
SENATE COMMITTEE ON HEALTH

Senator Dr. Richard Pan, Chair

BILL NO: AB 381
AUTHOR: Davies
VERSION: March 25, 2021
HEARING DATE: June 9, 2021
CONSULTANT: Reyes Diaz

SUBJECT: Licensed facilities: duties

SUMMARY: Requires licensed residential alcoholism or drug abuse recovery or treatment facilities (RTFs) to maintain at least two unexpired doses of naloxone hydrochloride on the premises. Requires RTFs to have at least one staff member on the premises who knows the location of the naloxone and who has been trained on the administration of it, as specified.

Existing law:

- 1) Requires the Department of Health Care Services (DHCS) to license RTFs that provide residential, non-medical services to adults who are recovering from problems related to alcohol, drug, or alcohol and drug misuse or abuse, and who need alcohol, drug, or alcohol and drug recovery, treatment, or detoxification services. [HSC §11834.01, et seq.]
- 2) Permits a licensed RTF to permit incidental medical services to be provided to a resident at the facility premises by, or under the supervision of, one or more physicians and surgeons, as specified, who are knowledgeable about addiction medicine, or one or more other health care practitioners acting within the scope of practice of their license and under the direction of a physician and surgeon, and who are also knowledgeable about addiction medicine, if specified conditions are met. [HSC §11834.026]
- 3) Authorizes licensed health care providers to issue a standing order for the distribution or the administration of naloxone to a person at risk of overdose, or family members, friends, or other persons in a position to assist a person at risk of an opioid-related overdose. Requires a person who is prescribed or possesses naloxone pursuant to a standing order to receive training, as specified. (CIV §1714.22, et seq.)

This bill:

- 1) Requires RTFs to maintain at all times at least two unexpired doses of naloxone hydrochloride on the premises. Requires RTFs to have at least one staff member on the premises who knows the location of the naloxone and who has been trained by a pharmacist, or who has equivalent training, as specified, on the administration of it.
- 2) Prohibits trained staff from being liable for damages in a civil action or subject to criminal prosecution for the administration, in good faith, of naloxone to a person appearing to experience an opioid-related overdose. Prohibits the indemnity from applying in a case where the person who renders emergency care treatment by the use of naloxone acts with gross negligence or engages in willful and wanton misconduct.

FISCAL EFFECT: According to the Assembly Appropriations Committee, this bill has negligible administrative costs to DHCS to notify RTFs and verify compliance with the requirement.

PRIOR VOTES:

Assembly Floor:	77 - 0
Assembly Appropriations Committee:	16 - 0
Assembly Health Committee:	15 - 0

COMMENTS:

- 1) *Author's statement.* According to the author, the opioid epidemic has ravaged our state and has unfortunately torn families apart. According to the Orange County Health Agency, in Orange County, the rate of opioid-related emergency department (ED) visits has increased 141% since 2005, and there were 7,457 opioid overdose/abuse cases treated in the ED between 2011 and 2015. Importantly, seven of every ten overdose deaths investigated by the Orange County Sheriff-Coroner during this five-year period involved opioids. Luckily, with the development of naloxone, or commonly referred as "narcan," these types of unfortunate tragedies can be prevented. This life-saving drug should be on-site at all drug treatment centers in order to ensure timely access and to help patients who relapse during treatment. This bill guarantees this, as well as ensures that someone at these facilities is trained on how to administer this drug to a patient in need. In short, this bill can save lives.
- 2) *Naloxone.* According to the California Department of Public Health (CDPH) website, naloxone, a prescription drug, is an opioid antagonist that works almost immediately to reverse opiate overdose and has few known adverse effects, no potential for abuse, and can be rapidly administered through intramuscular injection or nasal spray. Programs to train and equip bystanders, such as friends, family, and other non-health care providers, and drug users themselves, have gained momentum as an effective way to respond to and reverse an opioid overdose. According to the National Institute on Drug Abuse (NIDA), naloxone has no effect on someone who does not have opioids in their system. NIDA also states that naloxone works to reverse opioid overdose in the body for only 30 to 90 minutes. Since many opioids remain in the body longer than that and it is possible for a person to still experience the effects of an overdose after a dose of naloxone wears off, NIDA states one of the most important steps to take is to call 911 so the individual can receive immediate medical attention.
- 3) *Statewide standing order for naloxone distribution.* CDPH issued a statewide standing order for naloxone in June 2018. The order allows specified organizations and entities to distribute naloxone to a person who is at risk of experiencing an overdose or an individual in a position to assist an at-risk person. Examples of eligible community organizations and entities include public health departments, harm reduction/syringe exchange programs, SUD treatment providers, homeless programs, jails, emergency services providers, and law enforcement. Staff of community organizations and other entities distributing naloxone under the statewide standing order are required to receive training, and are also required to provide training to individuals who receive naloxone from them. Organizations may apply to use the statewide standing order and meet certain terms and conditions.
- 4) *Naloxone Distribution Project (NDP).* The NDP is funded by the federal Substance Abuse and Mental Health Services Administration and administered through DHCS to combat opioid overdose-related deaths throughout California. The NDP aims to address the opioid crisis by reducing opioid overdose deaths through the provision of free naloxone in its nasal spray formulation. Since October 2018, the NDP has distributed over 600,000 units of naloxone, and recorded over 30,000 overdose reversals, according to DHCS. All of the same

