid in the body. "Opioid antagonist" shall be limited to naloxone and other medications approved by the department for such purpose.

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

3. Eligibility. a. To be eligible to participate in the program created by this section, a nightlife establishment shall agree to comply with the requirements of this section and any rule or regulation promulgated pursuant to this section.

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

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

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

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

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

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

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

(ii) A dose of an opioid antagonist received pursuant to the program has been accidentally or inappropriately discharged or may otherwise no longer be administered effectively.

(iii) A majority of the doses issued to the establishment have expired.

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

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

(i) The conduct of participating establishments;

(ii) The administration of an opioid antagonist;

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

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

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

(vi) Communication between the department and participating establishments; and

(vii) Any other best practices, standards or policies that the commissioner determines would further the purposes of this section.

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

7. Supervision of program. a. Where a participating establishment violates any federal, state or local law, rule or regulation or the requirements of this section, the commissioner may suspend such estab-

lishment's participation in the program, upon due notice and opportunity to be heard.

b. The commissioner may immediately suspend a participating establishment's participation in the program without a prior hearing where the commissioner determines that such establishment's continued participation poses a serious danger to public health, safety or welfare, provided that after such suspension an opportunity for hearing shall be provided on an expedited basis.

c. Suspension from the program under this section shall be in addition to any other penalties provided by applicable laws, rules or regulations.

d. A participating establishment may participate in the program after a suspension has been imposed pursuant to this section if such establishment has:

(i) cured all violations;

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

(iii) applied for reinstatement and such reinstatement has been granted by the commissioner.

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

8. Training. The department shall offer to staff of participating establishments resources and training on overdose prevention and administration of an opioid antagonist.

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

10. Report. No later than March first, two thousand twenty-three, and annually thereafter, the department shall submit a report to the governor, the temporary president of the senate, the minority leader of the senate, the speaker of the assembly, and the minority leader of the assembly on the administration of opioid antagonists pursuant to the program. The report shall include, but need not be limited to, the following information for the previous calendar year:

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

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

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

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

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