

**ASSEMBLY BILL**

**No. 1037**

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**Introduced by Assembly Member Elhawary**

February 20, 2025

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An act to amend Section 4145.5 of the Business and Professions Code, to amend Section 1714.22 of the Civil Code, and to amend Sections 1797.197, 11364, 11364.5, 11364.7, 11372.7, 11832, 11834.026, 11834.26, 11999, 11999.1, 120780.1, 120780.2, 120780.5, and 121349, of, to amend the heading of Division 10.5 (commencing with Section 11750) of, to amend the heading of Part 4 (commencing with Section 120775) of Division 105 of, and to amend the heading of Chapter 1.5 (commencing with Section 120780) of Part 4 of Division 105 of, and to repeal and add Section 11999.2 of, and to repeal and add the heading of Division 10.7 (commencing with Section 11999) of, the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL’S DIGEST

AB 1037, as introduced, Elhawary. Public health: substance use disorder.

(1) Existing law, until January 1, 2026, authorizes a physician or pharmacist, without a prescription or permit, to furnish hypodermic needles and syringes for human use to a person 18 years of age or older, and authorizes a person 18 years of age or older to, without a prescription or license, obtain hypodermic needles and syringes solely for personal use from a physician or pharmacist, as a public health measure, as specified. Existing law requires a pharmacist that provides nonprescription syringes to provide information on access to testing and treatment for HIV and hepatitis C.

This bill would extend this authority indefinitely and would additionally require a pharmacist to provide information on other bloodborne diseases.

(2) Under existing law, a licensed health care provider who is authorized by law to prescribe an opioid antagonist may issue standing orders for the distribution of an opioid antagonist to a person at risk of an opioid-related overdose or to a family member, friend, or other person in a position to assist a person at risk of an opioid-related overdose. Existing law requires that a person who receives an opioid antagonist pursuant to a standing order or otherwise possesses an opioid antagonist receive training, as specified. Existing law provides that a person who is trained in the use of an opioid antagonist and acts with reasonable care and in good faith is not subject to professional review, liable in a civil action, or subject to criminal prosecution.

This bill would expand the above-described authorizations to those who are at risk of or who may be in a position to assist a person experiencing any overdose and would strike the requirement that those who receive and possess opioid antagonists receive training. The bill would authorize a person in a position to assist a person at risk of an overdose to possess an opioid antagonist and subsequently dispense or distribute an opioid antagonist to a person at risk of an overdose or another person in a position to assist a person at risk of an overdose. The bill would instead exempt a person who administers an opioid antagonist with reasonable care and in good faith, whether or not they were trained, from professional review, liability in a civil action, or criminal prosecution.

(3) Existing law defines drug paraphernalia to include testing equipment designed for use or marketed for use in identifying, or in analyzing the strength, effectiveness, or purity of, controlled substances, subject to exceptions, and prohibits, among other things, the manufacture, sale, and possession, as specified, of drug paraphernalia. Existing law exempts from these prohibitions specified professionals, such as pharmacists, manufacturers, and dentists, under certain circumstances. Existing law authorizes a court, in determining whether an object is drug paraphernalia, to consider specified facts and circumstances, such as the expert testimony.

This bill would remove testing equipment from the definition of drug paraphernalia and would expand the group of individuals exempt from drug paraphernalia prohibition to include a person who is at risk of overdose, a family member, friend, or other person in a position to assist

a person at risk of overdose, in order to reduce the spread of HIV, viral hepatitis, and other bloodborne infections among the intravenous drug user population within California. The bill would additionally authorize a court, in determining whether an object is paraphernalia, to consider whether the possession of an object is related to or a result of a substance use disorder treatment or recovery program, harm reduction program, syringe exchange program, or consistent with best clinical practices, as specified.

(4) Existing law imposes a drug program fee for each separate controlled substance offense, as specified, to be deposited by the county treasurer in a drug program fund. Existing law requires that a portion of the fund be allocated to primary prevention programs in the community.

This bill would state that primary prevention programs may include those activities as determined by the Substance Abuse and Mental Health Services Administration.

