DATE: August 15, 2007

RE: Legality of Prescribing Take-Home Naloxone to Treat Opiate Overdose in Wyoming

INTRODUCTION

Naloxone, the standard treatment for heroin overdose, is a safe and effective prescription drug typically administered by emergency room personnel or first responders acting under standing orders of physicians. High numbers of overdose deaths and evidence that witnesses to heroin overdose are often unwilling or unable to call for help has motivated some public health professionals to institute programs that distribute naloxone directly to opiate drug users (ODUs). In such programs, drug users, their partners, or others are instructed in resuscitation techniques and provided a “take-home” dose of naloxone for administration in cases when medical help is not immediately available.

Evidence from US and abroad indicates that naloxone distribution helps reduce opiate overdose deaths and results in cost-savings to society.\(^1\) Despite the high and rising incidence of overdose events in many US locales, however, both the number and the scope of overdose programs remain inadequate. Legal concerns about provider and program liability act as one of the most important limiting factors, often complicating or derailing authorization, expansion, funding and implementation of these programs.

We were funded by the Drug Policy Alliance to analyze the legal issues for naloxone distribution programs in the fifty United States. Our analysis finds that:

1. **Naloxone is not a controlled substance as defined by federal or state law, but is a prescription drug subject to the general laws and regulations that govern all prescriptions in regular medical practice.**

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2. Prescribing naloxone to ODUs in this state is fully consistent with state and federal laws regulating drug prescribing.

3. Teaching overdose response techniques, including the administration of naloxone, to naloxone recipients and others who might be in a position to administer it to an ODU to whom it has been prescribed is legal and appropriate.

4. Naloxone may not be given to patients or participants in an overdose prevention program with the explicit purpose of encouraging them to distribute or administer the drug to other ODUs who are not patients.

5. Any legal risks in distributing naloxone in this state are not substantial and can be mitigated by informed program design; the risks of malpractice liability are consistent with those generally associated with providing healthcare, and can be further minimized by following the guidelines we describe.

This Memorandum addresses the following specific questions:

1. May a physician legally prescribe naloxone to an ODU patient?
2. May an allied health professional other than physician prescribe naloxone to an ODU patient?
3. What instructions should accompany naloxone prescription/dispensation?
4. How may naloxone be dispensed?
5. Is it legal to prescribe or dispense naloxone for recipients to give or administer to third parties who have not been prescribed the drug by a licensed professional?
6. What is the risk of disciplinary action by a professional board arising from naloxone prescription or distribution, and how can the risk be minimized?
7. What kind of malpractice liability may arise from naloxone prescription or distribution, and how can the risk of liability be minimized?
Executive Summary

From a legal standpoint, naloxone is no different than any other prescription drug. Authorized medical professionals can prescribe and dispense naloxone in the same way they would any other drug. Naloxone is indicated for patients who, upon examination, are at risk of opiate overdose and who are judged by the professional to be capable of benefiting from naloxone administration. The amount of naloxone prescribed or dispensed depends upon the prescriber’s assessment of need. (See Parts I & II describing who may prescribe naloxone.)

As part of the process of prescribing, the patient should be given information about when and how to use the drug, as well as other steps that are advisable in responding to an overdose. Because a person suffering an overdose may not be able to administer the drug him or herself, it is also appropriate to (1) teach groups of patients how to administer the drug so that they can assist each other in an overdose emergency; and (2) instruct—in person, or through written materials—friends, family members and others who may witness an overdose how to administer the drug to a patient. It is not uncommon for third parties to assist patients in administering their drugs, for all sorts of reasons. The key legal requirement is that the recipient have a valid prescription for the drug. (See Parts III & IV.)

Because a legal prescription requires some examination and a specific medical indication, naloxone may not be prescribed or dispensed to patients or program participants to hand out or administer to other ODUs who are not patients of the prescriber. A program based on this model would be legally vulnerable in this state. A professional distributing naloxone in this way could be found to be violating professional licensure laws; the patient or program participant distributing or administering the drug could be found to be guilty of the crime of practicing medicine without a license; and the recipient of a vial of naloxone for which she has no prescription could be found guilty of illegal possession of a prescription drug. (See Part V.)

