

AMENDED IN ASSEMBLY MARCH 16, 2023

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 1060

Introduced by Assembly Member Ortega
(Coauthors: Assembly Members Arambula and Haney)
(Coauthor: Senator Wahab)

February 15, 2023

An act to amend Section 1797 of the Health and Safety Code, relating to emergency medical services; add Section 1374.198 to the Health and Safety Code, to add Section 10127.22 to the Insurance Code, and to add Section 14132.37 to the Welfare and Institutions Code, relating to opioids.

LEGISLATIVE COUNSEL'S DIGEST

AB 1060, as amended, Ortega. ~~Emergency medical services.~~ *Health care coverage: naloxone hydrochloride.*

Existing law sets forth various programs relating to opioid overdose prevention and treatment, including, among others, standing orders for the distribution of an opioid antagonist, a naloxone grant program, and a grant program to reduce fentanyl overdoses and use throughout the state.

Existing law establishes the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Under existing law, the pharmacist service of furnishing naloxone hydrochloride is a covered Medi-Cal benefit. The Medi-Cal program also covers certain medications to treat opioid use disorders as part of narcotic treatment program services, or as part of

medication-assisted treatment services within the Drug Medi-Cal Treatment Program, as specified.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance.

This bill would make legislative findings relating to developments within the United States Food and Drug Administration (FDA) on potentially approving a certain naloxone hydrochloride nasal spray for nonprescription use.

Under the bill, prescription or nonprescription naloxone hydrochloride would be a covered benefit under the Medi-Cal program, if that medication is approved, for prescription or nonprescription use, respectively, by the FDA for treatment of an opioid overdose. The bill would require a health care service plan contract or health insurance policy, as specified, to include coverage for that same medication under the same conditions. The bill would prohibit a health care service plan contract or health insurance policy from imposing any cost-sharing requirements for that coverage, would prohibit the department from subjecting that coverage to any share-of-cost requirements under the Medi-Cal program, and would require that coverage to include the total cost of that medication.

Because a willful violation of these provisions by a health care service plan would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law, the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, establishes the Emergency Medical Services Authority. Under existing law, the authority is responsible for the coordination and integration of all state activities concerning emergency medical services.~~

~~This bill would make technical, nonsubstantive changes to those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. *The Legislature finds and declares all of the*
2 *following:*

3 (a) *According to the United States Food and Drug*
4 *Administration (FDA), naloxone hydrochloride is a medicine that*
5 *can counter overdose effects when administered timely and that*
6 *can help to reduce opioid overdose deaths.*

7 (b) *In November 2022, the FDA issued a Federal Register notice*
8 *with a preliminary assessment of the safety and effectiveness of*
9 *certain naloxone hydrochloride drug products for nonprescription*
10 *use, in order to facilitate the development and approval of those*
11 *products, including through a potential switch from prescription*
12 *status to nonprescription status.*

13 (c) *In February 2023, an advisory committee to the FDA voted*
14 *unanimously in favor of making Narcan, a naloxone hydrochloride*
15 *nasal spray, available over the counter.*

16 (d) *The FDA is expected to make a final decision by the end of*
17 *March 2023 on whether to approve Narcan for nonprescription*
18 *use.*

19 (e) *The California Overdose Surveillance Dashboard,*
20 *administered by the State Department of Public Health, contains*
21 *the following data applicable to the state for 2021:*

22 (1) *Seven thousand one hundred seventy-five deaths were*
23 *documented as relating to an opioid overdose. Of those deaths,*
24 *5,961 were documented as relating to a fentanyl overdose.*

25 (2) *Eight hundred forty-six deaths were associated with an*
26 *opioid-related overdose for persons 24 years of age or younger.*
27 *Of those deaths, 801 were associated with a fentanyl-related*
28 *overdose.*

29 (3) *Twenty-one thousand sixteen emergency department (ED)*
30 *visits were documented as relating to an opioid overdose. Of those*
31 *ED visits, 5,644 were associated with a fentanyl-related overdose.*

32 SEC. 2. *Section 1374.198 is added to the Health and Safety*
33 *Code, immediately following Section 1374.197, to read:*

34 1374.198. *A health care service plan contract that is issued,*
35 *amended, delivered, or renewed on or after January 1, 2024, shall*

1 *include coverage for prescription or nonprescription naloxone*
2 *hydrochloride, if that medication is approved, for prescription or*
3 *nonprescription use, respectively, by the United States Food and*
4 *Drug Administration for treatment of an opioid overdose. A health*
5 *care service plan contract shall not impose any cost-sharing*
6 *requirements, including a copayment or deductible, for coverage*
7 *provided pursuant to this section and shall cover the total cost of*
8 *prescription or nonprescription naloxone hydrochloride.*

9 *SEC. 3. Section 10127.22 is added to the Insurance Code,*
10 *immediately following Section 10127.20, to read:*

11 *10127.22. A health insurance policy that is issued, amended,*
12 *delivered, or renewed on or after January 1, 2024, shall include*
13 *coverage for prescription or nonprescription naloxone*
14 *hydrochloride, if that medication is approved, for prescription or*
15 *nonprescription use, respectively, by the United States Food and*
16 *Drug Administration for treatment of an opioid overdose. A health*
17 *insurer shall not impose any cost-sharing requirements, including*
18 *a copayment or deductible, for coverage provided pursuant to this*
19 *section and shall cover the total cost of prescription or*
20 *nonprescription naloxone hydrochloride.*

21 *SEC. 4. Section 14132.37 is added to the Welfare and*
22 *Institutions Code, immediately following Section 14132.36, to*
23 *read:*

24 *14132.37. Prescription or nonprescription naloxone*
25 *hydrochloride shall be a covered benefit under the Medi-Cal*
26 *program, if that medication is approved, for prescription or*
27 *nonprescription use, respectively, by the United States Food and*
28 *Drug Administration for treatment of an opioid overdose. The*
29 *department shall not subject coverage provided pursuant to this*
30 *section to any share-of-cost requirements and shall cover the total*
31 *cost of prescription or nonprescription naloxone hydrochloride.*

32 *SEC. 5. No reimbursement is required by this act pursuant to*
33 *Section 6 of Article XIII B of the California Constitution because*
34 *the only costs that may be incurred by a local agency or school*
35 *district will be incurred because this act creates a new crime or*
36 *infraction, eliminates a crime or infraction, or changes the penalty*
37 *for a crime or infraction, within the meaning of Section 17556 of*
38 *the Government Code, or changes the definition of a crime within*
39 *the meaning of Section 6 of Article XIII B of the California*
40 *Constitution.*

1 SECTION 1. ~~Section 1797 of the Health and Safety Code is~~
2 ~~amended to read:~~
3 ~~1797. This division shall be known, and may be cited, as the~~
4 ~~Emergency Medical Services System and the Prehospital~~
5 ~~Emergency Medical Care Personnel Act.~~

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