

AMENDED IN ASSEMBLY APRIL 25, 2016

AMENDED IN ASSEMBLY APRIL 14, 2016

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1748

Introduced by Assembly Member Mayes

February 2, 2016

An act to add Section 4119.8 to the Business and Professions Code, and to add Section 49414.3 to the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

AB 1748, as amended, Mayes. Pupils: pupil health: opioid antagonist.

(1) Existing law authorizes a pharmacy to furnish epinephrine auto-injectors to a school district, county office of education, or charter school if certain conditions are met. Existing law requires the school district, county office of education, or charter school to maintain records regarding the acquisition and disposition of epinephrine auto-injectors furnished by the pharmacy for a period of 3 years from the date the records were created.

This bill would authorize a pharmacy to furnish naloxone hydrochloride or another opioid antagonist to a school district, county office of education, or charter school if certain conditions are met. The bill would require the school district, county office of education, or charter school to maintain records regarding the acquisition and disposition of naloxone hydrochloride or another opioid antagonist furnished by the pharmacy for a period of 3 years from the date the records were created.

(2) Under existing law, the governing board of any school district is required to give diligent care to the health and physical development of ~~pupils~~, *pupils* and may employ properly certified persons for that work. Existing law requires school districts, county offices of education, and charter schools to provide emergency epinephrine auto-injectors to school nurses or trained volunteer personnel and authorizes school nurses and trained personnel to use epinephrine auto-injectors to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an anaphylactic reaction, as provided.

This bill would authorize a school district, county office of education, or charter school to provide emergency naloxone hydrochloride or another opioid antagonist to school nurses and trained personnel who have volunteered, as specified, and authorizes school nurses and 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. The bill would expressly authorize each public and private elementary and secondary school in the state to voluntarily determine whether or not to make emergency naloxone hydrochloride or another opioid antagonist and trained personnel available at its school and to designate one or more school personnel to receive prescribed training regarding naloxone hydrochloride or another opioid antagonist from individuals in specified positions. The bill would require the Superintendent of Public Instruction to establish minimum standards of training for the administration of naloxone hydrochloride or another opioid antagonist, to review these standards every 5 years or sooner as specified, and to consult with organizations and providers with expertise in administering naloxone hydrochloride or another opioid antagonist and administering medication in a school environment in developing and reviewing those standards. *The bill would require the State Department of Education to include on its Internet Web site a clearinghouse for best practices in training nonmedical personnel to administer naloxone hydrochloride or another opioid antagonist to pupils. The bill would require a school district, county office of education, or charter school choosing to exercise the authority to provide emergency naloxone hydrochloride or another opioid antagonist to provide the training for the volunteers at no cost to the volunteers and during the volunteers' regular working hours.* The bill would require a qualified supervisor of health or administrator at a school district, county office of education, or charter school electing to utilize naloxone hydrochloride or another opioid antagonist for

emergency medical aid to obtain the prescription for naloxone hydrochloride or another opioid antagonist from an authorizing physician and surgeon, as defined, and would authorize the prescription to be filled by local or mail order pharmacies or naloxone hydrochloride or another opioid antagonist manufacturers. The bill would authorize school nurses or, if the school does not have a school nurse, a person who has received training regarding naloxone hydrochloride or another opioid antagonist to immediately administer naloxone hydrochloride or another opioid antagonist under certain circumstances. ~~The bill would require those individuals to initiate emergency medical services or other appropriate medical followup in accordance with written training materials. The bill would provide that volunteers may only administer naloxone hydrochloride or another opioid antagonist by nasal spray.~~ The bill would prohibit an authorizing physician and surgeon from being subject to professional review, being liable in a civil action, or being subject to criminal prosecution for any act in the issuing of a prescription or order, pursuant to these provisions, unless the act constitutes gross negligence or willful or malicious conduct. The bill would prohibit a person trained under these provisions, ~~who acts with reasonable care in administering~~ *provisions who administers* naloxone hydrochloride or another opioid antagonist, in good ~~faith,~~ *faith and not for compensation*, to a person ~~who is experiencing or is suspected of appears to be~~ experiencing an opioid overdose from being subject to professional review, being liable in a civil action, or being subject to criminal prosecution for this administration.