Assuming the provider does not violate regulations that generally apply to drug prescription in this state, acts competently, and follows the additional guidelines we set out, criminal or civil liability is very unlikely to arise out of naloxone prescription activities. (See Parts VI and VII.) Presumably, few prosecutors would be hard-hearted enough to punish a person for saving a life, but an ODU who uses his or her own naloxone to save the life of a person who has not been prescribed the drug does, technically, break the law. A few states have taken positive action to clearly legalize emergency administration of naloxone by

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2 We will refer to a person who has received a legal prescription for naloxone as a “patient.”
3 We will define examination generally as an interaction sufficient to allow the physician to determine the patient's diagnosis and treatment needs in the context of the service being sought or medical issues being raised.
lay persons, and to protect medical professionals from tort and other liability. Such legislation can help lower legal barriers and increase access to naloxone here. (See “Conclusion.”)

The Legal Analysis in Detail

I. May a Physician Legally Prescribe Naloxone to an IDU Patient?

A. Professional Licensure Law

The practice of medicine in Wyoming is governed by the Medical Practice Act, with regulations in the Wyoming Administrative Code. The Board of Medicine has the authority to license physicians and to punish licensed physicians who behave in ways that violate the law or fall beneath the standards of good faith and regular practice of medicine. The statutory and administrative codes of Wyoming do not explicitly define the basis or scope of the physician's general authority to prescribe. However, the Board of Medicine is authorized to set limits on allowable prescription practices, either by enacting specific regulations banning certain prescription practices, or through the disciplinary process.

Naloxone is labeled for administration to reverse opiate overdose in clinical settings, such as hospitals, but is often administered by first responders acting on standing orders of physicians in the field. Federal and state law affords physicians broad discretion to prescribe drugs for off-label uses, and such prescriptions are a routine part of medical practice. Naloxone is not a controlled substance under state or federal law. Therefore, a prescription for naloxone must meet the same standards as a prescription for any other drug.

Using standard research techniques, we identified no case-law discussing physicians' general authority to prescribe drugs and devices in the state, nor is there case-law challenging the legality of prescription of naloxone specifically. This reflects physicians' broad discretion in prescribing and dispensing medical

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5 WY Rules and Regulations COM MED Ch. 1 § 1 (2007). et seq.
8 Id.
11 According to our research, no lawsuits challenging the legality of naloxone prescription have been brought anywhere in the US.
agents such as naloxone in this state and elsewhere in the US. In the absence of specific provisions, we presume a prescription for naloxone would be governed by the same broad principles that govern prescriptions for controlled substances: "[a] prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by a practitioner acting in the usual course of his professional practice."\(^\text{12}\)

In determining whether a prescription arises within the usual course of professional practice, courts may consider such factors as whether a bona fide physician-patient relationship existed, whether other care was provided, whether proper records were kept of the encounter, whether the prescription was based on a proper history or individualized assessment of the patient's risk factors and efforts to provide other harm reducing services.\(^\text{13}\) The medical board is authorized to punish physicians whose prescription practices constitute unprofessional conduct.\(^\text{14}\)

**B. Analysis**

While not explicitly required by Wyoming, it is prudent for physicians to adhere to the standards applicable to the prescription of controlled substances. These common-sense rules require providing a physical examination, documenting a history, discussing the treatment plan and its alternatives with the patient, and ensuring adequate follow-up care. Physicians have broad discretion about dosage of non-controlled drugs, and may decide to prescribe whatever amount of the agent they reasonably deem necessary to meet the patient's needs. Physicians who have an on-going relationship with the patient do not have to conduct a physical examination every time they issue or renew a prescription.

**Conclusion:** A prescription for naloxone to an ODU patient is consistent with the standard for a valid prescription under Wyoming laws governing the physician's authority to prescribe. The same rules that apply to any prescription drug in this state apply to naloxone.

