

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:

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

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

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

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

LBD15059-02-2

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

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

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

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

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

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

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

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

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

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

36 (i) The conduct of participating establishments;

37 (ii) The administration of an opioid antagonist;

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

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

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

44 (vi) Communication between the department and participating establish-
45 ments; and

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

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

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

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

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

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

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

15 (i) cured all violations;

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

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

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

25 8. Training. The department shall offer to staff of participating
26 establishments resources and training on overdose prevention and admin-
27 istration of an opioid antagonist.

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

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

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

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

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

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

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