

Date of Hearing: June 12, 2024

ASSEMBLY COMMITTEE ON EDUCATION
Al Muratsuchi, Chair
SB 997 (Portantino) – As Amended April 8, 2024

SENATE VOTE: 37-0

SUBJECT: Pupil health: opioid antagonists and fentanyl test strips

SUMMARY: Authorizes local educational agencies (LEAs) to adopt a policy allowing students to carry a federally approved opioid antagonist, and requires that if a policy is adopted it include a requirement that a student has received instruction in the administration of an opioid antagonist; requires schools to stock fentanyl test strips and to distribute the test strips as needed as well as written instructions on their use and requires schools to allow students to carry the test strips. Specifically, **this bill:**

- 1) Requires middle schools, junior high schools, high schools, and adult schools operated by LEAs to:
 - a) Stock fentanyl test strips in a secured location and distribute the test strips as needed;
 - b) Provide written instructions on how to properly use the test strips when distributing the test strips;
 - c) Notify students of the presence and location of the fentanyl test strips; and
 - d) Allow students to carry fentanyl test strips on their person or their personal property.
- 2) Authorizes LEAs to develop and adopt a policy that allows students in middle schools, junior high schools, high schools, and adult schools to carry a federally approved naloxone hydrochloride nasal product or any other federally approved opioid antagonist for over-the-counter, nonprescription use for the emergency treatment of persons suffering from an opioid overdose.
- 3) Requires, if an LEA adopts a policy pursuant to (2), that the policy include a requirement that a student has received instruction in the administration of the opioid antagonist.
- 4) Defines “local educational agency” as a school district, county office of education (COE), or charter school.

EXISTING LAW:

- 1) Authorizes school districts, COEs, and charter schools to provide emergency naloxone hydrochloride or another opioid antagonist to school nurses or trained volunteer personnel for the purpose of providing emergency medical aid to persons suffering, or reasonably believed to be suffering, from an opioid overdose. (Education Code (EC) 49414.3)
- 2) Requires that the comprehensive school safety plan developed by school districts and COEs enrolling students in grades 7 to 12 include a protocol in the event a student is suffering or reasonably believed to be suffering from an opioid overdose. (EC 32282)

- 3) Requires the school safety plan developed by charter schools enrolling students in grades 7 to 12 include a protocol in the event a student is suffering or reasonably believed to be suffering from an opioid overdose. (EC 47605 and 47605.6)
- 4) Encourages COEs to establish a County Working Group on Fentanyl Education in Schools for outreach, building awareness, and collaborating with local health agencies regarding fentanyl overdoses, and encourages the working group to include representatives of LEAs within the county as well as the county public health department. Also requires the California Department of Education (CDE) to curate and maintain on its website, informational materials containing awareness and safety advice on how to prevent an opioid overdose. (EC 49428.16)
- 5) Authorizes a student to be suspended or recommended for expulsion if it is determined that the student has, among other offenses, unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of a controlled substance, an alcoholic beverage, or an intoxicant of any kind, or has unlawfully possessed or unlawfully offered, arranged, or negotiated to sell drug paraphernalia, as defined. (EC 48900)
- 6) Defines “drug paraphernalia” as all equipment, products, and materials which are designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, including testing equipment designed for use in identifying or analyzing the strength, effectiveness, or purity of controlled substances. (Health and Safety Code (HSC) 11014.5)
- 7) Authorizes a pharmacy to furnish naloxone hydrochloride or another opioid antagonist to a school district, COE, or charter school provided that the naloxone hydrochloride or another opioid antagonist is for use exclusively at the school site and if a physician provides a written order that specifies the quantity of the opioid antagonist that is to be furnished. (Business and Professions Code (BPC) 4119.8)

FISCAL EFFECT: According to the Senate Appropriations Committee:

- 1) This bill could result in a reimbursable state mandate for LEAs to stock and distribute fentanyl test strips. Depending on the number of test strips that LEAs elect to purchase, statewide Proposition 98 General Fund costs could be in the low millions of dollars each year. The actual cost will vary by LEA and could decrease over time depending on the demand for test strips.
- 2) This bill could result in additional costs for LEAs that elect to develop and adopt policies on the use of naloxone. The costs will vary by LEA but could be in the hundreds of thousands of dollars statewide on a one-time basis (Proposition 98 General Fund). This bill could also result in additional, unknown local cost pressures for LEAs to provide instruction to students on the policies.

COMMENTS:

Need for the bill. According to the author, “Naloxone is a life-saving medication that can reverse an opioid overdose. Naloxone is safe and easy to use and works almost immediately. It is now available over the counter, without a prescription at pharmacies, convenience stores, grocery stores. Similar to the testing strips, if we permit our young people to carry live saving tools like Narcan and other opioid antagonists, we can respond to an opioid overdose more efficiently while changing the culture of drug use to be one that is focused on harm reduction.”