**II. May Anyone Other Than Physician Issue A Prescription For Naloxone?**

**A. Professional Licensure Law**

Allied health professionals in this state are authorized to replace physicians in some or all aspects of a prescription program. Advanced nurse

\(^{12}\) WY Rules and Regulations AI PDSC Ch. 6 § 3(a) (2007).


practitioners (ANPs) are authorized in Wyoming to prescribe medicine,\(^\text{15}\) as long as these practices do not violate the "reasonable standards of nursing practice" defined by the Board of Nursing."\(^\text{16}\) Physician assistants (PAs) can prescribe prescription drugs as agents of a supervising physician.\(^\text{17}\) A supervising physician does not have to be on-site for PAs to prescribe, if he or she is available through telecommunication and the Board finds this is sufficient to ensure quality medical care.\(^\text{18}\)

**B. Analysis**

We have concluded above that a physician's prescription for naloxone, issued under the procedures outlined in Part I, is valid under Wyoming law. In the same way, a prescription issued by an allied health professional in accordance with the relevant regulations is valid. A consultation with a non-physician healthcare provider may eliminate the need for the patient to actually meet a physician before a naloxone prescription is issued. ANPs and PAs may staff a naloxone program with the required physician oversight or collaboration.

**Conclusion:** Allied health professionals may replace a physician in specific functions during the prescription process. The same rules that govern the prescription and/or dispensation of any other prescription drug apply to naloxone.

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**III. What Instructions Should Accompany Naloxone Prescription or Dispensing?**

**A. The Regulatory Scheme**

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> A physician assistant may prescribe medications only as an agent of the supervising physician. … The supervising physician may delegate authority to the physician assistant to dispense prepackaged medications in rural clinics when pharmacy services are not physically available. The board shall, after consultation with the state board of pharmacy, promulgate rules and regulations governing the prescription of medications by a physician assistant.

WY Rules and Regulations COM MED Ch. 5 § 17(a) (2007) ("As the agent of the supervising physician, a physician assistant may prescribe … medications"); Wyo. Stat Ann. § 33-26-501 (1997) ("Supervision" means the ready availability of the supervising physician for consultation and direction of the activities of the physician assistant. Contact with the supervising physician by telecommunications is sufficient to show ready availability, if the board finds that such contact is sufficient to provide quality medical care").

\(^{18}\) Id.
As noted in the licensure law described in sections I and II, in general it is recommended that a healthcare provider formulate a therapeutic plan for their patient and discuss such plan, along with the basis for the plan and the risks and benefits of various treatment options, with the patient before issuing a prescription.

**B. Analysis**

The intended use of naloxone is to prevent opiate overdose. Indications for and methods of administration should be explained to patients, along with risks and benefits. Because of the nature of overdose, patients may not always be able to self-administer the necessary dose. Some overdose prevention programs properly instruct pairs or groups of patients in naloxone administration and other emergency measures so that patients can assist each other. Prescribing staff may also provide written and oral instructions that patients can relay to their friends, family, or others who can help administer the drug in an event of an overdose. Such instructions parallel information given to patients who may need emergency injections of insulin or epinephrine and are entirely consistent with the legal prescription of the drug. These instructions should include:

1. information on how to spot symptoms of an overdose;
2. instruction in basic resuscitation techniques;
3. instruction on proper naloxone administration, and
4. the importance of calling 911 for help.

Naloxone distribution programs in Wyoming should not instruct clients to administer naloxone to persons who do not have a prescription for the drug (see Part V below).

**Conclusion:** Program participants receiving a take-home dose of naloxone should receive verbal and written instructions on how and when to use this drug. Program staff should not instruct patients to administer naloxone to persons who do not have a valid prescription for the drug.

**IV. How May Naloxone be Dispensed?**

**A. The Regulatory Scheme**

Naloxone is subject to the general rules covering dispensing of prescription drugs under state law. The practice of pharmacy in Wyoming is governed by the Wyoming Pharmacy Act,\(^\text{19}\) with regulations found in the

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Pharmacists are expected to fill a prescription that meets regulatory guidelines.

