

BILL ANALYSIS

Senate Research Center
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H.B. 3338
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Education
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

College students throughout Texas' institutions of higher education have raised concerns about state law not requiring resident advisors (RAs) in campus residence halls to be provided with Naloxone or other opioid antagonists to prevent fentanyl overdoses. This safety concern is elevated due to the ongoing fentanyl crisis in Texas and the country.

H.B. 3338 seeks to address this concern by providing for the availability of opioid antagonists at each residence hall at a public institution of higher education campus. Additionally, H.B. 3338 includes provisions for the training of RAs so they can properly and safely administer Naloxone. Finally, H.B. 3338 provides liability protection for RAs who administer Naloxone in good faith. Providing RAs and residence halls with access to Naloxone and other opioid antagonists is integral to the fight against fentanyl and other opioids and provides students with a safe learning environment.

H.B. 3338 amends current law relating to measures to prevent and respond to opioid-related drug overdoses, including policies and training regarding the use of opioid antagonists, at student residences on campuses of public institutions of higher education and provides immunity.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of the Texas Higher Education Coordinating Board in SECTION 1 (Section 51.892, Education Code) of this bill.

Rulemaking authority is expressly granted to the commissioner of higher education in SECTION 1 (Section 51.897, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 51, Education Code, by adding Subchapter Y-2, as follows:

SUBCHAPTER Y-2. PROVIDING OPIOID ANTAGONISTS AT CAMPUS RESIDENCE HALLS

Sec. 51.891. DEFINITIONS. Defines "campus," "employee," "institution of higher education," "opioid antagonist," "opioid-related drug overdose," and "physician."

Sec. 51.892. REQUIRED POLICY REGARDING OPIOID ANTAGONISTS IN RESIDENCE HALLS. (a) Requires each institution of higher education to adopt and implement a policy providing for:

(1) the availability of opioid antagonists at each residence hall on the institution's campus, including provisions for the acquisition, maintenance, storage, administration, and disposal of those devices; and

(2) the training of resident advisors in the proper use of those devices.

(b) Requires that the policy adopted under Subsection (a) provide that resident advisors who are authorized and trained are authorized to administer an opioid

antagonist to a person who is reasonably believed to be experiencing an opioid-related drug overdose in a residence hall on the institution's campus.

(c) Requires the commissioner of the Texas Higher Education Coordinating Board with advice from the commissioner of state health services to adopt rules regarding the maintenance, storage, administration, and disposal of an opioid antagonist to be used in residence halls on the campus of an institution of higher education subject to a policy adopted under Subsection (a). Requires that the rules establish:

(1) the process for each institution of higher education to check the inventory of opioid antagonists at regular intervals for expiration and replacement; and

(2) the amount of training required for resident advisors to administer an opioid antagonist.

(d) Requires each institution of higher education to:

(1) require that all resident advisors be authorized and trained to administer an opioid antagonist; and

(2) include the policy in the institution's student handbook or similar publication and publish the policy on the institution's Internet website.

(e) Requires that the supply of opioid antagonists at a campus be stored in a secure location at each residence hall, and be easily accessible to resident advisors and other employees or volunteers authorized and trained to administer an opioid antagonist.

Sec. 51.893. REPORT ON ADMINISTERING OPIOID ANTAGONIST. (a) Requires the institution of higher education, not later than the 10th business day after the date a resident advisor, employee, or volunteer administers an opioid antagonist in accordance with a policy adopted under Section 51.892, to report the information required under Subsection (b) to the physician who prescribed the opioid antagonist.

(b) Requires that the report required under this section include the following information:

(1) the age of the person who received the administration of the opioid antagonist;

(2) whether the person who received the administration of the opioid antagonist was a student, employee, or visitor;

(3) the physical location where the opioid antagonist was administered;

(4) the number of doses of opioid antagonist administered;

(5) the title of the person who administered the opioid antagonist; and

(6) any other information required by the commissioner of higher education.

Sec. 51.894. TRAINING. (a) Provides that each institution of higher education is responsible for training resident advisors in the administration of an opioid antagonist.