organizations and entities, including RTFs, which have received a standing order for naloxone from CDPH can receive it through the NDP upon applying to DHCS.

- 5) *Mental Health and Substance Use Disorders Services (MHSUDS) Information Notice 19-009*. On March 5, 2019, DHCS issued a MHSUDS information notice advising that effective immediately, licensed RTFs and certified outpatient alcohol or other drug treatment programs are permitted to utilize naloxone at their program sites. The notice further stated that if a program chooses to provide naloxone all forms of the medication (injectable, auto injector, or nasal spray) are to be recorded, stored, and destroyed in the same manner as prescription medications. The notice states it is the responsibility of the program to develop policies, procedures, and protocols for how the program will store the medication and accurately document the administration and disposal of it. The staff person who administers naloxone must have successfully completed training in its administration, and the training must be documented in the staff's individual personnel file.
- 6) *RTFs*. RTFs licensed by DHCS, based on what is commonly referred to as the social model, provide recovery, treatment, or detoxification services. (CDPH licenses medical model RTFs, known as chemical dependency recovery hospitals.) The services provided by social model RTFs include group and individual counseling, educational sessions, and alcoholism or drug abuse recovery and treatment planning. Social model RTFs are allowed to provide clients first aid and emergency care, and since the passage of AB 848 (Stone, Chapter 744, Statutes of 2015) RTFs can apply to DHCS for an additional license to provide incidental medical services by a licensed physician and surgeon or other health care practitioner, as specified. SB 823 (Hill, Chapter 781, Statutes of 2018) now requires DHCS to adopt American Society of Addiction Medicine (ASAM) treatment criteria as the minimum standard of care for licensed RTFs. As part of their licensing functions, DHCS conducts reviews of RTFs at least every two years, or as necessary; checks for compliance with statute and regulations to ensure the health and safety of clients; investigates all complaints; and has the authority to suspend or revoke a license for a violation of statute or regulations.
- 7) *Double referral*. Should this bill pass out of this Committee, it will be referred to the Senate Judiciary Committee.
- 8) *Related legislation*. SB 349 (Umberg) requires every treatment provider, as defined, operating in the state to adopt and make available a client bill of rights that ensures those seeking substance use disorder treatment at an RTF have the right to safe and ethical treatment. Prohibits treatment providers from making false or misleading statements in marketing or advertising, as specified. *SB 349 is pending in the Assembly Health Committee.*

SB 434 (Bates) prohibits specified entities, licensed or certified by the state to provide substance use or mental health disorder services, from making false statements or providing false information in advertising or marketing, as specified. *SB 434 is set to be heard in the Assembly Health Committee on June 8, 2021.*

- 9) *Prior legislation*. SB 823 (Hill) requires DHCS to adopt ASAM treatment criteria as the minimum standard of care for licensed RTFs.

AB 848 (Stone) permits RTFs to provide incidental medical services, as defined, to a resident of the facility at the facility premises under specified circumstances.

