

Date of Hearing: March 28, 2023

ASSEMBLY COMMITTEE ON JUDICIARY  
Brian Maienschein, Chair  
AB 816 (Haney) – As Introduced February 13, 2023

**SUBJECT:** MINORS: CONSENT TO MEDICAL CARE

**KEY ISSUE:** SHOULD A MINOR WHO IS SIXTEEN YEARS OF AGE OR OLDER BE PERMITTED TO CONSENT TO NARCOTIC REPLACEMENT ABUSE TREATMENT THAT USES BUPRENORPHINE?

**SYNOPSIS**

*Existing law permits a minor who is twelve years of age or older to consent to medical care and counseling related to the treatment of drug or alcohol abuse. However, existing law expressly exempts “replacement narcotic abuse treatment” from the kinds of services to which a minor may consent. As the name suggests, narcotic replacement therapy – or opioid replacement therapy – treats opioid addiction by replacing the opioid with a less dangerous drug that curbs the cravings and allows the addicted person to wean themselves off opioids. The FDA-approved drug, buprenorphine, is typically used for this purpose. The existing law requiring parental consent for narcotic replacement therapy aligns with related laws that both permit, and limit, minor consent. For example, a minor who is twelve years of age or older may consent to mental health treatment and services, such as counseling, but they are not allowed to consent to more invasive forms of treatment, including the administration of psychotropic drugs, without parental consent. In other words, existing law assumes that it is one thing to allow a minor to consent to counseling and related forms of treatment without parental consent; it is quite another thing to permit a minor to consent to prescription medications without parental consent.*

*This bill creates an exception that would allow a minor who is at least sixteen years of age or older to consent to narcotic replacement therapy as part of their substance abuse treatment plan. Under current law, a person must be at least eighteen to consent to such treatment, but according to the author and sponsor, there are many instances where a sixteen year old has sufficient maturity, and sufficient need, to consent to narcotic replacement therapy. Moreover, many teenagers suffering from opioid abuse do not have a supportive, or even available, parent. Ideally, where parents are present, engaged and supportive, they should be involved in the treatment plan. But this is not true for all addicted teens, even when narcotic replacement therapy can save their lives. The bill recognizes that minors between ages 12 and 15 years may be too young to consent, even if they would benefit from the treatment; however, making a more mature 16 year-old wait until they are 18 may be too late. The bill maintains the existing law requirement that the professional providing treatment must attempt to involve the parent in the treatment plan, unless in their professional judgment notifying the parent would be inappropriate. There is no known opposition to this bill.*

**SUMMARY:** Authorizes a minor who is 16 years of age or older to consent to replacement narcotic abuse treatment that uses buprenorphine, while maintaining the requirement that the professional person providing the treatment shall include the parent in the treatment plan, unless the professional determines it would be inappropriate to contact the minor’s parent or guardian.

**EXISTING LAW:**

- 1) Authorizes a minor who is 12 years of age or older to consent to medical care and counseling relating to the diagnosis and treatment of a drug- or alcohol-related problem. (Family Code Section 6929 (b).)
- 2) Specifies that a treatment plan pursuant to 1) above shall include the involvement of the minor's parent or guardian, if appropriate, as determined by the professional person or treatment facility treating the minor. Requires the professional persons providing medical care or counseling to a minor to document their attempts to contact the minor's parent or guardian, or to document the reason why it would not be appropriate to contact the minor's parent or guardian. (Family Code Section 6929 (c).)
- 3) Specifies that the above provisions do not authorize a minor to receive replacement narcotic abuse treatment without the consent of the minor's parent or guardian. (Family Code Section 6929 (e).)

**FISCAL EFFECT:** As currently in print this bill is keyed non-fiscal.

**COMMENTS:** According to the author, "California has a youth overdose crisis." The author and sponsor note that, last year, one out of every five deaths among California's youth was caused by opioid overdose. Yet, opioid addiction can be safely treated with buprenorphine, "a lifesaving medication stops opioid cravings and allows therapists and doctors the time they need to get youth clean and sober." Current law requires parental consent to receive this opioid replacement therapy, but often times, the author contends, "youth suffering from opioid addiction are not in contact with their parents, or have parents who are also dealing with addiction and are not part of their children's lives." AB 816, the author concludes, "will allow physicians to oversee buprenorphine treatment for youth over the age of 16 without parental consent. This bill will be a critical step forward to achieving California's goal of ending the rapidly growing crisis of youth opioid deaths."