(5) Existing law requires the State Department of Health Care Services to license and regulate facilities that provide residential nonmedical services to adults who are recovering from problems related to alcohol, drug, or alcohol and drug misuse or abuse, and who need alcohol, drug, or alcohol and drug recovery treatment or detoxification services. Existing law requires these programs to be certified, except as specified. Existing law authorizes a licensed alcohol or other drug recovery or treatment facility to permit incidental medical services, as defined, to be provided to a resident at the facility premises by a licensed physician and surgeon or other health care practitioner under specified limited circumstances, including that the resident has signed an admission agreement. Existing law requires a licensee to develop a plan to address when a resident relapses, including when a resident is on the licensed premises after consuming alcohol or using illicit drugs.

This bill would require the department, on or before July 1, 2026, to offer a combined application for entities to be certified as an alcohol or other drug program and to provide incidental medical services, as defined. The bill would prohibit an admission agreement from requiring a person to be abstinent and not intoxicated in order to be admitted to care or continue treatment. The bill would require a licensee to prioritize the individual maintaining some level of connection to treatment, rather than disconnection from treatment, following a relapse.

Existing law defines “drug- or alcohol-related program” as any program designed to reduce the unlawful use of, or assist those who

engage in the unlawful use of, drugs or alcohol, through various means, such as intervention, treatment, and enforcement, among others. Existing law prohibits the encumbrance of state funds for a drug- or alcohol-related program unless it contains a component that explains that there is no unlawful use of drugs or alcohol and requires all aspects of a drug- or alcohol-related program receiving state funds to be consistent with the “no lawful use” message.

This bill would redefine that term to mean any program designed to assist persons with substance use disorders and would strike enforcement from the specified means. The bill would repeal the above-described provisions related to the “no lawful use” message and would instead require that a drug- or alcohol-related program be consistent with the best clinical practices as determined by the Substance Abuse and Mental Health Services Administration and the American Society of Addiction Medicine in order to receive state funds.

(6) Existing law authorizes a public entity, as defined, that receives General Fund money from the Office of AIDS in the State Department of Public Health for HIV prevention and education to use that money to support clean needle and syringe exchange projects authorized by the public entity. Existing law authorizes the money to be used for the purchase of sterile hypodermic needles and syringes, subject to specified conditions, such as the portion of funds used for purchasing sterile hypodermic needles and syringes does not exceed 7.5% of the total amount of the funds received by the entity for HIV prevention. Existing law requires that an entity apply for authorization to provide hypodermic needle and syringe exchange services and requires that an entity demonstrate in its application that it complies with certain minimum standards, including that it has adequate funding to provide certain services at reasonably projected program participation levels.

This bill would expand the diseases that a public entity receiving this General Fund money may focus on to include viral hepatitis and other bloodborne diseases and would strike the above-described specified conditions to instead authorize that the money may be used for the purchase of sterile hypodermic needles and syringes as part of a clean needle and syringe exchange program in alignment with primary prevention activities as determined by the Substance Abuse and Mental Health Services Administration in the course of administering the Substance Use Prevention, Treatment, and Recovery Services Block Grant. The bill would require an entity applying for authorization to provide hypodermic needle and syringe exchange services to

demonstrate in its application that it complies with certain minimum standards, including that it has the ability to provide certain services at reasonably projected program participation levels within 3 months of authorization.

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 4145.5 of the Business and Professions  
2 Code is amended to read:

3 4145.5. (a) Notwithstanding any other ~~provision of~~ law, a  
4 pharmacist or physician may, without a prescription or a permit,  
5 furnish hypodermic needles and syringes for human use, and a  
6 person may, without a prescription or license, obtain hypodermic  
7 needles and syringes from a pharmacist or physician for human  
8 use, if the furnisher has previously been provided a prescription  
9 or other proof of a legitimate medical need requiring a hypodermic  
10 needle or syringe to administer a medicine or treatment.

11 (b) Notwithstanding any other ~~provision of law, and until~~  
12 ~~January 1, 2026, law~~, as a public health measure intended to  
13 prevent the transmission of HIV, viral hepatitis, and other  
14 bloodborne diseases among persons who use syringes and  
15 hypodermic needles, and to prevent subsequent infection of sexual  
16 partners, newborn children, or other persons, a physician or  
17 pharmacist may, without a prescription or a permit, furnish  
18 hypodermic needles and syringes for human use to a person 18  
19 years of age or older, and a person 18 years of age or older may,  
20 without a prescription or license, obtain hypodermic needles and  
21 syringes solely for personal use from a physician or pharmacist.

