

**Department of Health**  
**Pharmacy Quality Assurance Commission**

# Policy Statement

Title:	Opioid Overdose Reversal Medication – Distribution from Hospital Emergency Departments	
References:	RCW 69.41.095, RCW 70.41.480, WAC 246-873-060; Abbott Laboratories v. Portland Retail Druggists Association	
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Approved By:	Chair, Pharmacy Quality Assurance Commission	

This policy establishes the approach of the Pharmacy Quality Assurance Commission (Commission) to the implementation of RCW 69.41.095 – Opioid overdose medication. The Commission’s position is that RCW 69.41.095, among other things, authorizes a hospital emergency department, pursuant to practitioner’s prescription, standing order, or protocol, to distribute opioid overdose reversal medication to people at risk of overdose or to first responders, family members, or other persons or entities in a position to assist such at-risk people. This policy considers both [RCW 69.41.095](#) Opioid overdose medication and [RCW 70.41.480](#) Findings—Intent—Authority to prescribe prepackaged emergency medications—Definitions.

## BACKGROUND:

The Commission has learned that some uncertainty has arisen over whether hospital emergency departments are authorized to distribute opioid overdose reversal medication under RCW 69.41.095. The Commission’s approach to this issue is informed, in part, by the clear direction from the Legislature in the intent statement of RCW 69.41.095 to increase the availability of such medication to combat the opioid epidemic:

**Intent—2015 c 205:** "(1) The legislature intends to reduce the number of lives lost to drug overdoses by encouraging the prescription, dispensing, and administration of opioid overdose medications.

(2) Overdoses of opioids, such as heroin and prescription painkillers, cause brain injury and death by slowing and eventually stopping a person's breathing. Since 2012, drug poisoning deaths in the United States have risen six percent, and deaths involving heroin have increased a staggering thirty-nine percent. In Washington state, the annual number of deaths involving heroin or prescription opiates increased from two hundred fifty-eight in 1995 to six hundred fifty-one in 2013. Over this period, a total of nine thousand four

hundred thirty-nine people died from opioid-related drug overdoses. Opioid-related drug overdoses are a statewide phenomenon.

(3) When administered to a person experiencing an opioid-related drug overdose, an opioid overdose medication can save the person's life by restoring respiration. Increased access to opioid overdose medications reduced the time between when a victim is discovered and when he or she receives lifesaving assistance. Between 1996 and 2010, lay people across the country reversed over ten thousand overdoses.

(4) The legislature intends to increase access to opioid overdose medications by permitting health care practitioners to administer, prescribe, and dispense, directly or by collaborative drug therapy agreement or standing order, opioid overdose medication to any person who may be present at an overdose - law enforcement, emergency medical technicians, family members, or service providers - and to permit those individuals to possess and administer opioid overdose medications prescribed by an authorized health care provider." [ [2015 c 205 § 1.](#)]

The question has been raised about whether RCW 70.41.480 and its corresponding rule, [WAC 246-873-060](#), prohibit a hospital emergency department from distributing opioid overdose reversal medication. In short, RCW 70.41.480 authorizes a hospital to distribute a limited supply of prepackaged emergency medications upon discharge when access to a community or outpatient hospital pharmacy is not available within 15 miles or when the patient has no reasonable ability to reach a pharmacy. Some question whether RCW 70.41.480 provides the only means by which an emergency department may distribute drugs, meaning that an emergency department may not distribute opioid overdose reversal medication pursuant to RCW 69.41.095. The Commission does not find these statutory provisions to be in conflict. Instead, the Commission's understanding is that RCW 69.41.095 and RCW 70.41.480 are alternative and compatible sources of authority for the distribution of drugs from emergency departments. RCW 69.41.095 authorizes the distribution of opioid overdose medications only. RCW 70.40.480 authorizes the distribution of prepackaged emergency medications.

Accordingly, pursuant to RCW 69.41.095, a practitioner who is authorized to prescribe legend drugs may distribute opioid overdose reversal medication to people at risk of overdose or to first responders, family members, or other persons or entities in a position to assist such at-risk people. The practitioner, including one working in an emergency department, may distribute the medication herself or issue a standing order or protocol designating trained staff of an organization, such as an emergency department, to distribute the medication according to specific instructions. A practitioner may also enter into a collaborative drug therapy agreement with a pharmacist.

The Commission believes that state law—RCW 69.41.095—authorizes the distribution of opioid overdose reversal medication from emergency departments. No change to current state law is required to provide such authority. A question has been raised if reimbursement requirements or federal law may present hurdles for hospital emergency departments that wish to distribute opioid overdose reversal medication.

Emergency departments should consult payors, private counsel, or other relevant parties for guidance on reimbursement requirements. The Commission does not have the authority to provide guidance regarding reimbursement requirements.

Regarding federal law, drug manufacturers may sell drugs to nonprofit hospitals at lower prices than those offered to commercial retail pharmacies. This kind of pricing is generally prohibited by the federal Robinson-Patman Price Discrimination Act, but the Nonprofit Institutions Act creates an exception allowing nonprofits to obtain more favorable pricing for purchases of supplies for their own use. The Supreme Court of the United States *in Abbott Laboratories v. Portland Retail Druggists Association* held, among other things, that a nonprofit hospital's "own use" of discounted drugs includes consumption on the hospital premises and filling limited "take-home" prescriptions given upon discharge for the continuation of treatment. Sales to walk-in patients generally do not fall within the exception.

The Commission does not have authority to provide guidance on whether a hospital emergency department distributing discounted opioid overdose reversal medication is doing so for its "own use," as this is a question of federal law. Emergency departments should consult with private counsel and/or federal regulators for guidance on the Act's application to the distribution of opioid overdose reversal medication.

The Commission's policy is that current state law authorizes a hospital emergency department, pursuant to a practitioner's prescription, standing order, or protocol, to dispense, distribute, or deliver opioid overdose reversal medication to people at risk of overdose or to first responders, family members, or other persons or entities in a position to assist such at-risk people. Other legal requirements may apply to emergency departments engaged in such activity. Practitioners and entities are advised to consult with their respective regulatory authorities to determine whether their practices comply with applicable law.