**Minor consent to treatment.** Existing law permits a minor who is 12 years of age or older to consent to medical care and counseling related to the treatment of drug or alcohol abuse. However, existing law expressly exempts "narcotic replacement" therapy from the kinds of services to which a minor may consent. As the name suggests, narcotic replacement therapy – or opioid replacement therapy – treats opioid addiction by replacing the opioid with a less dangerous drug that curbs the cravings without the "high" or danger of overdose, thereby allowing the addicted person to wean themselves off opioids. The FDA-approved drug, buprenorphine, is most often used for this purpose. However, existing law expressly exempts narcotic replacement therapy from the kinds of drug or alcohol treatment to which a minor may consent. This policy aligns with related laws that both permit, and limit, minor consent to various kinds of medical treatment. For example, a minor who is 12 years of age or older may consent to mental health treatment and services, such as counseling, but they are not allowed to consent to more invasive forms of treatment, including the administration of psychotropic drugs, without parental consent. (Health & Safety Code Section 124260 (b).) In other words, existing law assumes that it is one thing to allow a minor to consent to mental health counseling without parental consent; it is quite another thing to permit a minor to consent to prescription medications without parental consent.

***This bill*** creates an exception to the existing prohibition on providing narcotic replacement therapy to a minor without parental consent. Specifically, it would allow a minor who is at least 16 years of age or older to consent to narcotic replacement therapy. The research cited by the author and sponsor suggests that many older teenagers experience opioid addiction but mental health professionals cannot always obtain parental consent, either because the minor is unwilling to disclose their abuse to parents or the parents are no longer a part of the minor's life. Existing law already allows minors as young as 12 to consent to forms of substance abuse treatment other than narcotic replacement therapy without parental consent. This bill would continue to prohibit narcotic replacement therapy for minors between 12 and 15 years of age, but it would allow those 16 and 17 – that is, those nearing the age of majority – to access treatment without parental consent. Significantly, this bill would keep in place the existing requirement that the professional person providing the treatment must involve the parent in the treatment plan, unless in their professional judgment it would not be appropriate to notify the parent. The bill does not change the default position favoring parental involvement.

***ARGUMENTS IN SUPPORT:*** The American Academy of Pediatrics, California (AAP-CA), provides a succinct but thorough argument on behalf of this bill. APA-Cal writes:

Youth opioid deaths are a serious concern. 1 out of every 5 youth deaths are caused by an opioid overdose. Additionally, overdoses among youth have risen by 179% over the last two years.

AB 816 would allow California physicians to safely expand youth access to effective treatment with buprenorphine consistent with FDA recommendations and National AAP policy. As pediatricians, we consistently make every effort to engage families in the care of youth. However, obtaining parental consent is not always possible. For youth without an available or supportive caregiver (e.g., unhoused youth), or for youth who may be unwilling to disclose their substance use to caregivers, we strongly believe parental consent should not be a barrier to safe and effective care. The patients for whom parental consent is the most challenging are often the most vulnerable patients who need our care and advocacy the most.

Opioid replacement therapy treats opioid addiction by replacing highly addictive opioids with physician-supervised medications that reduce withdrawal symptoms without the danger of an overdose. Opioid replacement therapies are the only evidence-based treatment for opioid addiction.

Buprenorphine was approved by the Food and Drug Administration (FDA) in 2002 and is one of three medications currently used for opioid replacement therapy. Other opioid replacement therapy medications exist such as methadone and naltrexone. However, buprenorphine is the most effective at helping patients abstain from opioid use because it has a chemical ceiling that stops the drug's effects from increasing when more of the drug is taken, making it difficult to abuse and impossible to overdose.

Several other youth advocacy groups and professional associations, including the California Medical Association, support this bill for the same reasons articulated by APA-Cal.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

American Academy of Pediatrics, California

CA Bridge

California Coalition for Youth

California Medical Association

Montage Health Prescribe Safe

National Association of Social Workers, California Chapter

Steinberg Institute

The California Children's Trust

**Opposition**

None on file

**Analysis Prepared by:** Tom Clark / JUD. / (916) 319-2334