Dangers associated with Fentanyl. Fentanyl is a potent synthetic opioid drug approved by the Food and Drug Administration (FDA) for use as an analgesic and anesthetic. It is approximately 50 times stronger than heroin and 100 times stronger than morphine. First developed in 1959, it was introduced in the 1960s as an intravenous anesthetic. Fentanyl is legally manufactured and distributed in the United States; however, there are two types of fentanyl: pharmaceutical fentanyl and illicitly manufactured fentanyl. Both are considered synthetic opioids.

Pharmaceutical fentanyl is prescribed by doctors to treat severe pain, especially after surgery, and for advanced-stage cancer. Most recently, cases of fentanyl-related overdoses have been linked to illicitly manufactured fentanyl that is distributed through illegal drug markets for its heroin-like effect. It is often added to other drugs because of its extreme potency, which makes drugs cheaper, more powerful, more addictive, and more dangerous.

Addressing Fentanyl Among California Youth. According to the California Department of Public Health (CDPH), there were 6,000 opioid-related overdose deaths in California in 2021. CDPH also reports that fentanyl-related overdose deaths increased by 625% among young people aged 10-19 years from 2018 to 2020, and there were 177 fentanyl-related overdose deaths and 1,165 opioid-related overdose emergency department visits among youth ages 10-19 years old in 2022.

Current law requires the Superintendent of Public Instruction (SPI) to establish minimum training standards for school employees who volunteer to administer naloxone hydrochloride or another opioid antagonist. In addition to setting minimum training standards, the CDE must maintain on its website a clearinghouse for best practices in training nonmedical personnel to administer naloxone hydrochloride or another opioid antagonist to pupils.

The CDE, in conjunction with the CDPH, has developed resources and information that LEAs can readily share with parents and students to help keep them safe. The Fentanyl Awareness and Prevention webpage offers information about the risks of fentanyl and how to prevent teen use and overdoses. In addition to the toolkit, the CDPH’s Substance and Addiction Prevention branch also provides resources for parents, guardians, caretakers, educators, schools, and youth-serving providers.

Reversing opioid overdoses. Naloxone hydrochloride is the generic name for an opioid antagonist that rapidly reverses an opioid overdose. It attaches to opioid receptors and reverses and blocks the effects of other opioids. Naloxone hydrochloride can quickly restore normal breathing to a person if their breathing has slowed or stopped because of an opioid overdose. Naloxone hydrochloride comes in two FDA-approved forms: injectable and prepackaged nasal spray.

In July 2023, the Food and Drug Administration (FDA) approved Narcan and RiVive for over-the-counter (OTC) nonprescription use. These are the first naloxone hydrochloride products approved for use without a prescription. This approval will allow the medications to be sold directly to consumers in drug stores, grocery stores, as well as online. According to an FDA Commissioner, “The approval of OTC naloxone hydrochloride nasal spray will help improve access to naloxone hydrochloride, increase the number of locations where it is available and help reduce opioid overdose deaths throughout the country. We encourage the manufacturer to make accessibility to the product a priority by making it available as soon as possible and at an affordable price.”

Fentanyl test strips. The Centers for Disease Control (CDC) website states that fentanyl test strips are a low-cost method of helping prevent drug overdoses and reducing harm. The strips are small pieces of paper that can detect the presence of fentanyl in all different kinds of drugs (cocaine, methamphetamine, heroin, etc.) and drug forms (pills, powder, and injectables). They provide people who use drugs and communities with important information about fentanyl in the illicit drug supply so they can take steps to reduce the risk of overdose.

According to the CDPH website, fentanyl test strips are a harm reduction strategy. Anyone can purchase and use fentanyl test strips, which cost approximately \$1 each and can be purchased from several vendors and businesses. Free or low-cost fentanyl test strips are available to individuals at California’s syringe services programs through the California Harm Reduction Supplies Clearinghouse. In order to use the strips, testers dissolve a small amount of substance in water and then dip the test strip into the liquid for 15 seconds. Because the test strips are highly sensitive, a minimal amount of drug residue is sufficient to obtain a result. The test strip is then set on a flat surface until results appear, typically within 5 minutes.

One small pilot study of young adults aged 18-35 years with self-reported drug use was designed to understand the impacts of using take home fentanyl test strips for personal use over a 4-week period. The majority of participants (87%) found the strips useful and straightforward to use. Positive results led some to alter their drug use behaviors, including discarding their drug supply. The authors concluded that given the high level of acceptability and behavioral changes reported by study participants, the provision of test strips may be a useful harm reduction intervention to reduce fentanyl overdose. (Goldman, 2019)

Naloxone Distribution Project. A distribution program administered through the Department of Health Care Services (DHCS), the Naloxone Distribution Project (NDP) allows various entities, including schools, universities, and colleges, to apply for and obtain naloxone hydrochloride at no cost to the institution. As of February 20, 2024, the NDP has approved more than 10,800 applications for naloxone hydrochloride (17% of which are from schools and universities), distributed more than 3.8 million kits of naloxone hydrochloride and reversed more than 245,000 opioid overdoses. DHCS reports that less than 1% of the overdose reversals reported in the NDP occurred in schools and universities.

