

Background

The state of Indiana currently operates in providing Good Samaritan protections through two different laws, both uniquely designed to address special populations. The Lifeline Law, passed in 2012, was written in an effort to encourage minors of college age to call 911 when faced with a medical emergency related to underage alcohol consumption. The Lifeline Law provides immunity for the crimes of public intoxication, minor possession, minor consumption, and minor transport to persons who reveal themselves to law enforcement while seeking medical assistance for a person suffering from an alcohol-related health emergency.[1] A few years later, in 2015, Indiana lawmakers passed Senate Enrolled Act (SEA) 406, also known as Aaron's Law. Under Aaron's Law, lay persons, including family members and friends of individuals at risk of opioid overdose, are able to obtain naloxone, the opioid overdose reversal drug, via a prescription, and ensures basic civil liability immunity.[2] In 2016 the law was amended, via SEA 187, to include Good Samaritan (i.e., criminal liability) protections for drug and paraphernalia possession for lay persons who administer naloxone and call 911, and allows lay responders to access naloxone with a standing order (i.e., without an individual prescription). [3]

However, by having two separate special circumstance laws that include Good Samaritan protections weaken the intent of those Good Samaritan protections to persuade individuals to call 911. Providing protections to only limited individuals, in very limiting cases, confuse the public and make it less likely that an individual will call 911 because of the uncertainty of what will happen to themselves or the victim. That is why a comprehensive standalone Good Samaritan Law (GSL) is needed to strengthen and improve clarity of the criminal liability protections, making it more likely that lay responders will call 911 regardless of the circumstance.

Barriers to Calling 911

Although both the Lifeline Law and Aaron's Law are life-saving legislation intended to decrease overdose related deaths via the reduction of barriers associated with calling 911 to the scene of an overdose, several

aspects of each law as written weaken their Good Samaritan protections. For example, in the Lifeline Law, protections only exist for minors and alcohol. It does not include protections for other offenses such as possession of a controlled substance. Though it could be argued that in the situation where an opioid overdose is occurring Aaron's Law would kick in; however, as Aaron's Law is currently written, protections only exist for the individual who administers naloxone and calls 911, not the individual who overdosed.[4] As such, those responding to a medical emergency related to overdose, alcohol or otherwise, may be hesitant to call 911 for fear the victim might face criminal charges. This unwillingness to call 911 is supported by the Indiana local health department report that shows **20% did not call 911 to the scene** of the most recent opioid overdose they witnessed, with the **fear of police being the most common reason**. [5]

Additionally, both laws provide protections to lay responders who call 911 at the scene of an overdose related emergency when certain requirements are met before those protections take effect. For example, under Aaron's Law, an individual must meet these conditions in order to receive criminal and civil liability protections: administer naloxone, call 911, remain on the scene until police arrive, provide the name of the person who overdosed, and cooperate with police with all requests.[4] The Lifeline Law includes similar requirements with the exclusion of naloxone administration, and the inclusion that the individual must not have any prior convictions related to minor possession or consumption. Because both laws explicitly state certain actions must be taken to receive immunity, it can be assumed **those who do not meet those requirements will not be protected from civil or criminal charges**. This also makes it less likely that a lay responder will call 911 if they do not believe they will be protected based on these requirements.

Although the Lifeline Law and Aaron's Law offer criminal and civil liability protections, these protections are still rather limited, especially in comparison to Good Samaritan Laws (GSLs) in other states **(SUCH AS GEORGIA AND NORTH CAROLINA, to let them know that southern states**

are way ahead of Indiana on this). There is the added ambiguity in the laws' language making it difficult for both lay responders and professionals to take appropriate action. For example, it is unclear under Aaron's Law whether or not other witnesses are protected, i.e. those who were on the scene and followed all specified requirements but may not have been the one to administer naloxone. Other ambiguous language includes that of "cooperate" with law enforcement. Both laws include this language, but the room for interpretation is great and can lead to uncertainty among lay responders, especially those who may themselves be under the influence.

Lastly, there are gaps in understanding and interpreting both the Lifeline Law and Aaron's Law. Many individuals do not know about one or both laws, and some do not know that the two laws are different. Individuals do not know that the Lifeline is a GSL designed to encourage minors to call 911 and report alcohol poisoning as a result of underage drinking, and does not include the protection of minors for other substances.[6] Indeed, far fewer law (LAY?) responders are aware Aaron's law exists. Data from a focus group reports approximately 22% of lay persons surveyed are unaware of Aaron's Law.[5] The current obscurity and conflicting protections under two separate GSLs creates an additional barrier to reducing the number of preventable deaths in Indiana, as many lay persons may be unaware of either law or are reluctant to call 911 at the scene of an overdose related emergency given the uncertainty offered by current GSLs.

Recommendations

The Indiana legislature should develop and pass a comprehensive, stand-alone Good Samaritan Law. Good Samaritan protections should not be included as part of another law, as is the current case. Indiana would be able to follow the lead of states such as Tennessee, Nevada and Oregon who have GSLs independent of additional legislation.[6] A stand-alone GSL will allow for clarity in the language and increased protections for parties involved in seeking medical attention during overdose related emergency. Additionally, a comprehensive GSL will improve public understanding and empowerment to take action

during a life-threatening emergency without fear of the police or legal action
Good Samaritan protections are intended to promote the public to take action in emergencies where an individual's life is in danger. That is why it is imperative that a comprehensive law reflect emergency situations at large, and not only those that are of current public concern. (SOMETHING ABOUT INDIANA BEING AMONG THE WORST INCREASES IN FATAL OVERDOSES IN 2017?)

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- 2 Indiana Department of Labor (2018). Overdose prevention: Aaron's Law. Retrieved from <https://in.gov/dol/2907.htm>
- 3 Indiana General Assembly (2016). Senate Bill 187. Retrieved from <http://iga.in.gov/legislative/2016/bills/senate/187tp>
- 4 Find Law (2016). Indiana Code Title 16. Health § 16-42-27-2. Retrieved from <http://codes.findlaw.com/in/title-16-health/in-code-sect-16-42-27-2.html>
- 5 Watson, D., Ray, B., Robison, L., Huynh, P., Sights, E., Walker, L., & Duwve, J. (2018). Lay responder naloxone access and Good Samaritan law compliance: postcard survey results from 20 Indiana Counties. Harm Reduction Journal.
- 6 Indiana Clinical and Translational Sciences Institute (CTSI) (2018). Patient Engagement Core: Research Jam, Retrieved from <https://www.indianactsi.org/>, <https://researchjam.org/about/>
- 7 Davis, C. (2018). Overdose Good Samaritan law example language. The Network for Public Health Law.