

City of Philadelphia



(Bill No. 180695)

AN ORDINANCE

Amending Title 9, "Regulation of Businesses, Trades and Professions," of The Philadelphia Code to add a new Section 9-637, entitled "Opioid Antidote Availability," to require pharmacies to stock opioid antidotes and display signs giving notice of opioid antidote availability to customers, all under certain terms and conditions.

WHEREAS, Philadelphia and the United States at large are in the midst of an unprecedented opioid overdose epidemic, which the Governor of Pennsylvania declared a disaster emergency in January 2018; and

WHEREAS, more than 1,200 Philadelphians died from drug overdose in 2017, which is approximately double the number of Philadelphians who died from drug overdose in 2014; and

WHEREAS, nearly 90% of overdose deaths in Philadelphia involve an opioid and could be reversed by the opioid antidote naloxone; and

WHEREAS, the Pennsylvania Physician General has issued a standing order for dispensing naloxone without an individual prescription, enabling Pennsylvanians to carry naloxone in case of an encounter with a person suffering an opioid overdose; and

WHEREAS, the 2018 United States Surgeon General's Advisory on Naloxone and Opioid Overdose broadly endorses naloxone and highlights research showing that increasing naloxone availability can decrease overdose deaths; and

WHEREAS, a 2016 University of Pennsylvania report found that only 40% of pharmacies in the seven Philadelphia zip codes with the highest opioid overdose rates regularly stocked naloxone; now, therefore

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 9 of The Philadelphia Code is hereby amended to read as follows:

TITLE 9. REGULATION OF BUSINESSES, TRADES AND PROFESSIONS

City of Philadelphia

BILL NO. 180695 continued

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CHAPTER 9-600. SERVICE AND OTHER BUSINESSES

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§ 9-637. Opioid Antidote Availability.

(1) *Definitions. For purposes of this Section, the following terms shall have the following meanings:*

“Department.” The Philadelphia Department of Public Health.

“Department Sign.” A sign no larger than eight and a half (8.5) by eleven (11) inches, designed and issued by the Department, which gives notice of the availability of Opioid Antidotes and contains related messaging from the Department.

“Opioid Antidote.” Naloxone nasal spray (NARCAN™) or any other formulation of naloxone approved by the United States Food and Drug Administration as an emergency treatment for opioid overdose. The Board of Health may promulgate regulations to supplement this definition when appropriate for the protection of public health.

“Pharmacist.” An individual duly licensed by the Pennsylvania Board of Pharmacy to engage in the practice of pharmacy.

“Retail Pharmacy.” An establishment meeting the definition of “Pharmacy” in the Pennsylvania Pharmacy Act, 63 Pa. Stat. Ann. § 390-2, that dispenses pharmaceuticals directly to patients.

(2) *Opioid Antidote Stocking Requirement. Retail Pharmacies shall maintain a pharmaceutical stock sufficient to fill at least two (2) requests for Opioid Antidotes made pursuant to Pennsylvania Department of Health Standing Order DOH-001-2018, “Naloxone Prescription for Overdose Prevention,” another applicable standing order for Opioid Antidotes, or an individual prescription for a single-use dose of an Opioid Antidote.*

(a) *The following shall in any case constitute a sufficient stock of Opioid Antidotes for purposes of this subsection (2): two (2) NARCAN™ nasal spray cartons containing two blister packages each with single 4 mg dose of naloxone in a 0.1 mL intranasal spray.*

(b) *It shall be an affirmative defense to a violation of this subsection (2) to demonstrate either:*

City of Philadelphia

BILL NO. 180695 continued

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(.1) *fewer than three (3) days elapsed between the date of the violation and the last preceding date on which the Retail Pharmacy was in compliance with this subsection (2); or*

(.2) *fewer than seven (7) days elapsed between the date of the violation and the last preceding date on which the Retail Pharmacy was in compliance with this subsection (2), and the Retail Pharmacy had ordered adequate replacement stock prior to receiving the violation.*

(c) *The Board of Health may promulgate regulations to update the stocking requirements of this subsection (2), including subsection (2)(a), in consideration of contemporaneous scientific research.*

(3) *Signage Requirement. Retail Pharmacies shall display a Department Sign or Department Signs in a location or locations so that a Department Sign is visible and legible from all points of sale at which a Pharmacist dispenses pharmaceuticals. The Department may approve variations in the sign design at the request of a Retail Pharmacy.*

(4) *Exception. A Retail Pharmacy at which all practicing Pharmacists refuse in accordance with applicable law to dispense Opioid Antidotes under any circumstances shall not be subject to the provisions of this Section. Such refusals shall be submitted annually to the Department on a form issued by the Department.*

(5) *Enforcement and Penalties. The Department shall enforce this Section. A violation of this Section shall be a Class III offense. Each day a violation continues shall constitute a separate offense. The amount required to be remitted in response to a notice of violation of this Section pursuant to § 1-112 shall be two hundred and fifty dollars (\$250).*

SECTION 2. This Ordinance shall take effect immediately.

Explanation:

[Brackets] indicate matter deleted.

Italics indicate new matter added.

City of Philadelphia

BILL NO. 180695 continued

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on November 29, 2018. The Bill was Signed by the Mayor on December 11, 2018.



Michael A. Decker
Chief Clerk of the City Council