

## CONCURRENCE IN SENATE AMENDMENTS

AB 381 (Davies and Petrie-Norris)

As Amended June 14, 2021

Majority vote

**SUMMARY**

Requires alcohol and other drug residential treatment facilities (RTF) licensed by the Department of Health Care Services (DHCS) to maintain at least two unexpired doses of naloxone hydrochloride (NH) or any other opioid antagonist (OA) that is approved by the United States Food and Drug Administration (FDA) for treatment of an opioid overdose, on the premises. Requires RTFs to have at all times, at least one staff member on the premises who knows the specific location of the NH/OA and who has been trained on the administration of NH/OA in accordance with the training requirements set forth by the Department of Health Care Services . Requires proof of completion of training on the administration of NH/OA to be documented in the staff member's individual personnel file. Indemnifies a trained staff member from liability for damages in a civil action or from criminal prosecution for the administration of NH/OA to a person appearing to experience an opioid-related overdose.

**Senate Amendments**

- 1) Expand the required drug to be either naloxone hydrochloride or any other opioid antagonist that is approved by the FDA for treatment of an opioid overdose.
- 2) Remove the requirement that an individual must be trained on the administration of NH by a pharmacist or has the equivalent naloxone administration training gained through education and practice as a licensed medical professional to instead be trained on the administration of NH/OA in accordance with the training requirements set forth by the DHCS.
- 3) Require that proof of completion of training on the administration of NH/OA be documented in the staff member's individual personnel file.
- 4) Indemnify a trained staff member from liability for damages in a civil action or from criminal prosecution for the administration of NH/OA to a person appearing to experience in opioid-related overdose.

**COMMENTS**

- 1) *Trends in California Drug Overdose Deaths*. A March 2021 Policy Brief entitled, "Trends in California Drug Overdose Deaths" from California Health Policy Strategies reports that overdose deaths are rising faster in California than it is in the United States (US). In California, overdose deaths are up 50% and in the US overdose, deaths are up 15% since the 12-month period June 2016- June 2017. Preliminary mortality records indicate that in the 12-month period of June 2019 to June 2020, there were at least 7,254 drug overdose deaths in California. Accidental drug overdoses kill twice as many people as car accidents. Fentanyl, a synthetic opioid, is primarily responsible for the increase in overdose deaths. The rate of overdose deaths related to synthetic opioids has risen by 541% over the last three years. Fentanyl is now the leading cause of opioid-related overdose deaths and 37% of all drug-related overdose facilities involve fentanyl. Overdose death rates vary significantly across counties and demographic groups. The adjusted rate of overdose death is highest in Lake County standing at over 60 deaths per 100,000. The average rate of all drug-related overdose

deaths across the state was 19.6 deaths per 100,000 state residents. Additionally, the adjusted rate is highest amongst males, Native Americans, Blacks, and those 50-65 years old. Fentanyl deaths are especially prevalent among people 20-34 years old.

- 2) *NH*. *NH*, better known as Narcan, is an opioid antidote that can reverse a drug overdose. *NH* reverses depression of the central nervous and respiratory systems that have shut down during an overdose. *NH* is commonly used when a person excessively uses morphine, oxycodone, methadone, or illegal substances such as heroin and fentanyl. *NH* is meant to sustain breathing for 30-90 minutes, during which time emergency medical services should be sought for the patient. The drug is non-narcotic, does not produce intoxication, and has no potential for addiction or abuse. *NH* only causes pharmacological effects if there are opioids in someone's body. If *NH* is administered to someone who is not overdosing, no adverse effects will happen.

*NH* is typically administered intramuscularly, which causes the drug to act within one minute and last up to 45 minutes. The emergency treatment works like the well-known EpiPen, an epinephrine auto-injector for serious allergic reactions, as it is injected into the muscle and does not require training, thus making it more user-friendly. *NH* may also be administered intravenously, subcutaneous (under the skin), or intranasally. A typical injectable or nasal spray *NH* kit costs \$15-\$25 per dose.

