



Agenda Item 10.0

Report of the Legislative Committee

BRN Board Meeting | February 15-16, 2023

BOARD OF REGISTERED NURSING
Agenda Item Summary

AGENDA ITEM: 10.0
DATE: February 15-16, 2023

ACTION REQUESTED: Legislative Update

REQUESTED BY: Dolores Trujillo, RN, Chairperson

BACKGROUND: Presentation of recently introduced bills in 2023-2024 Legislative Session. Opportunity for Board members to discuss and take a position through vote, if desired.

NEXT STEPS: Continued tracking and analysis of BRN related bills during 2023-2024 Legislative Session.

FINANCIAL IMPLICATIONS, IF ANY: Typically, only for direct impact bills, if any, as reflected by the proposed legislation and contained in the bill analysis.

PERSON TO CONTACT: Marissa Clark
Chief of Legislative Affairs
Marissa.Clark@dca.ca.gov
916-574-7438

BOARD OF REGISTERED NURSING BILL ANALYSIS

BILL NUMBER: [Assembly Bill 269](#)
AUTHOR: Berman
BILL DATE: February 8, 2023 - Amended
SUBJECT: Public health: COVID-19 testing and dispensing sites
SPONSOR: Author
BOARD IMPACT: Indirect

SUMMARY

This bill would, until January 1, 2024, authorize a person to perform an analysis of samples to test for the virus that causes COVID-19 in a clinical laboratory or a city, county, or city and county public health laboratory if they meet the requirements under the Clinical Laboratory Improvement Amendments of 1988 (CLIA) for high complexity testing.

The bill would, until January 1, 2024, authorize an entity contracted with and approved by the California Department of Public Health (CDPH) to operate a designated COVID-19 testing and dispensing site to acquire, dispense, and store COVID-19 oral therapeutics at or from a designated site. The bill allows for a prescribing physician, or an Registered Nurse (RN) under the direction of such physician, to dispense the COVID-19 therapeutics at a designated site.

RECENT AMENDMENTS

Not Applicable.

BACKGROUND

Under the COVID-19 State of Emergencies, many policy exemptions were authorized, and new programs were stood up to increase the access to and the affordability of COVID-19 related healthcare. One example of this was the nationwide Test to Treat initiative launched by the federal government in March 2022 to help people access potentially lifesaving treatments for COVID-19 at little to no cost.

The Test to Treat initiative has been made available at locations nationwide, including pharmacy-based clinics, federally funded health centers, long-term care facilities, and community-based sites. The federal government also set up an online Test to Treat locator to help the public find sites that offered testing, prescribing, and dispensing of oral therapeutics all at one location.

According to the COVID-19 Test to Treat Playbook issued by the California Department of Public Health's (CDPH) Therapeutics Task Force, the role of therapeutics in the COVID-19 response has changed drastically with the arrival of highly effective oral therapeutics and the launch of these Test to Treat programs which facilitate expedited and simplified access to treatment as soon as someone tests positive for COVID-19. This was critical since therapeutics must be given within 5-7 days of symptom onset to

be effective. Furthermore, each additional step that is required when getting a test, a prescription, and medication can lead to a drop off in patients and result in them not obtaining the treatment they need.

However, access to the Test to Treat model was not equal throughout California. This was especially true for individuals who are low-income, BIPOC (Black, Indigenous, and People of Color), uninsured, or underinsured. Access was particularly poor for people experiencing homelessness and people in rural areas of the state that are far from licensed pharmacies.

To address these inequities, CDPH partnered with Optum Serve to operate 146 Test to Treat sites in high-need, low-access areas of the state. The Optum Serve Test to Treat sites offer an “end to end” service with antigen testing, telehealth prescribing for COVID-positive patients, and on-site therapeutics dispensing.

REASON FOR THE BILL

California’s Test to Treat program was implemented using waivers that were allowed under California’s COVID-19 State of Emergency. However, the State of Emergency is slated to end on February 28, 2023, which means the waivers will expire and the sites will be unable to continue providing end-to-end service.

