

CONCURRENCE IN SENATE AMENDMENTS

AB 1037 (Elhawary)

As Amended September 5, 2025

Majority vote

SUMMARY

Updates substance use disorder (SUD) licensing and public health laws by expanding those authorized to receive opioid antagonists and eliminating the requirement that they receive training, requiring the State Department of Health Care Services (DHCS) to offer a combined application for entities to be licensed as an alcohol or other drug (AOD) recovery or treatment facility (RTF) and to provide incidental medical services (IMS), *and removes AOD program language in statute requiring "no lawful use" messaging.*

Senate Amendments

- 1) Delete the requirement that an AOD-related program be consistent with evidence-based best clinical practices in order for state funds to be encumbered by a state agency for allocation to any entity, whether public or private.
- 2) Delete requirements on DHCS to provide dates of key milestones in the permit application review process.
- 3) Prohibit an RTF from denying admission based solely on an individual having consumed, used, or otherwise been under the influence of alcohol or other drugs.

COMMENTS

Prevalence of SUD in California. A 2024 publication from Health Management Associates and the California Health Care Foundation titled, "*Substance Use Disorder in California — a Focused Landscape Analysis*" reported that approximately 9% of Californians ages 12 years and older met the criteria for SUD in 2022. According to the report, the prevalence of SUD among individuals 12 years of age and older increased to 8.8% in 2022 from 8.1% in 2015. While the health care system is moving toward acknowledging SUD as a chronic illness, only 6% of Americans and 10% of Californians ages 12 and older with an SUD received treatment for their condition in 2021. More than 19,335 Californians ages 12 years and older died from the effects of alcohol from 2020 to 2021, and the total annual number of alcohol-related deaths increased by approximately 18% in the state from 2020 and 2021. Overdose deaths from both opioids and psychostimulants (such as amphetamines), are soaring. This issue, compounded by the increased availability of fentanyl, has resulted in a 10-fold increase in fentanyl related deaths between 2015 and 2019. According to the California Department of Public Health's (DPH) Overdose Prevention Initiative, 7,847 opioid-related overdose deaths occurred in California in 2023. In the first two quarters of 2024, 2,975 opioid-related overdose deaths were recorded in California.

DPH statewide standing order for Naloxone. According to the Centers for Disease Control and Prevention, naloxone is a medicine that can help people who are overdosing on an opioid, and can be given safely to people of all ages, from infants to older adults. This includes an adolescent or young adult who may have unintentionally taken an opioid. Opioids include prescription medications, heroin, and fentanyl. Naloxone will not harm someone if you give it to them and they are not overdosing on an opioid. During an overdose, a person's breathing can be dangerously slowed or stopped, causing brain damage or death. Sometimes

other drugs, including cocaine and methamphetamine, are mixed with fentanyl, and the user may not be aware of this mixture or contamination.

Unfortunately many organizations found it difficult to obtain the required standing order to obtain naloxone from health care providers. DPH issued a standing order in 2017 to address this need and support equitable naloxone access. The standing order:

- 1) Allows community organizations and other entities in California that are not currently working with a physician, to distribute naloxone to a person at risk of an opioid-related overdose or to a family member, friend, or other person in a position to assist; and,
- 2) Allows for the administration of naloxone by a family member, friend, or other person to a person experiencing or reasonably suspected of experiencing an opioid overdose.

Among the organizations and entities that can distribute naloxone under the order are colleges, first responders, veteran organizations, homelessness programs, libraries, religious entities, recovery facilities, harm reduction and syringe access programs, and more. An individual at risk of experiencing an opioid-related overdose or someone who can assist an individual at risk is allowed to do so. Under the statewide standing order, staff of community organizations and other entities distributing naloxone must be trained. They are also required to provide training to individuals who receive naloxone from them. Colleges and other organizations may apply to use the statewide standing order if they meet certain conditions. As of November 2023, DPH stated that a standing order is no longer needed for Narcan or other approved over-the-counter naloxone nasal sprays, but all other formulations remain available by prescription only and require a standing order to distribute and administer.