(b) Requires that training required under this section:

(1) include information on:

(A) recognizing the signs and symptoms of an opioid-related drug overdose;

(B) administering an opioid antagonist;

(C) implementing emergency procedures, if necessary, after administering an opioid antagonist;

(D) the required alerting of emergency medical services during or immediately after the administration of the opioid antagonist; and

(E) properly disposing of used or expired opioid antagonists;

(2) be provided to resident advisors along with any other mandatory training the institution imposes, in a formal training session or through online education, and be completed annually; and

(3) provide an opportunity to address frequently asked questions.

(c) Requires each institution of higher education to maintain records on the training required under this section.

Sec. 51.895. PRESCRIPTION OF OPIOID ANTAGONISTS. (a) Authorizes a physician to prescribe opioid antagonists in the name of an institution of higher education. Requires the physician to provide the institution with a standing order for the administration of an opioid antagonist to a person reasonably believed to be experiencing an opioid-related drug overdose.

(b) Provides that the standing order under Subsection (a) is not required to be patient-specific, and the opioid antagonist is authorized to be administered to a person without an established physician-patient relationship.

(c) Provides that supervision or delegation by a physician, notwithstanding any other provisions of law, is considered adequate if the physician:

(1) periodically reviews the order; and

(2) is available through direct telecommunication as needed for consultation, assistance, and direction.

(d) Requires that an order issued under this section contain:

(1) the name and signature of the prescribing physician;

(2) the name of the institution of higher education to which the order is issued;

(3) the quantity of opioid antagonists to be obtained and maintained under the order; and

(4) the date of issue.

(e) Authorizes a pharmacist to dispense an opioid antagonist to an institution of higher education for purposes of this subchapter without requiring the name or any other identifying information relating to the user.

Sec. 51.896. GIFTS, GRANTS, AND DONATIONS. Authorizes an institution of higher education to accept gifts, grants, donations, and federal funds to implement this subchapter.

Sec. 51.897. RULES. Requires the commissioner of higher education to adopt rules necessary to implement this subchapter.

Sec. 51.898. IMMUNITIES. (a) Provides that a person who in good faith takes, or fails to take, any action under this subchapter is immune from civil or criminal liability or disciplinary action resulting from that act or failure to act, including:

- (1) issuing an order for opioid antagonists;
- (2) supervising or delegating the administration of an opioid antagonist;
- (3) possessing an opioid antagonist;
- (4) maintaining an opioid antagonist;
- (5) storing an opioid antagonist;
- (6) disposing of an opioid antagonist;
- (7) prescribing an opioid antagonist;
- (8) dispensing an opioid antagonist;
- (9) administering, or assisting in administering, an opioid antagonist;
- (10) providing, or assisting in providing, training, consultation, or advice in the development, adoption, or implementation of policies, guidelines, rules, or plans regarding the availability and use of an opioid antagonist; or
- (11) undertaking any other act permitted or required under this subchapter.

(b) Provides that the immunity provided by Subsection (a) is in addition to other immunity or limitations of liability provided by law.

(c) Provides that this subchapter, notwithstanding any other law, does not create a civil, criminal, or administrative cause of action or liability or create a standard of care, obligation, or duty that provides the basis for a cause of action for an act or omission under this subchapter.

(d) Provides that an institution of higher education is immune from suit resulting from an act, or failure to act, of any person under this subchapter, including an act or failure to act under related policies and procedures.

(e) Provides that a cause of action does not arise from an act or omission described by this section.

(f) Provides that a person acting in good faith who reports or requests emergency medical assistance for a person who is reasonably believed to be experiencing an opioid-related drug overdose in a residence hall on campus:

- (1) is immune from civil liability, and from criminal liability for offenses under certain statutes that might otherwise be incurred or imposed as a result of those actions; and
- (2) is prohibited from being subjected to any disciplinary action by the institution of higher education at which the person is enrolled or employed for any violation by the person of the institution's code of conduct reasonably related to the incident unless suspension or expulsion from the institution is a possible punishment.

SECTION 2. Requires each institution of higher education to which Subchapter Y-2, Chapter 51, Education Code, as added by this Act, applies to implement that subchapter as soon as practicable, but not later than the 2024 fall semester.

SECTION 3. Effective date: upon passage or September 1, 2023.