The purpose of AB 269 is to codify California’s current Test to Treat model and maintain the established sites in underserved areas that can receive patients, consult with a physician via telehealth and, if appropriate, dispense COVID-19 therapeutics on site.

ANALYSIS

CLIA Testing Waiver

Under current law, only certain professionals such as microbiologists and clinical laboratory scientists, are certified to conduct laboratory testing. For the duration of the COVID-19 emergency, Executive Order N-25-20 suspended this requirement and allowed other qualified personnel, such as registered nurses, to perform an analysis of samples to test for SARS-CoV-2 without holding the California license required to perform such testing, if they if meet the requirements of CLIA for high complexity testing personnel.

The proposed legislation would extend these testing exemptions through January 1, 2024.

Board of Pharmacy Waiver

Under current law, prescription drugs can only be shipped to, stored at, and dispensed by and from certain licensed persons, entities, and locations. The drugs are also required to be stored in a specified manner and the person dispensing the drugs must comply with certain drug-labeling requirements. For the duration of the COVID-19 emergency, the Board of Pharmacy issued a waiver that exempted California’s Test to Treat sites from having to comply with any certain restrictions under Article 12 of

Pharmacy Law and its implementing regulations so long as they met certain conditions.

The proposed legislation would extend these pharmacy exemptions through January 1, 2024.

The proposed legislation also codifies the current operational model of California's Test to Treat program which allows for a prescribing physician, or an RN under the direction of such physician, to dispense the COVID-19 therapeutics at a designated site. Furthermore, the legislation would require the approved sites to ensure that the drugs are properly labeled, and to maintain the same acquisition and disposition records as any other licensed entity.

Given that California's COVID-19 State of Emergency will be concluding at the end of this month, the law also contains an urgency clause that would allow the provisions to take effect immediately upon signing but would only remain in effect until January 1, 2024.

FISCAL IMPACT

None.

SUPPORT

None on File.

OPPOSITION

None on File.

LEGISLATIVE COMMITTEE POSITION

Not Applicable.

BOARD POSITION

To Be Determined.

BOARD OF REGISTERED NURSING BILL ANALYSIS

BILL NUMBER: [Senate Bill 65](#)
AUTHOR: Senator Ochoa Bogh
BILL DATE: January 4, 2023 – Introduced
SUBJECT: Behavioral Health Continuum Infrastructure Program
SPONSOR: Author

SUMMARY

This bill would authorize the Department of Health Care Services (DHCS), in awarding grants as a part of the existing Behavioral Health Continuum Infrastructure Program (BH-CIP), to give preference to qualified entities that will place their projects in specified facilities or properties. The bill also sets aside an additional 1 billion dollars from the General Fund to be used for the program over three years.

BACKGROUND

The Fiscal Year (FY) 2021-22 budget package allocated \$2.2 billion over the course of three years to DHCS to establish the BH-CIP. Under the BH-CIP, DHCS provides competitive grants to local entities to increase behavioral health infrastructure, predominantly by constructing, acquiring, or renovating facilities for community behavioral health services (contingent on the local entities providing matching funds and committing to providing funding for ongoing services). Grants provided under this program fund a variety of community behavioral health facility types to treat individuals with varying levels of behavioral health needs.

DHCS is releasing BH-CIP grant funds through six rounds that target various gaps in the state's behavioral health facility infrastructure. The previous and current rounds are focused on the following areas:

- Round One – Crisis Care Mobile Units
- Round Two – County and Tribal Planning
- Round Three – Launch Ready
- Round Four – Children and Youth

In order to obtain BH-CIP funding, local entities will be required to participate in a pre-application consultation on project readiness requirements. Following this, when applying for funds, local entities will be required to submit documentation of (1) control over the property to be acquired or rehabilitated, (2) approval for any necessary local permits, (3) adherence to behavioral health facility licensing requirements, (4) preliminary construction plans and time lines, (4) capacity to meet the local match requirement, and (5) engagement with the local community (including any necessary contracts to ensure that Medi-Cal services are provided in facilities proposed for acquisition or construction). Local entities also will be required to share results from local behavioral health needs assessments and how they intend for projects to advance racial equity.