The prescribing healthcare provider may also dispense the agent at the point of service. Physicians in Wyoming can dispense prescription drugs. ANPs can dispense prescription drugs. PAs can dispense prepackaged medications in rural clinics, but only when this authority is delegated from the supervising physician and when pharmacy services are not physically available. Dispensing of drugs is generally subject to requirements for record keeping, packaging and proper labeling of the agent, including the patient’s name and other essential information.

B. Analysis

Pharmacists should and ordinarily will fill a valid prescription for naloxone. Provided that the healthcare provider has followed the prescription guidelines, she or another licensed professional so authorized (see part II) can dispense the drug directly to the clients. If a program decides to dispense naloxone on premises, we recommend healthcare providers adhere to the local professional custom with respect to packaging and record-keeping.

Conclusion: Dispensing naloxone by valid prescription does not violate Wyoming law and may be done on the premises of the distribution program by authorized health care providers.

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20 WY Rules and Regulations COM PHAR Ch. 4 § 1 (2007), et seq.
23 Wyo. Stat. Ann. § 33-26-510 (2007) ("The supervising physician may delegate authority to the physician assistant to dispense prepackaged medications in rural clinics when pharmacy services are not physically available"); WY Rules and Regulations COM MED Ch. 5 § 17(a) (2007) ("As the agent of the supervising physician, a physician assistant may … dispense medications …. Dispensing shall be limited to rural clinics in which pharmacy services are not readily available").
24 Although there is no statute outlining dispensation regulations for healthcare providers, they presumably have to adhere to the same rules as pharmacists. Wyo. Stat. Ann. § 33-24-136(a) (2007):

Every person who prepares, compounds, processes, packages or repackages, dispenses, fills or sells or offers for sale, at retail or in connection with operation of a health care facility, any prescription, shall place the written memorandum of the prescription in a separate file marked and kept for that purpose, and shall affix a label to the container in which the prescribed substance is dispensed bearing the name and address of the pharmacy and registration number of the dispensing pharmacist, … the date on which the prescription is filed in the pharmacy’s files, the name of the person who prescribed the substance, the name of the patient or customer for whom the prescription was made and directions for use by the patient as directed on the prescription by the prescriber.
V. Is It Legal To Prescribe Or Dispense Naloxone For Recipients To Give Or Administer To Third Parties Who Have Not Been Prescribed The Drug By A Licensed Professional?

A legal prescription requires a specific patient who has been examined and found to have a medical indication for the drug. Before the drug can properly be dispensed, the patient must be given information about the indications for the drug, its proper use, and its risks and benefits. Naloxone could not properly be prescribed to a person who was not an ODU at risk of overdose, even if that person promised to give it to or use it on a person in need. Although a physician may prescribe multiple doses to a patient for whom they are indicated, the physician may not prescribe “extra” naloxone to a patient with explicit instructions to give it to or use it on a person in need.

A licensed professional who distributed naloxone in this way could be subject to charges of professional misconduct (see section VI) and be subject to license sanctions.25 The patient or volunteer who dispensed naloxone to recipients who were not prescribed this agent could be charged with practicing medicine without a license.26 We cannot say that a person who saved a life in this way would actually be charged with a crime or harshly punished if convicted, but the act would be technically illegal. We found no provision that made it a crime to possess a legend drug without a prescription.

None of this should be taken as suggesting that a program cannot teach patients to properly administer the drug on others. Such training is necessary, as discussed above, to deal with the fact that patients may be unable to self-administer in an overdose situation, or may be called upon to assist another patient. But a program in this state that explicitly encouraged distribution to or administration upon non-patients would be open to legal challenge. Legislatures in a few states have taken action to eliminate legal barriers to emergency use of naloxone among non-patients. These are discussed in the Conclusion, below.

VI. What Is The Risk Of Disciplinary Action By A Professional Board Arising Kind Of Medical Discipline Or Criminal Liability May Arise From Naloxone Prescription Or Distribution, And How Can The Risk Of Liability Be Minimized?

Any person engaged in the practice of medicine … without a license granted by the board is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than one thousand dollars ($1,000.00) or by imprisonment in the county jail for not more than one (1) year, or both. Each violation constitutes a separate offense for which the penalty in this subsection may be assessed.
Non-compliance with prescription and other professional practice rules may carry license sanctions or other disciplinary action. There is no risk of professional censure for participating in a naloxone prescription program. Our analysis above makes clear that prescribing naloxone to ODU patients is well within the normal parameters of medical practice.

