

Can a Public Library obtain and retain Narcan (or similar) and administer same under Michigan law?

So, Of course, the answer is a bit complicated.

In 2014, the Mi legislature enacted legislation that authorized the prescribing and dispensing of an "Opioid Antagonist" (such as Narcan) to:

[MCL 333.17744b:](#)

"(a) An individual patient at risk of experiencing an opioid-related overdose.

(b) A family member, friend, or other individual in a position to assist an individual at risk of experiencing an opioid-related overdose.

(c) A school board for purposes of section 1179b of the revised school code, 1976 PA 451, MCL 380.1179b.

(d) A person other than an individual that meets all the following requirements:

(i) Acts at the direction of the prescriber or dispensing prescriber.

(ii) Upon receipt of an opioid antagonist, stores the opioid antagonist in compliance with this part.

(iii) Dispenses or administers an opioid antagonist under a valid prescription issued to an individual or a patient.

(iv) Performs the requirements under this subsection without charge or compensation."

In 2016 The legislature added additional sections to this statute that included School Boards as entities that could receive the opioid antagonists. EMT's, Police, & Firemen can also obtain and administer Narcan and other Opioid inhibitors.

Also, in 2016, the new legislation included an ability for the "Chief Medical Officer" (A position within Health & Human Services) to issue a "standing order" prescription for Narcan that would enable eligible pharmacies and pharmacists to dispense opioid antagonists to:

333.17744e Dispensing opioid antagonist to individual pursuant to standing order issued by chief medical executive.

"(2) Notwithstanding any provision of this act to the contrary, a pharmacist may dispense an opioid antagonist to any individual pursuant to a standing order issued by the chief medical executive under subsection (1) and the rules promulgated under this section."

The Chief Medical Officer DID issue that standing order, and currently, pharmacies are applying to be designated as those that can dispense drugs like Narcan:

http://www.michigan.gov/mdhhs/0,5885,7-339-71550_2941_4871_79678---,00.html

http://w3.lara.state.mi.us/orr/Files/AdminCode/1714_2017-039LR_AdminCode.pdf - these are the pharmacy regulations for complying with the standing order.

After reviewing these sections, and portions of the legislative histories, it would seem that public libraries **as an entity** are NOT included as one that can obtain and administer an opioid inhibitor.

HOWEVER, as with many things involving the law, the situation is not that simple....

My hesitation is that the other sections (under MCL 333.1744b), use the term “person” to indicate the entity that can receive and administer the opioid antagonist or Narcan.

Under the definitions of the Public Health Code (MCL 333.1101, et seq.):

*“(4) **Person** means an individual, partnership, cooperative, association, private corporation, personal representative, receiver, trustee, assignee, or other legal entity. **Person does not include a governmental entity unless specifically provided.**”*

In other words, the legislature has specifically excluded “government entities” from the definition of “person” in the Public Health Code (which includes the applicable statutes on Narcan). The entries permitting use in schools, by police & other first responders were language specifically added by the legislature.

Since there is no language in any of the opioid antagonist statutes that specifically include “government entities” other than a school board and school employees, I am concerned that these provisions would not apply to a public library as an entity (other than a School/Public library that is established and run by the school district).

Therefore, while it would seem that an individual Board Member, Director, or Library staff member could obtain Narcan for emergency use, it is not clear that storage of that dosage in the library as an official library policy and procedure for assisting potential overdose victims would be in compliance with these statutes (even though that use would be consistent with the stated purpose of this act – ie. To save overdose victims).

HOWEVER,

It would be permissible for an individual to obtain a dose for the library:

It would seem that under 333.1744e (above), an “individual” (including those that work in public libraries) could obtain Narcan. Whether it would be permissible for that dosage obtained by an individual, to be stored for the possible administration by one of many individuals (who are not the individual who was issued the drug), is unclear.

In other words, if a library employee (or Director or Board member) obtains Narcan as an individual and keeps the drug at work for possible use in the library, what would happen if ANOTHER staff member takes the drug and administers it to a patron who seems to be suffering an overdose?

At what point does the dosage go from the possession of an individual to the possession of a “government entity?” What about liability?

It is likely, under MCL 333.17744c & MCL 691.1503 below, that the staff member who took the Narcan from the staff member who obtained it is free from liability, if they acted in “good faith.”

333.17744c Person administering opioid antagonist under certain conditions; immunity from criminal prosecution or sanction.

Sec. 17744c.

A person that administers an opioid antagonist to an individual who he or she believes is suffering an opioid-related overdose and that acts in good faith and with reasonable care is immune from criminal prosecution or sanction under any professional licensing act for that act.”

691.1503 Administration of opioid antagonist; liability; definitions

Sec. 3.” (1) An individual who in good faith believes that another individual is suffering the immediate effects of an opioid-related overdose and who administers an opioid antagonist to the other individual is not liable in a civil action for damages resulting from the administration.”

However, as mentioned above, it would appear that “person,” nor, possibly “Individual” does not include government entities, so while it would seem that an individual staff person would be covered, (assuming any trained person may administer the Narcan issued to another), **it is unclear how or if that exemption from liability is affected if the staffer is acting within the scope of their job in the library, including if the library would be open to liability.**

Another aspect to this that is unclear is training. The statute and regulations that govern this for the dispensing by Pharmacists mention that the Pharmacist must provide some training information in the use of the Narcan when dispensing to individuals.