- 3) *DHCS Mental Health and Substance Use Disorders Services (MHSUDS) Information Notice 19-009*. On March 5, 2019, the DHCS issued a MHSUDS information notice advising that effective immediately, licensed RTF programs and certified outpatient alcohol or other drug treatment programs are permitted to utilize *NH* at their program sites. All forms of *NH* are allowed at the program. The notice further stated that, if a program chooses to provide *NH*, all forms of the medication 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 *NH*. The staff person who administers *NH* must have successfully completed *NH* administration training and the training must be documented in their individual personnel file. This bill builds on that information notice by requiring RTFs to maintain two unexpired doses of *NH* at all times and specifies the training staff personnel administering the *NH* must obtain.
- 4) *RTFs*. *RTFs* are licensed by DHCS, based on what is commonly referred to as the social model, are currently allowed to provide recovery, treatment, and detoxification services. (The Department of Public Health licenses medical model *RTFs* known as chemical dependency recovery hospitals.) The services provided by these *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. As part of their licensing function, DHCS conducts reviews of *RTF* operations every two years, or as necessary. DHCS's Substance Use Disorder Compliance Division checks for compliance with statute and regulations to ensure the health and safety of *RTF* residents and investigates all complaints related to *RTFs*, including deaths, complaints against staff, and allegations of operating without a license. DHCS has the authority to suspend or revoke a license for

conduct in the operation of an RTF that is deleterious to the health, morals, welfare, or safety of either an individual in, or receiving services from, the facility or to the people of the State of California. According to DHCS, as of March 9, 2017, DHCS licenses approximately 1,000 RTFs throughout the state.

### **According to the Author**

The opioid epidemic has ravaged the 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 10 overdose deaths investigated by the Orange County Sheriff-Coroner during this five-year period involved opioids." Luckily, with the development of NH, commonly referred to as "Narcan," these types of unfortunate tragedies can be prevented. The author concludes this life-saving drug should be on-site at all drug treatment centers in order to ensure timely access and help to patients who relapse during treatment. This bill guarantees this accessibility as well as ensures that someone at these facilities is trained on how to administer NH to a patient in need. In short, this bill can save lives.

### **Arguments in Support**

The San Diego District Attorney (SDDA) states, in support, that those trying to rid themselves of opioid addictions often enter drug treatment facilities as patients. Opioid withdrawal is particularly painful to patients. Because of that pain, there is a high rate of relapse. Opioid relapse often occurs within the treatment facilities themselves. This type of relapse is particularly dangerous to the patient because physiological drug tolerance decreases after prolonged periods of sobriety. Thus, smaller amounts of opioids are needed by the patient to become intoxicated, and likewise, to possibly overdose. Drug treatment facilities are regulated by the state and these treatment facilities should be required to carry NH because of the dangerous probability of opioid abuse by patients. The SDDA, in conclusion, states that NH saves lives by reversing the depressive effects of opioids on the central nervous system. One quick squirt in the nose can save a life. This is victim rights-based legislation that will save lives.

### **Arguments in Support if Amended**

The County Behavioral Health Directors Association of California (CBHDA), in a support if amended position, recommends amending the bill to remove the provision requiring staff training on the administration of naloxone hydrochloride as the naloxone training does not require specialized training. CBHDA further recommending removing the provision stating that only trained staff members shall not be liable for damages in civil action or subject to criminal prosecution and amending the bill to state "a person who possesses or distributes an opioid antagonist .... Shall not be subject to professional review, be liable in a civil action, or be subject to criminal prosecution for this possession or distribution."

### **Arguments in Opposition**

There is no registered opposition.

## **FISCAL COMMENTS**

According to the Assembly Appropriations Committee there are negligible administrative costs to DHCS to notify RTFs and verify compliance with the requirement.

**VOTES:**

**ASM HEALTH: 15-0-0**

**YES:** Wood, Mayes, Aguiar-Curry, Bigelow, Bonta, Burke, Carrillo, Flora, Maienschein, McCarty, Nazarian, Luz Rivas, Rodriguez, Santiago, Waldron

**ASM APPROPRIATIONS: 16-0-0**

**YES:** Lorena Gonzalez, Bigelow, Bonta, Calderon, Carrillo, Chau, Megan Dahle, Davies, Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, McCarty, Reyes

**ASSEMBLY FLOOR: 77-0-2**

**YES:** Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

**ABS, ABST OR NV:** Holden, Reyes

**SENATE FLOOR: 39-0-1**

**YES:** Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Umberg, Wieckowski, Wiener, Wilk

**ABS, ABST OR NV:** Stern

**UPDATED**

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