SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 1037 (Elhawary)
Version: July 7, 2025
Hearing Date: July 15, 2025
Fiscal: Yes
Urgency: No
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SUBJECT

Public health: substance use disorder

DIGEST

This bill makes several changes to existing law that are intended to increase the availability of opioid antagonists in communities affected by the opioid crisis; and, in order to encourage the distribution and use of opioid antagonists in case of an overdose emergency, provides licensed health care providers and lay persons with qualified immunity for such distribution and use, as provided.

EXECUTIVE SUMMARY

According to the Johns Hopkins Bloomberg School of Public Health, "[o]ver 500,000 people have died from opioid overdoses since 1999 [and] an estimated 93,000 people died from opioid overdoses in 2020, more than in any other year." Opioid overdoses are characterized by central nervous system and respiratory depression, leading to coma and death. While there are various opioid antagonists, the most popular appears to be naloxone, which has the ability to counteract depression of the central nervous and respiratory system caused by an opioid overdose. Once administered, naloxone takes effect after around a minute, potentially saving the person's life.

This bill makes a number of changes to the governance of alcohol or other drug recovery or treatment facilities (RTF) and places specified obligations on the Department of Health Care Services (DHCS). Relevant to this Committee's jurisdiction, this bill expands the protections for those providing or administering opioid antagonists by, in part, expanding existing authorization for licensed health care providers and removing the requirement that those who receive and possess opioid antagonists receive training before receiving the relevant protections of the statute. The bill is sponsored by Los Angeles County. It is supported by various entities, including the California Medical Association. It is opposed by several district attorneys and sheriffs. The bill passed out of the Senate Health Committee on a vote of 9 to 0.

PROPOSED CHANGES TO THE LAW

Existing law:

1) Provides that every person is responsible, not only for the result of their willful acts, but also for an injury occasioned to another by the person's want of ordinary care or skill in the management of their property or person, except so far as the latter has, willfully or by want of ordinary care, brought the injury upon themselves. (Civ. Code § 1714(a).)

2) Provides that no person who, in good faith, and not for compensation, renders emergency medical or nonmedical care at the scene of an emergency shall be liable for any civil damages resulting from any act or omission. The scene of an emergency shall not include emergency departments and other places where medical care is usually offered. This applies only to medical, law enforcement, and emergency personnel, as specified. (Health & Saf. Code § 1799.102(a).)

3) Extends to all other persons not covered by the above who are rendering medical or nonmedical care or other assistance in such situations immunity from civil damages resulting from any act or omission other than acts or omissions constituting gross negligence or willful or wanton misconduct. (Health & Saf. Code § 1799.102(b).)

4) Provides that, notwithstanding any other law, a person who possesses or distributes an opioid antagonist pursuant to a prescription or standing order shall not be subject to professional review, be liable in a civil action, or be subject to criminal prosecution for this possession or distribution. Further provides that a person not otherwise licensed to administer an opioid antagonist, but trained as required and who acts with reasonable care in administering an opioid antagonist, in good faith and not for compensation, to a person who is experiencing or is suspected of experiencing an overdose shall not be subject to professional review, be liable in a civil action, or be subject to criminal prosecution for this administration. (Civ. Code § 1714.22 (f).)

5) Provides that a person who is prescribed or possesses an opioid antagonist pursuant to a standing order shall receive the training provided by an opioid overdose prevention and treatment training program. A person who is prescribed an opioid antagonist directly from a licensed prescriber shall not be required to receive training from an opioid prevention and treatment training program. A licensed health care provider who acts with reasonable care shall not be subject to professional review, be liable in a civil action, or be subject to criminal prosecution for issuing a prescription or order, as provided. (Civ. Code § 1714.22.)

6) Defines "opioid antagonist" to mean naloxone hydrochloride or any other opioid antagonist that is approved by the United States Food and Drug Administration for the treatment of an opioid overdose. (Civ. Code § 1714.22(a)(1).)

7) Requires the State Department of Public Health, upon appropriation, to award funding to local health departments, local government agencies, or on a competitive basis to community-based organizations, regional opioid prevention coalitions, or both, to support or establish programs that provide FDA-approved opioid antagonists for the treatment of an opioid overdose, to first responders and to at-risk opioid users through programs that serve at-risk drug users, including, but not limited to, syringe exchange and disposal programs, homeless programs, and substance use disorder treatment providers. (Health & Saf. Code § 1179.80 (a).)

8) Provides that, notwithstanding any other law, school personnel who volunteer to be trained to administer naloxone hydrochloride or another opioid antagonist, in good faith and not for compensation, to a person who appears to be experiencing an opioid overdose shall not be subject to professional review, be liable in a civil action, or be subject to criminal prosecution for their acts or omissions in administering the opioid antagonist. (Ed. Code § 49414.3(j)(1).)