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

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

- 1 SECTION 1. Section 4119.8 is added to the Business and
- 2 Professions Code, to read:
- 3 4119.8. (a) Notwithstanding any other law, a pharmacy may
- 4 furnish naloxone hydrochloride or another opioid antagonist to a
- 5 school district, county office of education, or charter school
- 6 pursuant to Section 49414.3 of the Education Code if all of the
- 7 following are met:
- 8 (1) The naloxone hydrochloride or another opioid antagonist is
- 9 furnished exclusively for use at a school district schoolsite, county
- 10 office of education schoolsite, or charter school.

1 (2) A physician and surgeon provides a written order that
2 specifies the quantity of naloxone hydrochloride or another opioid
3 antagonist to be furnished.

4 (b) Records regarding the acquisition and disposition of
5 naloxone hydrochloride or another opioid antagonist furnished
6 pursuant to subdivision (a) shall be maintained by the school
7 district, county office of education, or charter school for a period
8 of three years from the date the records were created. The school
9 district, county office of education, or charter school shall be
10 responsible for monitoring the supply of naloxone hydrochloride
11 or another opioid antagonist and ensuring the destruction of expired
12 naloxone hydrochloride or another opioid antagonist.

13 SEC. 2. Section 49414.3 is added to the Education Code, to
14 read:

15 49414.3. (a) School districts, county offices of education, and
16 charter schools may provide emergency naloxone hydrochloride
17 or another opioid antagonist to school nurses or trained personnel
18 who have volunteered pursuant to subdivision (d), and school
19 nurses or trained personnel may use naloxone hydrochloride or
20 another opioid antagonist to provide emergency medical aid to
21 persons suffering, or reasonably believed to be suffering, from an
22 opioid overdose. ~~Any school district, county office of education,
23 or charter school choosing to exercise the authority provided under
24 this subdivision shall not receive state funds specifically for
25 purposes of this subdivision.~~

26 (b) For purposes of this section, the following terms have the
27 following meanings:

28 (1) “Authorizing physician and surgeon” may include, but is
29 not limited to, a physician and surgeon employed by, or contracting
30 with, a local educational agency, a medical director of the local
31 health department, or a local emergency medical services director.

32 (2) “Opioid antagonist” means naloxone hydrochloride or
33 another drug approved by the federal Food and Drug
34 Administration that, when administered, negates or neutralizes in
35 whole or in part the pharmacological effects of an opioid in the
36 body, and has been approved for the treatment of an opioid
37 overdose.

38 (3) “Qualified supervisor of health” may include, but is not
39 limited to, a school nurse.

1 (4) “Volunteer” or “trained personnel” means an employee who
2 has volunteered to administer naloxone hydrochloride or another
3 opioid antagonist to a person if the person is suffering, or
4 reasonably believed to be suffering, from an opioid overdose, has
5 been designated by a school, and has received training pursuant
6 to subdivision (d).

7 (c) Each private elementary and secondary school in the state
8 may voluntarily determine whether or not to make emergency
9 naloxone hydrochloride or another opioid antagonist and trained
10 personnel available at its school. In making this determination, a
11 private school shall evaluate the emergency medical response time
12 to the school and determine whether initiating emergency medical
13 services is an acceptable alternative to naloxone hydrochloride or
14 another opioid antagonist and trained personnel. A private
15 elementary or secondary school choosing to exercise the authority
16 provided under this subdivision shall not receive state funds
17 specifically for purposes of this subdivision.