AB 635 (Ammiano, Chapter 707, Statutes of 2013) revised and recast provisions of AB 2145 (Ammiano, Chapter 545, Statutes of 2010) to permit a licensed health care provider who is permitted to prescribe an opioid antagonist to prescribe and subsequently dispense or distribute an opioid antagonist to a person at risk of an opioid-related overdose or a family member, friend, or other person in a position to assist a person at risk of an opioid-related overdose. Permits these licensed health care providers to issue standing orders for the distribution of an opioid antagonist and for the administration of an opioid antagonist by a family member, friend, or other person in a position to assist a person experiencing or suspected of experiencing an opioid overdose. Repealed the sunset date.

AB 2145 (Ammiano) extended the sunset date of SB 767 (Ridley-Thomas, Chapter 477, Statutes of 2007) to January 1, 2016. Permitted a person who is not otherwise licensed to administer an opioid antagonist in an emergency without fee if the person has received specified training information and believes in good faith that the other person is experiencing a drug overdose. Prohibited a person, as a result of his or her acts or omissions, from being liable for any violation of any professional licensing statute, or subject to any criminal prosecution arising from or related to the unauthorized practice of medicine or the possession of an opioid antagonist.

SB 767 (Ridley-Thomas) permitted, until January 1, 2011, a licensed health care provider, who is already permitted to prescribe an opioid antagonist, if acting with reasonable care, to prescribe and subsequently dispense or distribute an opioid antagonist in conjunction with an opioid overdose prevention and treatment training program without being subject to civil liability or criminal prosecution.

10) *Support.* Supporters of this bill state that the rate of drug overdose deaths in California is up 15% over the last three years, and nationwide drug-related overdose is now a top ten leading cause of death. Data from CDPH indicates that 3,244 Californians died due to opioid-related overdoses in 2019. In 2016, ASAM recommended that all addiction treatment agencies have on-site supplies of naloxone to treat opioid overdose that may appear in patients of the facility. This bill is a harm-reduction strategy that seeks to ensure this life-saving reversal tool is accessible to those that may be at a higher risk of overdosing. Supporters further argue that these treatment centers should be required to carry naloxone because of the dangerous probability of opioid abuse by patients. The San Francisco Department of Public Health suggests that the bill be amended to remove the requirement that training be provided by a pharmacist, as naloxone does not require specialized training, and would like to see the bill amended to include mental health facilities as well. Advocates for Responsible Treatment suggests amending the bill to also include recovery residences, also known as sober living homes.

11) *Opposition.* The County Behavioral Health Directors Association (CBHDA) argues that when naloxone is administered, it only impacts an individual who is actively experiencing an opioid overdose and otherwise has no impact on an individual. Therefore, it is unclear under what situations administering naloxone in “gross negligence” or with “willful misconduct” would apply. Adding this provision may increase hesitancy in administering naloxone, which may prove to have fatal outcomes. CBHDA also argues that staff members may obtain naloxone from multiple different sources and may not always receive training by a pharmacist or be a licensed medical professional. CBHDA states there is also cause for concern that by excluding all individuals present in a RTF from this bill, especially the civil liability provision, that an individual who is not a trained staff member may be hesitant to

administer naloxone. Existing law protects any person who administers naloxone in good faith from civil liability, and CBHDA believes this theme should be consistent throughout this bill.

12) *Policy concern.* Because RTFs can obtain naloxone from various sources, the author may wish to amend this bill to remove the requirement that RTF staff be trained in the administration of naloxone by a pharmacist. RTFs are also nonmedical facilities and do not require medical professionals to be employed, so the provision allowing staff to have obtained training as a licensed medical professional is unclear.

13) *Amendments.* The author received technical assistance from DHCS and requests that the Committee approve the following amendments, which address the policy concern and also include a suggested technical amendment by the Committee:

- a) Require that a staff member be trained in naloxone administration in accordance with training requirements set forth by DHCS, which reflects DHCS's previously issued information notice;
- b) Remove the requirement that staff be trained by a pharmacist or have equivalent training as a licensed medical professional;
- c) Add a provision to allow for the use of other federally approved opioid antagonists to treat opioid overdose; and,
- d) Authorize DHCS to implement this bill through information notices until DHCS adopts regulations.

SUPPORT AND OPPOSITION:

Support: Advocates for Responsible Treatment
County Health Executives Association of California
San Diego County District Attorney Summer Stephan
San Francisco Department of Public Health

Oppose: County Behavioral Health Directors Association of California

-- END --