This bill:

1) Expands existing authorizations to prescribe an opioid antagonist to those at risk of, or who may be in a position to assist a person experiencing, any drug overdose, rather than who is at risk specifically of an opioid-related overdose, and removes the requirement that those who receive and possess opioid antagonists receive training.

2) Authorizes a person at risk of an overdose, or a person in a position to assist a person at risk of an overdose, to possess an opioid antagonist and subsequently dispense or distribute an opioid antagonist to a person at risk of an overdose or another person in a position to assist a person at risk of an overdose.

3) Provides that a licensed health care provider who acts with reasonable care shall not be subject to professional review or subject to criminal prosecution for issuing a prescription or order or for possessing, administering, or distributing an opioid antagonist pursuant hereto, or for liability in a civil action for any injuries or damages relating to or resulting from the acts or omissions of any person who administers the opioid antagonist in good faith and not for compensation pursuant hereto.

4) Provides that, notwithstanding any other law, a person who possesses or distributes an opioid antagonist for the purposes specified shall not be subject to

professional review or be subject to criminal prosecution for their possession or distribution.

5) Provides that, consistent with Section 1799.102 of the Health and Safety Code, any person who administers an opioid antagonist, in good faith and not for compensation, to a person who is experiencing or is suspected of experiencing an overdose is not liable for civil damages resulting from any act or omission relating to such administration, other than an act or omission constituting gross negligence or willful or wanton misconduct.

6) Adds to the permissible list of services a county's drug program can fund prevention activities aligned with evidence-based best practices or identified in the Substance Use Prevention, Treatment, and Recovery Services Block Grant, authorized by the federal Substance Abuse and Mental Health Services Administration (SAMHSA) for substance abuse prevention and treatment.

7) Requires DHCS, by January 1, 2027, to establish a process whereby an entity can apply for a combined RTF license and certification to provide incidental medical services (IMS) through a streamlined application, inspection, and monitoring; an additional fee to cover DHCS's costs for administering a combined services application; and, mandated application review timelines that include key milestones, as specified.

8) Prohibits DHCS from requiring RTFs that additionally provide IMS from requiring an admission agreement that requires a person to have been abstinent, to not be intoxicated, or to otherwise not be under the influence in order to be admitted into care, be considered for treatment, or to continue treatment.

9) Prohibits DHCS from requiring an RTF to prohibit the admission of an individual for having consumed, used, or otherwise been under the influence of alcohol or other drugs.

10) Specifies that the requirement for an RTF to develop a plan to address relapse does not require an RTF to discharge residents for relapsing, lapsing, or momentarily reengaging in the use of alcohol or other drugs. Requires an RTF to prioritize the individual maintaining some level of connection to treatment and to consider options to avoid complete disconnection of the resident from treatment.

COMMENTS

1. The opioid epidemic

As stated, it is not only this state, but the entire country, that is being ravaged by opioid overdose deaths. Examples of opioids include heroin, oxycodone (OxyContin®), hydrocodone (Vicodin®), codeine, and morphine. One major cause of the dramatic rise in overdose numbers is the increasing use of one particularly dangerous iteration, fentanyl:

> The death toll has spiked in recent years, largely as a result of the growing ubiquity of the powerful opioid fentanyl.
>
> The legally prescribed painkiller has become a popular illicit street drug over the last decade. It has also killed thousands of people who unknowingly consumed other drugs such as cocaine or heroin that were surreptitiously laced with fentanyl.
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> The U.S. Centers for Disease Control and Prevention has described fentanyl as up to 50 times as potent as heroin and 100 times as potent as morphine.
>
> More than 71,000 people died in the U.S. of overdoses caused by synthetic opioids — primarily fentanyl — in 2021, an increase of more than 23% from the previous year. In 2012, the CDC recorded just 1,615 overdose deaths involving fentanyl in the U.S.
>
> In the face of such distressing failure to reduce deaths from opioids, methods for addressing the crisis that many once considered too risky or even unthinkable are now being debated by state and local officials and rolled out in communities devastated by overdoses.[1]

One critical tool in the fight against opioid overdoses is an opioid antagonist, which is a drug that attaches to opioid receptors and reverses and blocks the effects of other opioids.[2] Naloxone is a popular form of this medicine that can rapidly reverse an opioid overdose. Naloxone can quickly restore normal breathing to a person if their breathing has slowed or stopped because of an overdose. Crucially, naloxone has little to no effect on someone who does not have opioids in their system.

