§ 3309. Opioid overdose prevention. 1. The commissioner is authorized to establish standards for approval of any opioid overdose prevention program, and opioid antagonist prescribing, dispensing, distribution, possession and administration pursuant to this section which may include, but not be limited to, standards for program directors, appropriate clinical oversight, training, record keeping and reporting.

2. Notwithstanding any inconsistent provisions of section sixty-five hundred twelve of the education law or any other law, the purchase, acquisition, possession or use of an opioid antagonist pursuant to this section shall not constitute the unlawful practice of a profession or other violation under title eight of the education law or this article.

3. (a) As used in this section:

(i) "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.

(ii) "Health care professional" means a person licensed, registered or authorized pursuant to title eight of the education law to prescribe prescription drugs.

(iii) "Pharmacist" means a person licensed or authorized to practice pharmacy pursuant to article one hundred thirty-seven of the education law.

(iv) "Opioid antagonist recipient" or "recipient" means a person at risk of experiencing an opioid-related overdose, or a family member, friend or other person in a position to assist a person experiencing or at risk of experiencing an opioid-related overdose, or an organization registered as an opioid overdose prevention program pursuant to this section or any person or entity or any person employed by the person or entity.

(v) As used in this section, "entity" includes, but is not limited to, a school district, public library, board of cooperative educational services, county vocational education and extension board, charter school, non-public elementary or secondary school, restaurant, bar, retail store, shopping mall, barber shop, beauty parlor, theater,

sporting or event center, inn, hotel or motel.

(vi) "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)(i) A health care professional may prescribe by a patient-specific or non-patient-specific prescription, dispense or distribute, directly or indirectly, an opioid antagonist to an opioid antagonist recipient.

(ii) A pharmacist may dispense an opioid antagonist, through a patient-specific or non-patient-specific prescription pursuant to this paragraph, to an opioid antagonist recipient.

(iii) An opioid antagonist recipient may possess an opioid antagonist obtained pursuant to this paragraph, may distribute such opioid antagonist to a recipient, and may administer such opioid antagonist to a person the recipient reasonably believes is experiencing an opioid overdose.

(iv) The provisions of this paragraph shall not be deemed to require a prescription for any opioid antagonist that does not otherwise require a prescription; nor shall it be deemed to limit the authority of a health care professional to prescribe, dispense or distribute, or of a pharmacist to dispense, an opioid antagonist under any other provision of law.

(v) Any pharmacy with twenty or more locations in the state, shall either: (1) pursue or maintain a non-patient-specific prescription with an authorized health care professional to dispense an opioid antagonist to a consumer upon request, as authorized by this section; or (2) register with the department as an opioid overdose prevention program.

3-a. Any distribution of opioid antagonists through this program shall include an informational card or sheet, and fentanyl test strips. The informational card or sheet shall include, at a minimum, information on:

(a) how to recognize symptoms of an opioid overdose;

(b) steps to take prior to and after an opioid antagonist is administered, including calling first responders;

(c) the number for the toll free office of addiction services and supports' HOPE line;

(d) how to access the office of addiction services and supports' website;

(e) the application of good samaritan protections provided in section three thousand-a of this chapter;

(f) any other information deemed relevant by the commissioner; and

(g) information about fentanyl test strips and their uses.

The educational card shall be provided in languages other than English as deemed appropriate by the commissioner. The department shall make such informational cards available to the opioid overdose prevention programs.

4. (a) Use of an opioid antagonist pursuant to this section shall be considered first aid or emergency treatment for the purpose of any statute relating to liability.

(b) A recipient, opioid overdose prevention program, person or entity, or any person employed by the person or entity, acting reasonably and in good faith in compliance with this section, shall not be subject to criminal, civil or administrative liability solely by reason of such action.

5. The commissioner shall publish findings on statewide opioid overdose data that reviews overdose death rates and other information to ascertain changes in the cause and rates of opioid overdoses, including fatal opioid overdoses. The report shall be submitted annually, on or before October first, to the governor, the temporary president of the senate, the speaker of the assembly and the chairs of the senate and assembly health committees, and shall be made public on the department's internet website. The report shall include, at a minimum, the following information on a county basis:

(a) information on opioid overdoses and opioid overdose deaths, including age, gender, ethnicity, and geographic location;

(b) data on emergency room utilization for the treatment of opioid overdose;

(c) data on utilization of pre-hospital services;

(d) data on the dispensing and utilization of opioid antagonists; and

(e) any other information necessary to ascertain the success of the

program, areas of the state which are experiencing particularly high rates of overdoses, ways to determine if services, resources and responses in particular areas of the state are having a positive impact on reducing overdoses, and ways to further reduce overdoses.

* 6. The commissioner shall provide the current information and data specified by each type of drug included in the report required by subdivision five of this section to each county every three months. The office of addiction services and supports website shall include a hyperlink to such information and data which may be utilized by a county or any combination thereof as it works to address the opioid epidemic.

* NB Repealed March 31, 2027

7. With the first prescription to a particular patient of an opioid of each year for use in a setting other than a general hospital or nursing home under article twenty-eight of this chapter or facility under article thirty-one of the mental hygiene law, or when a practitioner is prescribing a controlled substance to a patient under the care of hospice as defined by section four thousand two of this chapter, the prescriber shall prescribe an opioid antagonist when any of the following risk factors are present: (a) a history of substance use disorder; (b) high dose or cumulative prescriptions that result in ninety morphine milligram equivalents or higher per day; (c) concurrent use of opioids and benzodiazepine or nonbenzodiazepine sedative hypnotics.

8. The commissioner shall establish guidelines for onsite opioid overdose response capacity in nightlife establishments.

9. The commissioner shall, in full accordance with the standards, powers and authorizations established by this section, coordinate with the commissioner of general services to effectuate the duty established by subdivision two-a of section one hundred forty of the public buildings law to equip public institutions and buildings with opioid antagonists.