18 (d) (1) Each public and private elementary and secondary school
19 in the state may designate one or more volunteers to receive initial
20 and annual refresher training, based on the standards developed
21 pursuant to subdivision (e), regarding the storage and emergency
22 use of naloxone hydrochloride or another opioid antagonist from
23 the school nurse or other qualified person designated by an
24 authorizing physician and surgeon. *A benefit shall not be granted*
25 *to or withheld from any individual based on his or her offer to*
26 *volunteer and there shall be no retaliation against any individual*
27 *for rescinding his or her offer to volunteer, including after*
28 *receiving training. Any school district, county office of education,*
29 *or charter school choosing to exercise the authority provided under*
30 *this subdivision shall not receive state funds specifically for*
31 *purposes of this subdivision. provide the training for the volunteers*
32 *at no cost to the volunteer and during the volunteer’s regular*
33 *working hours.*

34 (2) An employee who volunteers pursuant to this section may
35 rescind his or her offer to administer emergency naloxone
36 hydrochloride or another opioid antagonist at any time, including
37 after receipt of training.

38 ~~(3) A volunteer shall be allowed to administer naloxone~~
39 ~~hydrochloride or another opioid antagonist in the available form~~
40 ~~the volunteer is most comfortable with.~~

1 (e) (1) The Superintendent shall establish minimum standards
 2 of training for the administration of naloxone hydrochloride or
 3 another opioid antagonist that satisfies the requirements of
 4 paragraph (2). Every five years, or sooner as deemed necessary
 5 by the Superintendent, the Superintendent shall review minimum
 6 standards of training for the administration of naloxone
 7 hydrochloride or other opioid antagonists that satisfy the
 8 requirements of paragraph (2). For purposes of this subdivision,
 9 the Superintendent shall consult with organizations and providers
 10 with expertise in administering naloxone hydrochloride or another
 11 opioid antagonist and administering medication in a school
 12 environment, including, but not limited to, the State Department
 13 of Public Health, the Emergency Medical Services Authority, the
 14 California School Nurses Organization, the California Medical
 15 Association, the American Academy of Pediatrics, and others.

16 (2) Training established pursuant to this subdivision shall include
 17 all of the following:

18 (A) Techniques for recognizing symptoms of an opioid
 19 overdose.

20 (B) Standards and procedures for the storage, restocking, and
 21 emergency use of naloxone hydrochloride or another opioid
 22 antagonist.

23 (C) ~~Emergency~~ *Basic emergency followup procedures, including*
 24 ~~calling~~ *including, but not limited to, a requirement for the school*
 25 *or charter school administrator or, if the administrator is not*
 26 *available, another school staff member to call the emergency 911*
 27 *telephone number and contacting, if possible, to contact the pupil's*
 28 *parent and physician or guardian. The requirement for the school*
 29 *or charter school administrator or other school staff member to*
 30 *call the emergency 911 telephone number shall not require a pupil*
 31 *to be transported to an emergency room.*

32 (D) Recommendations on the necessity of instruction and
 33 certification in cardiopulmonary resuscitation.

34 (E) Written materials covering the information required under
 35 this subdivision.

36 (3) Training established pursuant to this subdivision shall be
 37 consistent with the most recent guidelines for medication
 38 administration issued by the department.

39 (4) A school shall retain for reference the written materials
 40 prepared under subparagraph (E) of paragraph (2).

1 (5) *The department shall include on its Internet Web site a*
2 *clearinghouse for best practices in training nonmedical personnel*
3 *to administer naloxone hydrochloride or another opioid antagonist*
4 *to pupils.*

5 (f) Any school district, county office of education, or charter
6 school electing to utilize naloxone hydrochloride or another opioid
7 antagonist for emergency aid shall distribute a notice at least once
8 per school year to all staff that contains the following information:

9 (1) A description of the volunteer request stating that the request
10 is for volunteers to be trained to administer naloxone hydrochloride
11 or another opioid antagonist to a person if the person is suffering,
12 or reasonably believed to be suffering, from an opioid overdose.

13 (2) A description of the training that the volunteer will receive
14 pursuant to subdivision (d).

15 (3) The right of an employee to rescind his or her offer to
16 volunteer pursuant to this section.

