



March 7, 2023

The Honorable Jim Wood
Chair, Assembly Health Committee
California State Assembly
1020 N Street, Room 390
Sacramento, CA 95814

**RE: AB 24 (Haney) Emergency response: opioid antagonist kits
As Amended March 6, 2023 – Oppose Unless Amended
Set for hearing March 14, 2023**

Dear Assemblymember Wood:

The California State Association of Counties (CSAC), the Urban Counties of California (UCC), and the Rural County Representatives of California (RCRC) write to respectfully oppose AB 24 (Haney) unless it is amended to exclude public libraries from civil penalties and provide adequate liability protections.

As introduced, AB 24 would require a person that operates or manages various “designated facilities,” including public libraries, to acquire and post an opioid antagonist kit that includes an instructional poster and opioid nasal spread. Under the provisions of AB 24, managing librarians would be required to:

- 1) Acquire an opioid antagonist kit from the California Department of Public Health.
- 2) Place the opioid antagonist kit poster in an area that is readily accessible only by employees of the designated facility, including, but not limited to, a break room.
- 3) Periodically inspect all opioid antagonist kits acquired and posted in the designated facility to ensure the opioid antagonist nasal sprays are not expired.
- 4) Restock the opioid antagonist kit after each use.

In addition, under the provisions of AB 24, **any person who owns, manages, or is responsible for the designated facility (such as a managing librarian of a county library) that does not follow the protocols specified above could be charged civil penalty of not more than \$1,000.**

Counties are on the front lines of the opioid crisis and provide a full continuum of community-based prevention and treatment services for individuals living with substance use disorders. While counties applaud efforts to prevent and treat substance use disorders and overdoses, we have concerns with several provisions within AB 24.

While recent amendments are a step toward addressing liability concerns, there is still significant liability exposure to counties and county employees within AB 24. To ensure adequate liability protections for public employees and mitigate the litigation risk in providing opioid overdose medication to the public, we have attached recommended amendments to sections 11860, 11861, 11863, and 11864.

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In addition, we request public entities be exempt from the civil penalties proposed in this bill. Fining librarians for not acquiring, restocking, or inspecting opioid antagonist kits correctly for activities outside of their normal scope of duties disincentivizes employees from wanting to take on this responsibility and would result in the redirection of public funds from core services.

Finally, counties request flexibility to designate the appropriate public facility to disburse free opioid antagonist kits. Counties provide numerous services, and some programs may already offer similar services. Additional flexibilities will allow us to build on existing efforts.

For these reasons, we respectfully oppose AB 24 unless amended. Should you have any questions, please contact us at the email addresses below.

Sincerely,

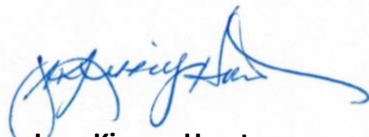


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{County amendments enclosed}

cc: The Honorable Matt Haney, Member of the California State Assembly
Members and Staff, Assembly Health Committee

SECTION 1.

Chapter 15 (commencing with Section 11860) is added to Part 2 of Division 10.5 of the Health and Safety Code, to read:

CHAPTER 15. Opioid Antagonist Kit

CHAPTER 15.

11860.

For purposes of this chapter, the following definitions apply:

(a) "Bar" means a business with a Type 42, 48, or 90 license issued by the Department of Alcoholic Beverage Control.

(b) "Designated facilities" means a bar, gas station, public library *designated by its governing body*, or a residential hotel.

(c) "Opioid antagonist" means naloxone hydrochloride or another drug approved by the United States Food and Drug Administration that, when administered, negates or neutralizes in whole or in part the pharmacological effects of an opioid in the body, and has been approved for the treatment of an opioid overdose.

(d) "Opioid antagonist kit" means an emergency medical response kit that contains both of the following:

(1) A poster that provides simplified instructions on how to administer an opioid antagonist to a person who is suffering, or is reasonably believed to be suffering, from an opioid overdose.

(2) An opioid antagonist nasal spray that is attached to the poster.

(e) "Residential hotel" means a residential hotel as defined in Section 50519.