22 (c) Notwithstanding any other ~~provision of~~ law, a pharmacist,  
23 veterinarian, or person licensed pursuant to Section 4141 may,  
24 without a prescription or license, furnish hypodermic needles and  
25 syringes for use on animals, and a person may, without a  
26 prescription or license, obtain hypodermic needles and syringes  
27 from a pharmacist, veterinarian, or person licensed pursuant to  
28 Section 4141 for use on animals.

29 (d) A pharmacy that furnishes nonprescription hypodermic  
30 needles and syringes shall store hypodermic needles and syringes

1 in a manner that ensures that they are available only to authorized  
2 personnel, and are not accessible to other persons.

3 (e) In order to provide for the safe disposal of hypodermic  
4 needles and syringes, a pharmacy or hypodermic needle and syringe  
5 exchange program that furnishes nonprescription hypodermic  
6 needles and syringes shall counsel consumers on safe disposal and  
7 provide consumers with one or more of the following disposal  
8 options:

9 (1) It shall establish an onsite, safe, hypodermic needle and  
10 syringe collection and disposal program that meets applicable state  
11 and federal standards for collection and disposal of medical sharps  
12 waste.

13 (2) It shall furnish, or make available, mail-back sharps  
14 containers authorized by the United States Postal Service that meet  
15 applicable state and federal requirements for the transport of  
16 medical sharps waste, and shall provide tracking forms to verify  
17 destruction at a certified disposal facility.

18 (3) It shall furnish, or make available, a sharps container that  
19 meets applicable state and federal standards for collection and  
20 disposal of medical sharps waste.

21 ~~(f) Until January 1, 2026, a~~ A pharmacy that furnishes  
22 nonprescription syringes shall provide written information or verbal  
23 counseling to consumers at the time of furnishing or sale of  
24 nonprescription hypodermic needles or syringes on how to do the  
25 following:

26 (1) Access drug treatment.

27 (2) Access testing and treatment for ~~HIV and hepatitis C~~. *HIV,*  
28 *viral hepatitis, and other bloodborne diseases.*

29 (3) Safely dispose of sharps waste.

30 SEC. 2. Section 1714.22 of the Civil Code is amended to read:

31 1714.22. (a) For purposes of this section, the following  
32 definitions apply:

33 (1) “Opioid antagonist” means naloxone hydrochloride or any  
34 other opioid antagonist that is approved by the United States Food  
35 and Drug Administration for the treatment of an opioid overdose.

36 (2) “Opioid overdose prevention and treatment training  
37 program” means any program operated by a local health  
38 jurisdiction or that is registered by a local health jurisdiction to  
39 train individuals to prevent, recognize, and respond to an opiate

1 overdose, and that provides, at a minimum, training in all of the  
2 following:

3 (A) The causes of an opiate overdose.

4 ~~(B) Mouth-to-mouth resuscitation.~~

5 *(B) Basic life support.*

6 (C) How to contact appropriate emergency medical services.

7 (D) How to administer an opioid antagonist.

8 (b) A licensed health care provider who is authorized by law to  
9 prescribe an opioid antagonist may, if acting with reasonable care,  
10 prescribe and subsequently dispense or distribute an opioid  
11 antagonist to a person at risk of an ~~opioid-related~~ overdose or to  
12 a family member, friend, or other person in a position to assist a  
13 person at risk of an ~~opioid-related~~ overdose.

14 (c) (1) A licensed health care provider who is authorized by  
15 law to prescribe an opioid antagonist may issue standing orders  
16 for the distribution of an opioid antagonist to a person at risk of  
17 an ~~opioid-related~~ overdose or to a family member, friend, or other  
18 person in a position to assist a person at risk of an ~~opioid-related~~  
19 overdose.

20 (2) A licensed health care provider who is authorized by law to  
21 prescribe an opioid antagonist may issue standing orders for the  
22 administration of an opioid antagonist to a person at risk of an  
23 ~~opioid-related~~ overdose by a family member, friend, or other person  
24 in a position to assist a person experiencing or reasonably suspected  
25 of experiencing an ~~opioid~~ overdose.