Of course, naloxone prescribing might give rise to political controversy in a particular place, exposing the professionals and the program to closer scrutiny by potentially hostile regulators. Program managers and staff have to be prepared to produce clear and detailed documentation of proper physician involvement, specific and detailed protocols, and licensure information. Case law confirms the general notion that courts defer to the judgment of licensed medical professionals, so long as they produce clear factual evidence of reasonable efforts to comply with the rules and regulations of professional conduct. Blatant non-compliance, cutting corners, cover-ups, and sloppy record-keeping have resulted in the imposition of professional censure and criminal charges.

VII. What Kind of Tort or Civil Liability May Arise from Naloxone Prescription or Distribution; What Remedies Exist to Minimize Such Risk?

(a) The board may refuse to renew, and may revoke, suspend or restrict a license or take other disciplinary action, including the imposition of conditions or restrictions upon a license on one (1) or more of the following grounds:

   …

   (ix) Aiding or abetting the practice of medicine by a person not licensed by the board;

   (x) Violating or attempting to violate or assist in the violation of any provision of this chapter or any other applicable provision of law;

   …

   (xix) A manifest incapacity to practice medicine with reasonable skill and safety to patients;

   …

   (xxii) Practicing medicine below the applicable standard of care, regardless of causation or damage;

   …

   (xxvi) Any action by a health care entity that:

         (A) Adversely affects clinical privileges for a period exceeding thirty (30) days;

         …

         (B) Failure to conform to the applicable standard of care;

         (C) Willful or careless disregard for the health, welfare or safety of a patient;

         (D) Engaging in any conduct or practice that is harmful or dangerous to the health of a patient or the public;

         …

         (xxxi) Violation of any board rule or regulation.

28 Williams v Ohio Bd. of Nursing, 1993 WL 69465 (Ohio App. 10 Dist. Mar. 9, 1993); Sermchief v. Gonzales, 660 S.W.2d 683 (Mo. banc 1983).

A. The Legal Scheme

Any practice of medicine implies a risk that something may go wrong. In the context of a naloxone prescription/dispensing program, a patient may suffer one of the rare side effects from the drug. An error in administration by a patient’s companion, a failure to seek timely medical help after the administration of naloxone, or re-injection of opiates after naloxone might all lead to death or serious injury.

Generally, every tort claimant must establish that he or she suffered an injury that was actually caused by the defendant healthcare provider. A healthcare provider is required to practice his or her profession in a reasonably competent manner. Particular conduct is assessed by reference to the customary behavior of the relevant segment of the profession under the same or similar circumstances, which is said to establish the “standard of care.”30 The essence of the inquiry is whether the provider’s treatment decisions were reasonable and consistent with accepted medical principles, considering all the circumstances.

In order to prove negligence, the plaintiff must prove that (1) the provider’s failure to meet the professional standard of care (2) caused an injury, and that the defendant provider (3) had a duty to avoid harming the plaintiff. Tort doctrine requires the plaintiff to prove that the injury would not have occurred “but for” the healthcare provider’s unreasonable behavior.

B. Analysis

Naloxone is the drug of choice for overdose. Assuming that the patient is an ODU at risk of a fatal overdose, and is properly instructed in the administration and risks of the drug, a simple risk–benefit analysis would suggest that the provider’s decision to prescribe was reasonable and not negligent. The reasonableness of the decision would be supported by the public health and clinical literature discussing take-home naloxone,31 and, in an actual case, by expert testimony from clinicians and public health experts. If the prescription of naloxone is reasonable, there can be no tort liability even if the other elements of the case are established.