Some California school districts have opted to make naloxone hydrochloride available. The Los Angeles Unified School District (LAUSD), the state’s largest school district, announced plans to stock naloxone hydrochloride at over 1,400 elementary, middle, and high schools in response to numerous incidents of students experiencing overdoses, including at least one death in 2022. San Diego Unified School District, the state’s second-largest school system, stocks naloxone hydrochloride at schools with students in sixth grade or higher. Since 2020, Elk Grove

Unified School District has provided naloxone hydrochloride to school security officers and their supervisors. In Los Angeles County, the Palos Verdes Peninsula Unified School District trained all the district's registered nurses on how to administer naloxone hydrochloride and made it available to them at that district's high schools.

Recommended Committee Amendments. Staff recommend that the bill be amended as follows:

- 1) Remove reference to “a federally approved naloxone hydrochloride nasal product or any other federally approved opioid antagonist for over-the-counter, nonprescription use” and replace with “a federally approved opioid antagonist for over-the-counter use.”
- 2) Clarify that fentanyl test strips may be distributed to pupils.
- 3) Specify that the requirement to notify pupils of the presence and location of fentanyl test strips shall be conducted by existing means of communication with pupils at least once per year.

Arguments in support. Generation Up, a co-sponsor writes, “Generation Up is committed to student safety, and the explosion in youth opioid overdoses is a serious threat to student well-being. Equipping and empowering students to identify potential threats and to deliver care in emergency situations may mean the difference between life and death.

Fentanyl, an opioid that proves to be up to 50 times more intense than Heroin, is one of the overarching drugs driving the rate of drug-related overdoses in California and the United States. When laced, Fentanyl is undetectable unless a fentanyl test strip is utilized. In the case of an opioid overdose, Naloxone, which is available to purchase over-the-counter, can help counteract its effects.

There has been an alarming change in the opioid epidemic, which remains a critical public health issue in California. Synthetic opioids, including Fentanyl, have significantly contributed to the surge in drug-related overdose deaths. As reported by the California Department of Public Health, the state of California carries a total of 7,000 opioid-related deaths, with Fentanyl being the culprit of 88% of the deaths. SB 997 calls for the implementation of measures to deter the rising rate of opioid-related deaths among middle school and high school students. If students are engaging in drugs, the focus is to ensure safe use that avoids potential death from substance use.”

Related legislation. AB 2998 (McKinnor) of the 2023-24 Session would prohibit school districts, COEs, and charter schools, from preventing a student from carrying or administering an opioid reversal medication.

AB 461 (Ramos), Chapter 525, Statutes of 2023, requires the governing board of each community college district and the Trustees of the California State University to provide information about the use and location of fentanyl test strips as part of established campus orientations, to notify students of the presence and location of fentanyl test strips, and requires that each campus health center stock and distribute fentanyl test strips, as specified.

AB 3271 (Joe Patterson) of the 2023-24 Session would have required each public school that has chosen to permit school nurses or voluntarily trained personnel to use naloxone hydrochloride or another opioid antagonist to provide emergency medical aid to persons suffering from an opioid

overdose, to maintain at least two units of naloxone hydrochloride or another opioid antagonist on its site. This bill was held in the Assembly Appropriations Committee.

AB 1915 (Arambula) of the 2023-24 Session would have required the CDPH to develop, by July 1, 2026, a training program and toolkit for public school students in grades nine to 12, to gain skills in how to identify and respond to an opioid overdose, including the administering of a federally approved opioid overdose reversal medication. This bill was held in the Assembly Appropriations Committee.

SB 10 (Cortese), Chapter 856, Statutes of 2023, adds to the list of requirements for a comprehensive school safety plan, a protocol in the event a pupil is suffering or is reasonably believed to be suffering from an opioid overdose.

AB 889 (Joe Patterson), Chapter 123, Statutes of 2023, requires a school district, COE, and charter school to annually inform parents or guardians of the dangers associated with using synthetic drugs at the beginning of the first semester or quarter of the regular school term and to post this information on their websites.

AB 19 (Joe Patterson) of the 2023-24 Session would have required public schools to maintain at least two doses of naloxone hydrochloride or another opioid antagonist to provide emergency medical aid to a person suffering from an opioid overdose. This bill was held in the Senate Appropriations Committee.

SB 472 (Hurtado) of the 2023-24 Session would have required each campus of a public school operated by an LEA, COE, or charter school to maintain at least two doses on its campus, and distribute naloxone hydrochloride or another opioid antagonist pursuant to the standing order for naloxone hydrochloride and would have required LEAs, COEs, and charter schools to report to the DHCS for failure to distribute naloxone hydrochloride. This bill was held in the Senate Appropriations Committee.

AB 1748 (Mayes), Chapter 557, Statutes of 2016, authorizes school nurses and other trained personnel to use naloxone hydrochloride or another opioid antagonist to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an opioid overdose.

REGISTERED SUPPORT / OPPOSITION:

Support

Alameda County Office of Education
American Academy of Pediatrics, California
California Association of Alcohol and Drug Program Executives
California State PTA
California Youth Empowerment Network
City and County of San Francisco
Generation Up
Mental Health America of California
Napnap California
San Francisco Youth Commission

Steinberg Institute

Opposition

None on file

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