The process of administration to overdose victims is not always as easy and straightforward as reported. The drug covered by the Michigan law is generally administered through the nose. However, some forms of the drug are intramuscular (injection), and, victims suffering an overdose may also suffer cardiac arrest, vomiting, and may revive in an agitated state. Because this process is so new, it is unclear what ramifications there would be if an untrained person administered the drug and caused injury because they were untrained (and used a drug that was not issued to them). Such a scenario could likely be covered by the liability exemption statutes above, but...again, it is hard to be sure. It is also not clear if or how the Library itself might be liable in such a scenario.

Additionally, if a library has formal policies, and organized “official” staff training on administration for a drug it is not statutorily able to have, does that provide notice and other “evidence” that could increase the library’s liability if a staff member uses Narcan they obtained individually – or that they took from another?

Considering the new nature of these statutes, I would strongly recommend that you discuss opioid inhibitor policies in consultation with your library attorney BEFORE implementing any such policy or training.

Here is the Standing Order of the Chief Medical Officer, with emergency rules (including requirement to provide information on how to administer).

http://www.michigan.gov/documents/budget/Emergency_Rules_Opioid_Antagonists_572010_7.pdf

Here is a site with additional information:

http://www.michigan.gov/mdhhs/0,5885,7-339-71550_2941_4871_79584---,00.html

I called a Rite Aid that dispenses Narcan under the new rules and I spoke to the Pharmacist. According to him:

Anyone individually can obtain Narcan if they have a need for it for someone they know, or if they feel they will have a need because they are in environments where there may be an instance of overdose.

The Narcan is intra-nasal

To Sum: The issue with Narcan (or similar drugs) in Michigan Public Libraries would seem to be:

- Narcan may not be dispensed in the name of the library (as it can schools, etc.)
- Individual staff could obtain Narcan (and pay for it) It is unclear if the Library can foot the bill (but recent developments in grants and donations for this purpose renders the concern over payment moot in some respects – see “cost” below)
- Individuals and entities covered under the definitions of “individuals” or “people” are exempt from liability for administering Narcan in good faith.
- It is unclear if the Library as an entity would be open to liability since as a government entity, they do not appear to be included within the statute. It is also possible that the risk of liability may increase if Library has official policies and/or training and therefore acknowledges/sanctions the shared/possibly untrained use of individually obtained Narcan.

In other words, if a library employee (or board member, etc.) were to obtain and purchase Narcan and then administer it to a patron in good faith, there should be no liability. If the same employee or board member administers a dose that they obtained from another staff member (say the Director keeps a dose in their desk, etc.), then it seems that the administering staff member may be exempt from liability, but it is unclear if the library would be open to liability.

To address the liability question, and permit Public Libraries the same protection that other government entities (such as schools and police agencies) have,

MLA and the Library of Michigan have worked on legislation that would include public libraries in the statute that limits liability for public entities administering Narcan.

Legislation is currently awaiting action within the Michigan legislature as legislators consider making the liability waiver applicable to more entities.

HOWEVER: In light of the ambiguity, I STRONGLY recommend that you talk to your attorney before determining the right Opioid Inhibitor policy for your library.

In the meantime, if your library decides to obtain Narcan (after, of course, consulting your Attorney and Liability insurance agent):

How to Obtain Narcan

There is a list of Pharmacies that have been approved by Michigan to dispense Narcan under the new rules: [http://www.michigan.gov/mdhhs/0,5885,7-339-](http://www.michigan.gov/mdhhs/0,5885,7-339-71550_2941_4871_79584_80133_80135_80309-407689--,00.html)

[71550_2941_4871_79584_80133_80135_80309-407689--,00.html](http://www.michigan.gov/mdhhs/0,5885,7-339-71550_2941_4871_79584_80133_80135_80309-407689--,00.html)

(choose the map option)

Many communities and libraries have been obtaining Naloxone (Narcan) via grants, donations, and even municipal/public appropriations, so the cost or payment of Naloxone has not been a concern for many libraries. Public Libraries may wish to contact their local governments to see if there are any local government resources available to supply Narcan.

In addition, Emergent Biosolutions, the biomedical company that recently acquired the company that developed and manufactures Narcan has instituted a program where the **company will provide a case of Narcan free of charge for public libraries**. Public libraries interested in participating in this program can obtain additional details [here](#)

Information on this program can also be found:

Company to Supply Free Narcan to Libraries - Emergent BioSolutions will provide two doses to every public library branch in the US

<https://americanlibrariesmagazine.org/blogs/the-scoop/narcan-company-supply-free-narcan-to-libraries/>

Every U.S. Public Library and YMCA Will Soon Get Narcan for Free

<http://time.com/5432950/narcan-libraries-ymca/>

Additional Information:

Public School Narcan toolkit (created by the National School Nurse Association. Materials aimed at public schools, but most information is useful to libraries. Users must create a free account to obtain info.).

<https://www.pathlms.com/nasn/courses/3353>

Narcan tool kits

<https://www.narcan.com/community/education-awareness-and-training-resources/>

Information on the administration of Narcan:

<http://harmreduction.org/issues/overdose-prevention/overview/overdose-basics/responding-to-opioid-overdose/administer-naloxone/>

Public Libraries article with useful links to additional information

<http://publiclibrariesonline.org/2018/09/the-opioid-crisis-and-administering-narcan-in-libraries/>

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