

HB 2579 – Authorizing the board of emergency medical services to distribute non-prescription over-the-counter (OTC) medications.

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Neutral Testimony

Madam Chair Gossage and members of the committee, thank you for the opportunity to provide this testimony upon HB 2579. The Board currently stands neutral on this bill and leaves it to the will of this body.

The Emergency Medical Services Board is the lead EMS agency in our state responsible for protecting the public through the effective oversight of all things EMS related in Kansas; this includes ambulance services, ambulances, EMS providers, and EMS educational entities. We have been tirelessly providing guidance, input, and support to our 170 EMS agencies across the state of Kansas as we remain in close and frequent contact with them to attempt to identify and address challenges as early as possible.

The Board stands neutral as we believe the additional language is unnecessary and asks to legislate a practice bystanders and laypersons can do today. Thereby creating and placing obstacles in the path of the EMS provider to be able to do what the general public can do today without the obstacles. However, the industry believes the language before you today provides a necessary clarity and we appreciate their desire to have clarity within statute.

The obstacles HB 2579 would introduce to the EMS provider for this situation – the EMS provider would need to demonstrate they had successfully completed an approved course of instruction, local specialized device training and competency validation, and then could only distribute if authorized by medical protocols or upon an order of a physician, physician assistant, advanced practice registered nurse, or professional nurse when direct communication is maintained and monitored. The general public has none of these obstacles, simply a request to give, a supply on hand, and them giving.

In the vein of necessary clarity, we do request your consideration of two items the Board has asked to pursue legislation upon to effect and is the product of over 3 years' worth of meetings and discussions related to the authorized activities of the Emergency Medical Responder (Proposed amendment #1).

- Adding “acquisition of serial EKG rhythm strips if the primary care provider during transportation is a physician, physician assistant, advanced practice registered nurse, professional nurse, advanced emergency medical technician or paramedic;” as an authorized activity. This fixes a concern of a one and done approach afforded by subsection (a)(6) and places the guardrail to differentiate between the skill of acquisition and the practice of EKG monitoring.
- Deleting (a)(11) “intramuscular injections with auto-injector”. It is duplicative with (12).

Finally, for your consideration, it is the Board’s current opinion this bill, if enacted, creates a potential statutory disconnect within the emergency opioid antagonist law – K.S.A. 65-16,127. EMS providers would be authorized from this bill to distribute OTC emergency opioid antagonists, but K.S.A. 65-16,127 clearly only authorizes them to store, possess, or administer. EMS providers would be in violation of 65-16,127 with every distribution of an OTC emergency opioid antagonist. This disconnect could prove disastrous for naloxone leave-behind programs by EMS services – programs designed for victims of an

overdose who have responded appropriately to the administration of naloxone for the immediate concern, but refuse transportation or further care. The goal of these programs is, through distribution, to provide and place OTC emergency opioid antagonists in the hands of those having a demonstrated need to have this important safety measure for accidental overdoses.

K.S.A. 65-16,127 does not differentiate between medications approved for prescription usage and those approved for OTC usage, it simply references medications approved by the U.S. Food and Drug Administration to treat an opioid overdose. And quite appropriately so, K.S.A. 65-16,127 was enacted prior to an OTC emergency opioid antagonist existing.

As OTC medications are approved by the U.S. Food and Drug Administration and they approved the first OTC emergency opioid antagonist medication on March 29, 2023, we would additionally ask if your will is to advance this bill, please look to address this potential disconnect and add “distribute” in K.S.A. 65-16,127 subsection (e) to clearly allow the practice of naloxone leave behind for first responders, scientists or technicians operating under a first response agency, or school nurses so they all may utilize these programs without fear of unintentionally violating a state law (Proposed amendment #2).

We thank you for your time, for your consideration of our requests for amendments, and stand ready, as always, to execute the direction of the Legislature.

Proposed amendment #1 (on page 1):

- 21 (4) cardiac arrest management through the use of cardiopulmonary
- 22 resuscitation and the use of an automated external defibrillator;
- 23 (5) airway management and oxygen therapy;
- 24 (6) utilization of equipment for the purposes of acquiring an EKG
- 25 rhythm strip;
- 26 (7) control of bleeding;
- 27 (8) extremity splinting;
- 28 (9) spinal immobilization;
- 29 (10) nebulizer therapy;
- 30 ~~(11) intramuscular injections with auto injector;~~
- 31 (12) administration of medications as approved by the board by
- 32 appropriate routes;
- 33 (13) recognize and comply with advanced directives;

Insert as new (7) and renumber accordingly: “acquisition of serial EKG rhythm strips if the primary care provider during transportation is a physician, physician assistant, advanced practice registered nurse, professional nurse, advanced emergency medical technician or paramedic.”

Proposed amendment #2 (would require adding K.S.A. 65-16,127 to this bill with the following change in subsection (e)):

(d) A pharmacist furnishing an emergency opioid antagonist pursuant to this section may not permit the person to whom the emergency opioid antagonist is furnished to waive any consultation required by this section or any rules and regulations adopted thereunder.

(e) Any first responder, scientist or technician operating under a first responder agency or school nurse is authorized to possess, store and administer emergency opioid antagonists as clinically indicated, provided that all personnel with access to emergency opioid antagonists are trained, at a minimum, on the following:

- (1) Techniques to recognize signs of an opioid overdose;
- (2) standards and procedures to store and administer an emergency opioid antagonist;
- (3) emergency follow-up procedures, including the requirement to summon emergency ambulance services either immediately before or immediately after administering an emergency opioid antagonist to a patient; and
- (4) inventory requirements and reporting any administration of an emergency opioid antagonist to a healthcare provider.

(f) (1) Any first responder agency electing to provide an emergency opioid antagonist to its employees or volunteers for the purpose of administering the emergency opioid antagonist shall procure the services of a physician to serve as physician medical director for the first responder agency's emergency opioid antagonist program.

Insert “, **distribute**” to read “...authorized to possess, store, distribute and administer emergency opioid antagonists as clinically indicated...” and “...to store, distribute and administer an emergency opioid antagonist”