Naloxone Distribution Project (NDP). A separate distribution program administered through DHCS, the NDP allows various entities to apply for and obtain naloxone at no cost to the entity. As of February 20, 2024 the NDP has approved more than 10,800 applications for naloxone, distributed more than 3.8 million kits of naloxone and reversed more than 245,000 opioid overdoses.

The NDP also provides generic 4mg naloxone nasal spray in partnership with the CalRX Naloxone Access Initiative. Beginning May 6, 2024, entities participating in the NDP will receive either generic naloxone nasal spray or Narcan naloxone nasal spray. Generic naloxone nasal spray will be labeled either as "CalRx" or "Amneal" and is manufactured by Amneal Pharmaceuticals. Narcan naloxone nasal spray will be labeled as "Narcan" and is manufactured by Emergent BioSolutions.

Alcohol and Drug Treatment Facility Licensing. DHCS has sole authority to license RTFs in the state. Licensure is required when at least one of the following services is provided: detoxification; group sessions; individual sessions; educational sessions; or, alcoholism or other drug abuse recovery or treatment planning. Additionally, facilities may be subject to other types of permits, clearances, business taxes, or local fees that may be required by the cities or counties in which the facilities are located.

As part of their licensing function, DHCS conducts reviews of RTF operations every two years, or as necessary. DHCS's SUD Compliance Division checks for compliance with statute and regulations (Title 9, Chapter 5, California Code of 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 contrary 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.

IMS are optional services provided at a facility by a health care practitioner, or staff under the supervision of a health care practitioner, to address medical issues associated with detoxification, treatment, or recovery services. IMS must be provided at the facility in compliance with the community standard of practice. IMS does not include general primary medical care or medical services required to be performed in a licensed health facility. Incidental medical services are defined in statute and include the following:

- 1) Obtaining medical histories;
- 2) Monitoring health status;
- 3) Testing associated with detoxification from alcohol or drugs;
- 4) Providing alcoholism or drug abuse recovery or treatment services;
- 5) Overseeing patient self-administered medications; and
- 6) Treating substance abuse disorders, including detoxification.

California RTF Admission Requirements. Current admission regulations in Section 10572 of Title 9 of the California Code of Regulations state that no person, who, within the previous 24 hours, has consumed, used, or is still otherwise under the influence of alcohol or drugs, shall be permitted on the premises except for individuals admitted for detoxification or withdrawal. The licensee shall have specific written rules and policies and procedures to enforce this provision. While individual facilities may have reasons for requiring sobriety before admission to a treatment facility, a blanket prohibition by the state prevents providers that may wish to engage these individuals in treatment when they have the opportunity to do so.

According to the Author

The 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. The author argues that 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.

Arguments in Support

The Board of Supervisors of Los Angeles County (LAC) is sponsoring this bill and says in support that it will modernize risk reduction language in statute to conform to best practices, eliminate the 24-hour sobriety barrier to SUD service admission and treatment, streamline treatment facility licensure and certification, permanently remove the sunset on syringe services programs, and ensure the availability of naloxone over the counter by amending the statute to eliminate the need for "a prescription or standing order" for opioid overdose reversal medication. LAC argues that this bill aims to align with the state's broader integrated policy goals as we pursue collaborative solutions to address drug and alcohol use, as well as related mental illness and homelessness.

The County Behavioral Health Directors Association (CBHDA) also supports the bill and says despite California's momentum and investments in behavioral health, according to a 2022 national Substance Abuse and Mental Health Services Administration (SAMHSA) survey, while 17% of people across the nation have an SUD, fewer than 15% of those received treatment in that past year, and of those not receiving treatment, 95% of individuals did not perceive they have a need for services. CBHDA says that outdated requirements in California state laws are inconsistent with local and statewide efforts to expand access to SUD treatment services, and this bill will align the statute with best practices that will lead to improved SUD treatment, access, services, and outcomes.

