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## SENATE BILL NO. 503

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HOWELL

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5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE USE OF EXPIRED OPIOID  
6 ANTAGONISTS; PROVIDING PARTIAL IMMUNITY TO SCHOOL EMPLOYEES, TO ELIGIBLE RECIPIENTS,  
7 AND TO MEDICAL PRACTITIONERS AND PHARMACISTS FOR USING EXPIRED OPIOID ANTAGONISTS;  
8 AND AMENDING SECTIONS 20-5-426, 50-32-602, 50-32-607, AND 50-32-608, MCA."

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10 WHEREAS, it is the public policy of the state of Montana to encourage the administration and  
11 distribution of opioid antagonists, including expired opioid antagonists, to save the lives of persons who suffer  
12 opioid-related drug overdose events.

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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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16 **Section 1.** Section 20-5-426, MCA, is amended to read:

17 **"20-5-426. Emergency use of opioid antagonist in school setting -- limit on liability.** (1) A school,  
18 whether public or nonpublic, may maintain a stock supply of an opioid antagonist to be administered by a  
19 school nurse or other authorized personnel to any student or nonstudent as needed for an actual or perceived  
20 opioid overdose. A school that intends to obtain an order for emergency use of an opioid antagonist in a school  
21 setting or at related activities shall adhere to the following requirements:

22 (a) A school that stocks an opioid antagonist shall develop a protocol related to the training of  
23 school employees, the maintenance and location of the opioid antagonist, and immediate and long-term  
24 followup to the administration of the medication, including making a 9-1-1 emergency call.

25 (b) The opioid antagonist must be prescribed by a physician, advanced practice registered nurse,  
26 or physician assistant. The school must be designated as the patient, and each prescription for an opioid  
27 antagonist must be filled by a licensed pharmacy.

28 (c) The school shall provide training to authorized personnel. The training must include causes of

1 opioid overdose, recognition of signs and symptoms of opioid overdose, indications for the administration of an  
2 opioid antagonist, administration technique, and the need for immediate access to a certified emergency  
3 responder. Training must be provided by a school nurse, certified emergency responder, or other health care  
4 professional.

5 (d) The opioid antagonist must be kept in a secure and easily accessible location.  
6 (e) A school nurse or other authorized personnel may, in good faith, administer the opioid  
7 antagonist to any student or nonstudent who is experiencing a potential life-threatening opioid overdose based  
8 on the protocol developed by the school.

9 (f) If a school stocks an opioid antagonist that has been prescribed to the school, that school shall  
10 inform parents or guardians about the potential use of the opioid antagonist in an opioid overdose emergency.  
11 The school shall make the protocol available upon request.

12 (g) A school district or nonpublic school and its employees and agents are not liable as a result of  
13 any injury arising from the administration of an opioid antagonist, including an expired opioid antagonist, to a  
14 student or nonstudent unless an act or omission is the result of gross negligence, willful or wanton misconduct,  
15 or an intentional tort.

16 (2) For the purposes of this section, "opioid antagonist" means a drug that binds to opioid  
17 receptors and blocks or inhibits the effect of opioids acting on those receptors, including but not limited to  
18 naloxone hydrochloride or any other similarly acting drug approved by the United States food and drug  
19 administration."

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21 **Section 2.** Section 50-32-602, MCA, is amended to read:

22 **"50-32-602. Purpose.** The purposes of this part are to:

23 (1) save the lives of persons who have experienced an opioid-related drug overdose by providing  
24 the broadest possible access to lifesaving opioid antagonist medication, including expired opioid antagonist  
25 medication;

26 (2) facilitate the availability and use of opioid antagonist medication by providing professional, civil,  
27 and criminal immunity to persons who prescribe, dispense, distribute, or administer an opioid antagonist; and  
28 (3) encourage persons to seek medical treatment in an opioid-related drug overdose situation by

1 providing immunity from prosecution for certain criminal offenses for persons who seek or receive the medical  
2 treatment."

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4 **Section 3.** Section 50-32-607, MCA, is amended to read:

5 **"50-32-607. Authorization for possession and administration of opioid antagonist -- reporting --**

6 **immunity related to expired opioid antagonist.** (1) An eligible recipient to whom an opioid antagonist is  
7 prescribed, dispensed, or distributed pursuant to 50-32-604 through 50-32-606 and who has received the  
8 instruction and information provided for in 50-32-606 may do any of the following:

9 (a) possess and store the opioid antagonist. The storage of an opioid antagonist is not subject to  
10 pharmacy practice laws or other requirements that apply to the storage of drugs or medications.

11 (b) in good faith, administer or direct another person to administer the opioid antagonist to a  
12 person who is experiencing an actual or reasonably perceived opioid-related drug overdose; or

13 (c) distribute the opioid antagonist to a person who is an eligible recipient under 50-32-603(5)(a) or  
14 (5)(b); and

15 (d) possess, store, administer, direct another person to administer, or distribute an expired opioid  
16 antagonist.

17 (2) An eligible recipient to whom an opioid antagonist is dispensed pursuant to 50-32-604 through  
18 50-32-606 shall report, if required by the department, information regarding the dispensing, distribution, and  
19 administration of the opioid antagonist.

20 (3) A person who engages in the activities authorized in subsection (1) is not liable for injury or  
21 damages caused by possessing, storing, administering, or directing another person to administer, or distributing  
22 an expired opioid antagonist, except for injury or damages arising from gross negligence, willful or wanton  
23 misconduct, or an intentional tort."

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25 **Section 4.** Section 50-32-608, MCA, is amended to read:

26 **"50-32-608. Professional conduct -- immunity.** (1) A prescription issued pursuant to 50-32-604 or  
27 50-32-605 is considered to have been issued for a legitimate medical purpose in the usual course of a  
28 professional practice.

1                   (2)     Except for injury or damages arising from gross negligence, willful or wanton misconduct, or an  
2     intentional tort:

3                   (a)     a medical practitioner or licensed pharmacist may not be subject to disciplinary action or civil or  
4     criminal liability for injury resulting from the prescribing or dispensing of an opioid antagonist, including an  
5     expired opioid antagonist, pursuant to 50-32-604 through 50-32-606 to an eligible recipient; and

6                   (b)     an eligible recipient may not be subject to disciplinary action or civil or criminal liability for injury  
7     resulting from distributing an opioid antagonist pursuant to 50-32-606 and 50-32-607.

8                   (3)     A medical practitioner, eligible recipient, emergency care provider, or other person is not liable  
9     and may not be subject to disciplinary action as a result of any injury arising from the administration of an opioid  
10    antagonist, including an expired opioid antagonist, to another person whom the medical practitioner, eligible  
11    recipient, emergency care provider, or other person believes in good faith to be suffering from an opioid-related  
12    drug overdose, unless the injury arises from an act or omission that is the result of gross negligence, willful or  
13    wanton misconduct, or an intentional tort.

14                  (4)     The provisions of 50-32-601 through 50-32-607 do not establish a duty or standard of care with  
15     respect to the decision of whether to prescribe, dispense, distribute, or administer an opioid antagonist."

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