26 ~~(d) (1) A person who is prescribed or possesses an opioid~~  
27 ~~antagonist pursuant to a standing order shall receive the training~~  
28 ~~provided by an opioid overdose prevention and treatment training~~  
29 ~~program.~~

30 ~~(2) A person who is prescribed an opioid antagonist directly~~  
31 ~~from a licensed prescriber shall not be required to receive training~~  
32 ~~from an opioid prevention and treatment training program.~~

33 *(3) A person who is at risk of an overdose, a family member,*  
34 *friend, or other person in a position to assist a person at risk of*  
35 *an overdose may possess an opioid antagonist and subsequently*  
36 *dispense or distribute an opioid antagonist to a person at risk of*  
37 *an overdose or to a family member, friend, or other person in a*  
38 *position to assist a person at risk of an overdose.*

39 ~~(e)~~

1 (d) A licensed health care provider *or a person who is at risk*  
2 *of an overdose, or a family member, friend, or other person in a*  
3 *position to assist a person at risk of an overdose* who acts with  
4 reasonable care shall not be subject to professional review, be  
5 liable in a civil action, or be subject to criminal prosecution for  
6 issuing a prescription or order *or for possession or distributing an*  
7 *opioid antagonist* pursuant to subdivision (b) or (c).

8 (f)

9 (e) Notwithstanding any other law, a person who possesses or  
10 distributes an opioid antagonist ~~pursuant to a prescription or~~  
11 ~~standing order~~ shall not be subject to professional review, be liable  
12 in a civil action, or be subject to criminal prosecution for this  
13 possession or distribution. Notwithstanding any other law, a person  
14 not otherwise licensed to administer an opioid antagonist, ~~but~~  
15 ~~trained as required under paragraph (1) of subdivision (d),~~  
16 *antagonist* who acts with reasonable care in administering an opioid  
17 antagonist, in good faith and not for compensation, to a person  
18 who is experiencing or is suspected of experiencing an overdose  
19 shall not be subject to professional review, be liable in a civil  
20 action, or be subject to criminal prosecution for this administration.

21 SEC. 3. Section 1797.197 of the Health and Safety Code is  
22 amended to read:

23 1797.197. (a) The authority shall establish training and  
24 standards for all prehospital emergency medical care personnel,  
25 as defined in paragraph (2) of subdivision (a) of Section 1797.189,  
26 regarding the characteristics and method of assessment and  
27 treatment of anaphylactic reactions and the use of epinephrine.  
28 The authority shall promulgate regulations regarding these matters  
29 for use by all prehospital emergency medical care personnel.

30 (b) (1) The authority shall develop and, after approval by the  
31 commission pursuant to Section 1799.50, adopt training and  
32 standards for all prehospital emergency medical care personnel,  
33 as defined in paragraph (2) of subdivision (a) of Section 1797.189,  
34 regarding the use and administration of naloxone hydrochloride  
35 and other opioid antagonists. The authority shall promulgate  
36 regulations regarding these matters for use by all prehospital  
37 emergency medical care personnel. The authority may adopt  
38 existing training and standards for prehospital emergency medical  
39 care personnel regarding the statewide use and administration of



1 naloxone hydrochloride or another opioid antagonist to satisfy the  
2 requirements of this section.

3 (2) The medical director of a local EMS agency may, pursuant  
4 to Section 1797.221, approve or conduct a trial study of the use  
5 and administration of naloxone hydrochloride or other opioid  
6 antagonists by any level of prehospital emergency medical care  
7 personnel. Training received by prehospital emergency medical  
8 care personnel specific to the use and administration of naloxone  
9 hydrochloride or another opioid antagonist during this trial study  
10 may be used towards satisfying the training requirements  
11 established pursuant to paragraph (1) regarding the use and  
12 administration of naloxone hydrochloride and other opioid  
13 antagonists by prehospital emergency medical care personnel.

14 ~~(3) The training described in paragraphs (1) and (2) shall satisfy~~  
15 ~~the requirements of paragraph (1) of subdivision (d) of Section~~  
16 ~~1714.22 of the Civil Code.~~

17 SEC. 4. Section 11364 of the Health and Safety Code is  
18 amended to read:

19 11364. (a) It is unlawful to possess an opium pipe or any  
20 device, contrivance, instrument, or paraphernalia used for  
21 unlawfully injecting or smoking (1) a controlled substance specified  
22 in subdivision (b), (c), or (e) or paragraph (1) of subdivision (f) of  
23 Section 11054, specified in paragraph (14), (15), or (20) of  
24 subdivision (d) of Section 11054, specified in subdivision (b) or  
25 (c) of Section 11055, or specified in paragraph (2) of subdivision  
26 (d) of Section 11055, or (2) a controlled substance that is a narcotic  
27 drug classified in Schedule III, IV, or V.