“But for” causation will be extremely difficult to establish where the injury results from overdose because at the moment naloxone was administered.

serious injury was already likely to happen. Where the injury is caused by the rare occurrence of side effects of naloxone, the causal connection is still tenuous: the behavior of the injured party, in overdosing on heroin, is the key causal factor that necessitated treatment with the agent. Injury was likely to be as severe, if not more so, had naloxone not been administered. It is not considered malpractice to prescribe a drug that carries a low risk of side effects to avert death or severe impairment, particularly if the patient is adequately informed of the risks. Even in the unlikely cases in which “but for” factual causation may be established, the provider’s actions must represent a major contributing factor to the injury for liability to arise. It is hardly fair to blame a prescribing professional for a harm primarily caused by a patient’s decision to inject heroin; courts have usually applied the rule of “superseding cause” to hold that people who voluntarily use dangerous drugs cannot blame others for the harm the drugs cause.  

“Loss of chance” doctrine in tort law establishes liability when negligent or otherwise harmful behavior substantially contributes to an injury, even if the injury may have also occurred from other causes. A plaintiff could also allege that the provision of naloxone led to delay or failure to summon medical help, leading to the “loss of a chance” to receive medical care. However, the imposition of liability under this doctrine would be highly problematic if programs explicitly instruct patients not to rely wholly on the effects of naloxone, but rather to use it as a stop-loss measure before medical help can be summoned.

Programs and providers cannot be found liable for actions of clients who administer naloxone to third parties who were not prescribed the drug, unless the program or provider have expressly instructed clients to administer naloxone in this manner. Program and providers should not issue such instructions. The actions by third parties are superseding cause of injury, not connected directly to the actions of providers or the program. Under doctrine, the court would likely ask if such an outcome was reasonably foreseeable. A death or injury resulting from an unauthorized administration of a low risk medication prescribed to a non-patient is arguably too unforeseeable a result to establish liability. Informing clients of the need to contact first responders and administer the necessary resuscitation procedures to overdose victims can further mitigate the risk of any liability under these circumstances.

Any practice within the scope of the practitioner’s usual duties is covered by malpractice insurance, which will pay for any litigation arising out of that practice according to the terms of the insurance contract. Naloxone prescription to prevent opiate overdose is a practice accepted by a significant number of physicians and is within the scope of practice for providers working with the general population. In the case of volunteer providers, the US Volunteer

Protection Act shields volunteers for acts committed within the scope for their work for a non-profit or government agency, so long as the acts are not criminal, reckless or grossly negligent.\textsuperscript{35} Wyoming law provides similar immunity for volunteer healthcare professionals providing free services to low income uninsured persons for nonprofit healthcare facilities.\textsuperscript{36}

\textsuperscript{35} 42 U.S.C.A. § 14503 (West 2000).

(a) As used in this section:

(i) "Health care professional" means any of the following who provide medical or dental diagnosis, care or treatment:
(A) Physicians, osteopaths and physician assistants licensed to practice as provided in title 33, chapter 26 of the Wyoming statutes;
(B) All nurses licensed to practice as provided in title 33, chapter 21 of the Wyoming statutes;
...
(ii) "Low income uninsured person" means a person who meets all of the following requirements:
(A) The person's income is not greater than two hundred percent (200%) of the current poverty line as defined by federal law, as amended;
(B) The person currently is not receiving medical, disability or other assistance under any federal or state government health care program; and
(C) Either of the following applies:
(I) The person is not a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary or other covered individual under a health insurance or health care policy, contract or plan; or
(II) The person is a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary or other covered individual under a health insurance or health care policy, contract or plan, but the insurer, policy, contract or plan denies coverage or is the subject of insolvency or bankruptcy proceedings in any jurisdiction.
(iii) "Nonprofit health care facility" means a charitable nonprofit corporation or association organized and operated under title 17, chapters 19 or 22 of the Wyoming statutes, or any charitable organization not organized and not operated for profit, that exclusively provides health care services to low income uninsured persons, except that "health care facility" does not include a hospital, including a swing bed hospital, facility or center defined under W.S. 35-2-901 or any other medical facility that is operated for profit;
...
(vi) "Volunteer" means an individual who provides any medical, dental or other health care related diagnosis, care or treatment without the expectation of receiving, and without receipt of, any compensation or other form of remuneration from a low income uninsured person, another person on behalf of a low income uninsured person, any health care facility or any other person or government entity.
(b) Subject to subsection (d) of this section, a health care professional who is a volunteer and complies with subsection (c) of this section is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental or other health-related claim for injury, death or loss to person or property that allegedly arises from an action or omission of the volunteer in the provision at a nonprofit health care facility to a low income uninsured person of medical, dental or other health-related diagnosis, care or treatment, including the provision of samples of medicine and other medical or dental products, unless the action or omission constitutes willful or wanton misconduct.
Conclusion: The risk of tort liability in a naloxone program is low. Conceptually, this risk is no different from any other healthcare context. By following state rules and general standards of practice, providers can protect themselves from the imposition of tort liability. Malpractice insurance and laws that apply specifically to volunteer providers may provide additional protection.