REASON FOR THE BILL

The bill would provide DCHS with statutory permission to give specified applicants preference during the BH-CIP competitive bid process if they so choose.

ANALYSIS

When putting out BH-CIP funds, this bill would authorize the DHCS to give a preference to qualified entities that are intending to place their projects in any of the following facilities or properties:

- Recently closed hospitals.
- Recently closed skilled nursing facilities.
- Unused city, county, or state properties.
- Facilities that are colocated or near state or local housing program sites.
- Recently closed or unused city or county jail facilities.

The bill defines “recently closed hospitals” as hospitals that have been closed for at least two years.

The bill also proposes to appropriate an additional 1 billion dollars from the General Fund to be used for the program during FY 2023-24, FY 2024-25, and FY 2025-26.

FISCAL IMPACT

None.

SUPPORT

None on File.

OPPOSITION

None on File.

LEGISLATIVE COMMITTEE POSITION

Not Applicable.

FULL BOARD POSITION

To Be Determined.

BOARD OF REGISTERED NURSING BILL ANALYSIS

BILL NUMBER: [Senate Bill 234](#)
AUTHOR: Senator Portantino and Senator Umberg
BILL DATE: January 24, 2023 – Introduced
SUBJECT: Opioid antagonists: schools, college campuses, stadiums, concert venues, and amusement parks
SPONSOR: Author

SUMMARY

The bill would require each public, elementary, high school and higher education in the state, including charter schools, to maintain unexpired doses of naloxone hydrochloride or any other opioid antagonist on its school-site at all times, and to ensure that at least 2 employees are aware of its location.

The bill would also require each stadium, concert venue, and amusement park to maintain unexpired doses of naloxone hydrochloride, or any other opioid antagonist on its premises at all times, and to ensure that at least 2 employees are aware of its location.

BACKGROUND

According to the California Department of Public Health, Naloxone is a life-saving medication used to reverse an opioid overdose, including heroin, fentanyl, and prescription opioid medications. Naloxone can be given through nasal spray (Narcan) in the nose, or through an injectable or auto-injector into the outer thigh or another major muscle. Naloxone is safe and easy to use, works almost immediately, and is not addictive. Naloxone has very few negative effects, and has no effect if opioids are not in a person's system.

Under current law, school districts, county offices of education, and charter schools are authorized to provide emergency naloxone hydrochloride or another opioid antagonist to school nurses or trained personnel who have volunteered. School nurses or trained personnel are then authorized 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.

However, it is up to each public and private elementary and secondary school in the state to determine whether or not to make emergency naloxone hydrochloride or another opioid antagonist and trained personnel available at its school.

REASON FOR THE BILL

According to the author's office, the opioid crisis has been heightened by the increased availability of illicit fentanyl and other potent drugs, spurring a recent increase in deaths linked to opioid overdoses at alarming rates. California needs to have naloxone more

readily available in schools, amusement parks, stadiums, and concert venues and other locations to significantly reduce opioid-related overdose deaths.

ANALYSIS

This bill would require each public, elementary, high school and higher education in the state, including charter schools, to maintain unexpired doses of naloxone hydrochloride or any other opioid antagonist on its school site at all times, and to ensure that at least 2 employees are aware of the location of the naloxone hydrochloride or other opioid antagonist.

This bill would also require each stadium, concert venue, and amusement park to maintain unexpired doses of naloxone hydrochloride or any other opioid antagonist on its premises at all times, and to ensure that at least 2 employees are aware of the location of the naloxone hydrochloride or other opioid antagonist.

Lastly, the bill would exempt from civil or criminal liability any person who, in good faith and not for compensation, administers naloxone hydrochloride or another opioid antagonist on a college campus, on the premises of a stadium, concert venue, or amusement park, other than an act or omission constituting gross negligence or willful or wanton misconduct.

FISCAL IMPACT

None.

SUPPORT

None on File.

OPPOSITION

None on File.

LEGISLATIVE COMMITTEE POSITION

Not Applicable.

FULL BOARD POSITION

To Be Determined.