11861.

(a) This chapter shall apply to designated facilities in counties that are experiencing an opioid overdose crisis, as defined by, and based on metrics reported by, the department.

(b) In order to ensure public safety, the person or entity that owns, manages, or is responsible for the designated facility shall do all of the following:

(1) Acquire an opioid antagonist kit for the designated facility.

(2) Place the opioid antagonist kit poster in an area that is readily accessible only by employees of the designated facility, including, but not limited to, a break room.

(3) Inspect periodically all opioid antagonist kits acquired and posted in the designated facility to ensure the opioid antagonist nasal sprays are not expired.

(4) Restock the opioid antagonist kit after each use.

~~(c) A designated facility or person that provides aid with an opioid antagonist kit stored at a designated facility is not liable for any civil damages resulting from any acts or omissions in the rendering of emergency care by use of the opioid antagonist kit.~~

(c) The opioid antagonist kit shall be posted and kept posted in every designated facility as required in paragraph (2) of subdivision (b).

(d) A designated facility is not obligated to comply with subdivision (b) in the event of either of the following:

(1) (A) There is a shortage of opioid antagonists, as identified in subdivision (c) of Section 11862.

(B) In the event of a shortage, the department shall designate in which counties this chapter shall continue to apply.

(2) The state is unable to provide opioid antagonist kits to designated facilities at no cost.

11862.

The State Department of Public Health shall do each of the following:

(a) Provide an opioid antagonist kit, as described in subdivision (d) of Section 11860, free of charge to the person or entity identified in subdivision (b) of Section 11861.

(b) Create the opioid antagonist kit poster with easy-to-understand instructions and graphics on the administration of the attached opioid antagonist nasal spray.

(c) In the event of a shortage of opioid antagonist, make the determination on how best to allocate and distribute its limited supply of opioid antagonist among its various programs.

11863.

A person who violates any provision of this chapter shall be subject to a civil penalty of not more than one thousand dollars (\$1,000). This section shall not apply to a public entity or public employee.

11864.

(a) A designated facility and its employees have no obligation to provide an opioid antagonist in the event of an opioid overdose or suspected opioid ~~apparent~~ overdose and shall have ~~face~~ no civil or criminal liability in the event that they fail to identify an opioid overdose or suspected opioid ~~apparent~~ overdose or fail to provide or administer an opioid antagonist ~~to the apparent overdose on their premises~~. This chapter does not establish a special relationship or duty between a designated facility or any employee thereof and any person experiencing an opioid overdose or suspected opioid overdose.

(b) A designated facility, or any employee of a designated facility or other person that administers or otherwise furnishes or provides aid with an opioid antagonist kit stored at a designated facility, is not liable for any civil damages resulting from any acts or omissions in the furnishing, provision, or administration of the opioid antagonist kit.

(c) The requirements of this chapter shall not be construed to impose a mandatory duty pursuant to Section 815.6 of the Government Code, and shall not be construed to affect the availability of any immunity otherwise applicable to a designated facility or its employees, including, but not limited to, Section 1799.102 of the Health and Safety Code, Sections 820.2 and 850.8 of the Government Code, Section 2325 and 2727.5 of the Business and Professions Code, and Sections 1714.2 and 1714.5 of the Civil Code.

(d) A designated facility shall not prohibit its employee from providing an opioid antagonist in the event of an apparent overdose.

11865.

A designated facility is not required to provide training in the use of the opioid antagonist, beyond posting the opioid antagonist poster kit as detailed in paragraph (2) of subdivision (b) of Section 11861.

11866.

(a) This chapter shall become effective six months after the department has published the list of counties experiencing an opioid crisis, as provided in subdivision (a) of Section 11861, on its internet website.

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(b) In the event that the department updates its list of counties that are experiencing an opioid overdose crisis, designated facilities in counties that were not on the list prior to the update shall be allowed a reasonable time to secure the requisite opioid antagonist kit.

11867.

This article shall be implemented only upon an appropriation being made for its purpose by the Legislature in the annual Budget Act or another statute.

SEC. 2.

If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.