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[1] Connor Sheets, As fentanyl overdose deaths keep rising, efforts to reverse trend meet liability fears (December 27, 2022) Los Angeles Times, https://www.latimes.com/california/story/2022-12-27/as-overdose-deaths-keep-rising-bold-efforts-to-reverse-the-trend-emerge. All internet citations are current as of July 5, 2025.

[2] *Naloxone DrugFacts* (January 2022) National Institute on Drug Abuse, https://nida.nih.gov/publications/drugfacts/naloxone.

Opioid antagonists should be given to any person who shows signs of an opioid overdose or when an overdose is suspected. Naloxone can be given as a nasal spray or it can be injected into the muscle, under the skin, or into the veins.

This bill responds to reports that suggest that service providers are concerned with potential legal liability for damages and want legal cover to distribute naloxone to people who may in turn share it with others who have not been trained to administer it.

2. Civil liability and immunity

As a general rule, California law provides that persons are responsible, not only for the result of their willful acts, but also for an injury occasioned to another by their want of ordinary care or skill in the management of their property or person, except so far as the latter has, willfully or by want of ordinary care, brought the injury upon themselves. (Civ. Code § 1714(a).) Liability has the primary effect of ensuring that some measure of recourse exists for those persons injured by the negligent or willful acts of others; the risk of that liability has the primary effect of ensuring parties act reasonably to avoid harm to those to whom they owe a duty.

Conversely, immunity from liability disincentivizes careful planning and acting on the part of individuals and entities. When one enjoys immunity from civil liability, they are relieved of the responsibility to act with due regard and an appropriate level of care in the conduct of their activities. Immunity provisions are also disfavored because they, by their nature, preclude parties from recovering when they are injured, and force injured parties to absorb losses for which they are not responsible. Liability acts not only to allow a victim to be made whole, but to encourage appropriate compliance with legal requirements.

Although immunity provisions are rarely preferable, the Legislature has, in limited scenarios, approved measured immunity from liability (as opposed to blanket immunities) to promote other policy goals that could benefit the public. Immunities are generally afforded when needed to ensure the willingness of individuals to continue taking on certain roles that may involve some risk and to incentivize certain conduct, such as the provision of life-saving or other critical services. Examples include protections for use of CPR (Civ. Code § 1714.2); use of an automated external defibrillator (Civ. Code § 1714.21); use of opiate overdose treatment (Civ. Code § 1714.22); providing emergency care at the scene of an emergency (Health & Saf. Code §§ 1799.102, 1799.106); and performing emergency rescue services (Health & Saf. Code § 1799.107). However, as indicated above, rarely is immunity absolute, and these immunities generally do not cover grossly negligent conduct or intentional misconduct.

3. Incentivizing the administration of opioid antagonists

Under existing law, a licensed health care provider who is authorized by law to prescribe an opioid antagonist may, if acting with reasonable care, prescribe and subsequently dispense or distribute an opioid antagonist to a person at risk of an opioid-related overdose or to another person in a position to assist a person at risk of an opioid-related overdose. Such providers may issue standing orders for the distribution and administration of an opioid antagonist to such persons. A person who is prescribed or possesses an opioid antagonist pursuant to such a standing order shall receive the training provided by an opioid overdose prevention and treatment training program.

Existing law provides that a licensed health care provider who acts with reasonable care shall not be subject to professional review, be liable in a civil action, or be subject to criminal prosecution for issuing a prescription or order pursuant to the above. Similarly, a person who possesses or distributes an opioid antagonist pursuant to a prescription or standing order shall not be subject to professional review, be liable in a civil action, or be subject to criminal prosecution for this possession or distribution. A person not otherwise licensed to administer an opioid antagonist, but trained as required, who acts with reasonable care in administering an opioid antagonist, in good faith and not for compensation, to a person who is experiencing or is suspected of experiencing an overdose shall not be subject to professional review, be liable in a civil action, or be subject to criminal prosecution for this administration.

This bill expands these authorizations and loosens attendant requirements to further incentivize the distribution and administration of this life-saving medication. The bill removes the training requirements and the need for a prescription or standing order, while ensuring the same level of qualified immunity. It extends the statute to those at risk of any overdose, not solely an opioid-related overdose.

Relevant to these provisions, the County of Los Angeles, the sponsor of the bill, writes that the bill will:

> Ensure the over-the-counter availability of opioid overdose reversal medication (OORM) by amending the statute to eliminate the need for a "prescription or standing order," which is no longer required. This provision also ensures that Good Samaritans are clearly protected from liability for acting in good faith to help someone at risk of an overdose.

4. Stakeholder positions

According to the author:

> The Substance Use Disorder (SUD) Care Modernization Act would help address historical stigmas, outdated policies, and significant statutory

> barriers to more successfully engage and treat people with SUDs, and ultimately save lives. This bill aligns statutes with the overarching policies of California around SUD treatment, recently enacted laws, and best practices throughout an individual's recovery journey, no matter their readiness for change.