CONCLUSION

A. Guidelines

Naloxone prescription is legal in this state. However, as with any healthcare practice, institutions and professionals providing this service should follow the relevant rules and regulations that govern their practice to avoid professional, civil, and criminal liability.

The following is a summary of the program guidelines dictated by Wyoming law we have outlined above:

(c) To qualify for immunity under subsection (b) of this section, a volunteer health care professional shall do all of the following prior to the initial diagnosis, care or treatment:

(i) Inform the person of the provisions of this section either personally or by means of a writing so stating provided by the nonprofit health care facility and signed by the person, or by another individual on behalf of, and in the presence of, the person; and

(ii) Obtain the informed consent of the person and a written waiver, signed by the person, or by another individual on behalf of, and in the presence of, the person.

... 

(e) In order for the immunity under subsection (b) of this section to apply and before the rendering of any services by the volunteer health care professional at the nonprofit health care facility, there must be a written agreement between the volunteer health care professional and the facility pursuant to which the volunteer health care professional will provide medical, dental or health care related diagnosis, care or treatment under the control of the facility to patients of the facility.

(f) A nonprofit health care facility entering into a written agreement under subsection (e) of this section shall maintain liability coverage of not less than one million dollars ($1,000,000.00) per occurrence, except that no such coverage shall be required to be maintained by the facility if such coverage is maintained by all volunteer health care professionals rendering services at the facility. A nonprofit health care facility shall be liable for the negligent acts of a volunteer health care professional providing diagnosis, care or treatment at the facility only in the circumstances and to the extent the facility is required to maintain liability coverage under this subsection.
1. Each patient receiving naloxone must be issued a prescription for the drug by a physician or licensed medical provider working in collaboration with a physician.

2. In order to receive a prescription, each patient must undergo an examination that is reasonable in light of professional standards to produce a proper diagnosis and treatment plan.

3. The prescription must be made out to the specific patient and must contain all the information required by law.

4. Each prescription should be accompanied by oral and/or written information on the following:
   - information on how to spot symptoms of an overdose;
   - instruction in basic resuscitation techniques;
   - instruction on proper naloxone administration, and
   - the importance of calling 911 for help.

**B. Changes in State Law**

Under the current law of this state, dispensing or administering naloxone to third parties who have not been prescribed the drug is illegal. Passing legislation to allow these practices would help reduce overdose deaths and ease the concerns of providers and clients about possible legal penalties. New York’s legislature recently passed a law to provide clear authorization of medical providers to “prescribe” or “dispense” naloxone to unknown ODUs via trained patients or volunteers (“Trained Overdose Responders” under NYS law); establish immunity for providers participating in such programs; and establish immunity for patients and volunteers using naloxone in providing first aid to victims of heroin overdose.37

**C. Cooperation with First Responders**

Programs should also work with police and EMTs to inform them about program goals and practices. Alerting first responders to the presence of take-home naloxone can help inform their work and alleviate resistance or roadblocks to program implementation. By building their programs according to the regulatory schemes we have referenced above, programs can successfully navigate the legal questions around dispensation of this life-saving agent to ODUs.

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[T]he purchase, acquisition, possession or use of an opioid antagonist by an Opioid Overdose Prevention Program or a Trained Overdose Responder in accordance with this section and the training provided by an authorized Opioid Overdose Prevention Program shall not constitute the unlawful practice of a professional or other violation under title eight of the education law or article 33 of the public health law.