The California Society of Addiction Medicine (CSAM) states in support of the bill that California's SUD care system has operated under legal limitations that affect the population in need of services. Approximately 17% of people in the United States have an SUD each year and 95% do not receive treatment or are not interested in services. To combat this crisis, CSAM argues that reducing barrier to accessing SUD services must be prioritized. This bill will amend statutes that prohibit risk reduction language and widen accessibility for a spectrum of SUD services.

The California Association of Alcohol and Drug Program Executives (CAADPE) writes in support of this bill that it reflects the significant progress California has made through initiatives like California Advancing and Innovating Medi-Cal (CalAIM), the 1115 Waiver, and the overhaul of the Behavioral Health Services Act. CAADPE says that remnants of stigma-based policies continue to impede access to timely and effective care and this bill proposes smart, compassionate reforms. CAADPE argues that this bill will save lives and strengthen California's commitment to person-centered, evidence-based behavioral health care, and it aligns with public health science, meets people where they are, and prioritizes accessibility and dignity for all individuals impacted by SUD.

Arguments in Opposition

Vern Pierson, the District Attorney (DA) of El Dorado County, opposes this bill stating it erects a legislative safe harbor for illicit drug use under the banner of "harm reduction." DA Pierson argues that creating a permanent channel for distributing drug paraphernalia effectively normalizes its possession and undermines any built-in review period to assess efficacy, and while naloxone can save lives, removing training requirements dilutes appropriate use protocols and may inadvertently diminish the emphasis on long-term treatment and recovery. This bill opens the door to legal possession of dangerous instruments under the broad umbrella of "harm reduction," making it more difficult for prosecutors to hold individuals accountable and potentially encouraging further illicit use. DA Pierson concludes that this bill marks an alarming departure from the bedrock constitutional order that entrusts this state with the solemn duty to protect its citizens and uphold the rule of law.

El Dorado County Sheriff Jeff Leikauf also opposes the bill and states that it abandons California's emphasis on the importance of prevention and a consistent message that illegal drug use is not acceptable. Sheriff Leikauf argues that softening this message at a time of crisis is the last thing the state should be doing, and that the passage of Proposition 36 made clear that California's approach to addiction must balance support with accountability.

FISCAL COMMENTS

According to the Senate Appropriations Committee, unknown ongoing General Fund costs, likely minor, for DHCS administration related to licensing residential treatment facilities.

VOTES:**ASM HEALTH: 11-3-1**

YES: Bonta, Addis, Aguiar-Curry, Arambula, Carrillo, Mark González, Krell, Patel, Celeste Rodriguez, Sharp-Collins, Stefani

NO: Chen, Flora, Sanchez

ABS, ABST OR NV: Schiavo

ASM JUDICIARY: 8-3-1

YES: Kalra, Bryan, Connolly, Harabedian, Pacheco, Papan, Stefani, Zbur

NO: Dixon, Macedo, Sanchez

ABS, ABST OR NV: Bauer-Kahan

ASM APPROPRIATIONS: 11-3-1

YES: Wicks, Arambula, Calderon, Caloza, Elhawary, Fong, Mark González, Hart, Pacheco, Pellerin, Solache

NO: Dixon, Ta, Tangipa

ABS, ABST OR NV: Sanchez

ASSEMBLY FLOOR: 55-19-5

YES: Addis, Aguiar-Curry, Ahrens, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Connolly, Elhawary, Fong, Gabriel, Garcia, Gipson, Mark González, Haney, Harabedian, Hart, Irwin, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Muratsuchi, Pacheco, Papan, Patel, Pellerin, Petrie-Norris, Quirk-Silva, Ransom, Celeste Rodriguez, Rogers, Blanca Rubio, Schiavo, Schultz, Sharp-Collins, Solache, Stefani, Valencia, Ward, Wicks, Wilson, Zbur, Rivas

NO: Alanis, Chen, Davies, DeMaio, Dixon, Ellis, Flora, Gallagher, Jeff Gonzalez, Hadwick, Hoover, Lackey, Macedo, Patterson, Michelle Rodriguez, Sanchez, Ta, Tangipa, Wallis

ABS, ABST OR NV: Castillo, Nguyen, Ortega, Ramos, Soria

UPDATED

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