Writing in support, the County Behavioral Health Directors Association asserts:

> AB 1037 seeks to update outdated requirements in California state laws that are inconsistent with local and statewide efforts to expand access to SUD treatment services. This bill will do this by aligning the statute with best practices that will lead to improved SUD treatment, access, services and outcomes. The Act identifies four core issues to address: (1) updating state law to clarify that naloxone, an opioid overdose reversal medication, now has over-the-counter (OTC) status; (2) amending current law to remove SUD symptoms as a barrier to admission and treatment; (3) streamlining incidental medical services (IMS) processes for residential SUD settings; and (4) allowing SUD providers to practice risk reduction.

The District Attorney of Placer County writes in opposition:

> AB 1037 decriminalizes the possession and distribution of drug pipes—including methamphetamine pipes—when provided through overdose prevention or harm reduction programs. While the author's intentions of harm reduction are laudable, the bill removes the legal requirement that such programs actually promote abstinence or recovery from substance use. In short, this bill enables the open and taxpayer-funded distribution of drug paraphernalia without accountability or standards, while abandoning the core public health goals.
>
> By eliminating existing oversight and permitting the distribution of smoking devices, this bill dramatically increases the availability of meth pipes and other drug paraphernalia in communities without meaningful regulation. The electorate supported Proposition 36 to encourage treatment of drug use. This bill runs counter to that goal by treating the ongoing use of illegal drugs as a foregone conclusion rather than a crisis in need of intervention.

Writing in opposition, the California Narcotic Officers' Association states:

> **Harm reduction prioritized over narcotic avoidance** – this bill enshrines harm reduction ideology while discarding the foundational public health principle that unlawful drug use should be discouraged, thus failing to promote recovery or accountability.

> California voters overwhelmingly passed Prop. 36 [] just a few months ago, demanding that the state take serious action to cut down on the rampant and deadly drug trade. The measure passed in every county in the state.
>
> AB 1037 subverts the will of the voters by codifying additional loopholes which will further enable more illegal drug use along with the destruction it causes to our families and communities.

SUPPORT

County of Los Angeles Board of Supervisors (sponsor)
California Behavioral Health Association
California Behavioral Health Planning Council
California Medical Association
California Opioid Maintenance Providers
California Society of Health-system Pharmacists
City and County of San Francisco
County Behavioral Health Directors Association
County Health Executives Association of California
Drug Policy Alliance
Tarzana Treatment Centers, INC.

OPPOSITION

Alpine County Sheriff's Office
California Narcotic Officers' Association
El Dorado County District Attorney's Office
El Dorado County Sheriff's Office
Fresno County Sheriff's Office
Glenn County Sheriff's Office
Merced County Sheriff's Office
Modoc County Sheriff's Office
Placer County District Attorney
Sacramento County Sheriff Jim Cooper
San Luis Obispo County District Attorney
Yuba County Sheriff's Office

RELATED LEGISLATION

Pending Legislation:

SB 466 (Caballero, 2025) provides total immunity from liability to a public water system in a civil case brought by non-governmental entities or individuals harmed by the water

system's acts or failure to act related to hexavalent chromium in drinking water during specified time periods. SB 466 is currently in the Assembly Judiciary Committee.

AB 369 (Michelle Rodriguez, 2025) provides qualified immunity to those administering, in good faith, anti-seizure rescue medication at the scene of an emergency, as provided. AB 369 has been enrolled and is awaiting action by the Governor.

AB 1172 (Nguyen, 2025) authorizes individuals with developmental disabilities to receive emergency seizure medication by creating a training pathway for employees of licensed facilities that choose to volunteer to administer the medication. It provides qualified immunity to volunteers who so administer the medication. AB 1172 is currently in this Committee and is set to be heard the same day as this bill.

Prior Legislation:

SB 234 (Portantino, Ch. 596, Stats. 2023) required stadiums, concert venues, and amusement parks to maintain unexpired doses of an opioid antagonist on its premises and ensure that at least two employees are aware of the location and provides indemnification, as specified.

AB 1166 (Bains, Ch. 97, Stats. 2023) provided qualified immunity to those administering or providing, in good faith, emergency opioid antagonists, as defined, at the scene of an overdose, or suspected overdose.

PRIOR VOTES:

Senate Health Committee (Ayes 9, Noes 0)
Assembly Floor (Ayes 55, Noes 19)
Assembly Appropriations Committee (Ayes 11, Noes 3)
Assembly Judiciary Committee (Ayes 8, Noes 3)
Assembly Health Committee (Ayes 11, Noes 3)
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