17 (4) *A statement that no benefit will be granted to or withheld*
18 *from any individual based on his or her offer to volunteer and that*
19 *there will be no retaliation against any individual for rescinding*
20 *his or her offer to volunteer, including after receiving training.*

21 (g) (1) A qualified supervisor of health at a school district,
22 county office of education, or charter school electing to utilize
23 naloxone hydrochloride or another opioid antagonist for emergency
24 aid shall obtain from an authorizing physician and surgeon a
25 prescription for each school for naloxone hydrochloride or another
26 opioid antagonist. A qualified supervisor of health at a school
27 district, county office of education, or charter school shall be
28 responsible for stocking the naloxone hydrochloride or another
29 opioid antagonist and restocking it if it is used.

30 (2) If a school district, county office of education, or charter
31 school does not have a qualified supervisor of health, an
32 administrator at the school district, county office of education, or
33 charter school shall carry out the duties specified in paragraph (1).

34 (3) A prescription pursuant to this subdivision may be filled by
35 local or mail order pharmacies or naloxone hydrochloride or
36 another opioid antagonist manufacturers.

37 (4) An authorizing physician and surgeon shall not be subject
38 to professional review, be liable in a civil action, or be subject to
39 criminal prosecution for the issuance of a prescription or order
40 pursuant to this section, unless the physician and surgeon's issuance

1 of the prescription or order constitutes gross negligence or willful
2 or malicious conduct.

3 (h) (1) A school nurse or, if the school does not have a school
4 nurse or the school nurse is not onsite or available, a volunteer
5 may administer naloxone hydrochloride or another opioid
6 antagonist to a person exhibiting potentially life-threatening
7 symptoms of an opioid overdose at school or a school activity
8 when a physician is not immediately available. If the naloxone
9 hydrochloride or another opioid antagonist is used it shall be
10 restocked as soon as reasonably possible, but no later than two
11 weeks after it is used. Naloxone hydrochloride or another opioid
12 antagonist shall be restocked before ~~their~~ its expiration date.

13 (2) *Volunteers may only administer naloxone hydrochloride or*
14 *another opioid antagonist by nasal spray.*

15 (i) ~~A volunteer shall initiate emergency medical services or~~
16 ~~other appropriate medical followup in accordance with the training~~
17 ~~materials retained pursuant to paragraph (4) of subdivision (e).~~

18 (j)

19 (i) A school district, county office of education, or charter school
20 electing to utilize naloxone hydrochloride or another opioid
21 antagonist for emergency aid shall ensure that each employee who
22 volunteers under this section will be provided defense and
23 indemnification by the school district, county office of education,
24 or charter school for any and all civil liability, in accordance with,
25 but not limited to, that provided in Division 3.6 (commencing with
26 Section 810) of Title 1 of the Government Code. This information
27 shall be reduced to writing, provided to the volunteer, and retained
28 in the volunteer’s personnel file.

29 (k)

30 (j) (1) Notwithstanding any other law, a person trained as
31 required under subdivision (d), who ~~acts with reasonable care in~~
32 ~~administering~~ *administers* naloxone hydrochloride or another
33 opioid antagonist, in good ~~faith,~~ *faith and not for compensation,*
34 to a person who ~~is experiencing or is suspected of~~ *appears to be*
35 *experiencing an opioid overdose shall not be subject to professional*
36 *review, be liable in a civil action, or be subject to criminal*
37 *prosecution for this administration. his or her acts or omissions*
38 *in administering the naloxone hydrochloride or another opioid*
39 *antagonist.*

1 (2) *The protection specified in paragraph (1) shall not apply in*
2 *a case of gross negligence or willful and wanton misconduct of*
3 *the person who renders emergency care treatment by the use of*
4 *naloxone hydrochloride or another opioid antagonist.*

5 (3) *Any public employee who volunteers to administer naloxone*
6 *hydrochloride or another opioid antagonist pursuant to subdivision*
7 *(d) is not providing emergency medical care “for compensation,”*
8 *notwithstanding the fact that he or she is a paid public employee.*

9 (†)

10 (k) A state agency, the department, or a public school may accept
11 gifts, grants, and donations from any source for the support of the
12 public school carrying out the provisions of this section, including,
13 but not limited to, the acceptance of naloxone hydrochloride or
14 another opioid antagonist from a manufacturer or wholesaler.

O