28 (b) This section ~~shall~~ *does* not apply to hypodermic needles or  
29 syringes that have been containerized for safe disposal in a  
30 container that meets state and federal standards for disposal of  
31 sharps waste.

32 (c) This section does not apply to an individual obtaining  
33 controlled substance checking services, as described in Article 5  
34 (commencing with Section 11300) of Chapter 5.

35 (d) ~~Until January 1, 2026, as~~ As a public health measure intended  
36 to prevent the transmission of HIV, viral hepatitis, and other  
37 bloodborne diseases among persons who use syringes and  
38 hypodermic needles, and to prevent subsequent infection of sexual  
39 partners, newborn children, or other persons, this section ~~shall~~  
40 *does* not apply to the possession solely for personal use of

~~hypodermic needles or syringes. needles, syringes, and controlled substance checking equipment, as described in Article 5 (commencing with Section 11300) of Chapter 5. This section does not apply to overdose prevention or treatment programs, or individuals in possession of hypodermic needles or syringes or controlled substance checking equipment related to an overdose prevention or treatment training program, as described in Article 5 (commencing with Section 11300) of Chapter 5.~~

SEC. 5. Section 11364.5 of the Health and Safety Code is amended to read:

11364.5. (a) Except as authorized by law, a person shall not maintain or operate a place of business in which drug paraphernalia is kept, displayed, or offered in any manner, sold, furnished, transferred, or given away unless that drug paraphernalia is completely and wholly kept, displayed, or offered within a separate room or enclosure to which persons under 18 years of age who are not accompanied by a parent or legal guardian are excluded. Each entrance to such a room or enclosure shall be signposted in reasonably visible and legible words to the effect that drug paraphernalia is kept, displayed, or offered in the room or enclosure and that minors, unless accompanied by a parent or legal guardian, are excluded.

(b) Except as authorized by law, an owner, manager, proprietor, or other person in charge of a room or enclosure, within a place of business, in which drug paraphernalia is kept, displayed, or offered in any manner, sold, furnished, transferred, or given away shall not permit or allow a person under 18 years of age to enter, be in, remain in, or visit the room or enclosure unless that minor person is accompanied by their parent or legal guardian.

(c) Unless authorized by law, a person under 18 years of age shall not enter, be in, remain in, or visit a room or enclosure in a place of business in which drug paraphernalia is kept, displayed, or offered in any manner, sold, furnished, transferred, or given away unless accompanied by their parent or legal guardian.

(d) As used in this section, “drug paraphernalia” means all equipment, products, and materials of any kind which are intended for use or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise

1 introducing into the human body a controlled substance. “Drug  
2 paraphernalia” includes, but is not limited to, all of the following:

3 (1) Kits intended for use or designed for use in planting,  
4 propagating, cultivating, growing, or harvesting of any species of  
5 plant that is a controlled substance or from which a controlled  
6 substance can be derived.

7 (2) Kits intended for use or designed for use in manufacturing,  
8 compounding, converting, producing, processing, or preparing  
9 controlled substances.

10 (3) Isomerization devices intended for use or designed for use  
11 in increasing the potency of any species of plant that is a controlled  
12 substance.

13 (4) Scales and balances intended for use or designed for use in  
14 weighing or measuring controlled substances.

15 (5) Diluents and adulterants, such as quinine hydrochloride,  
16 mannitol, mannite, dextrose, and lactose, intended for use or  
17 designed for use in cutting controlled substances.

18 (6) Separation gins and sifters intended for use or designed for  
19 use in removing twigs and seeds from, or in otherwise cleaning or  
20 refining, cannabis.

21 (7) Blenders, bowls, containers, spoons, and mixing devices  
22 intended for use or designed for use in compounding controlled  
23 substances.

24 (8) Capsules, balloons, envelopes, and other containers intended  
25 for use or designed for use in packaging small quantities of  
26 controlled substances.

27 (9) Containers and other objects intended for use or designed  
28 for use in storing or concealing controlled substances.

29 (10) Hypodermic syringes, needles, and other objects ~~intended~~  
30 ~~for use or designed for use~~ *used* in parenterally injecting controlled  
31 substances into the human body.

32 (11) Objects intended for use or designed for use in ingesting,  
33 inhaling, or otherwise introducing cannabis, cocaine, hashish, or  
34 hashish oil into the human body, such as the following:

35 (A) Metal, wooden, acrylic, glass, stone, plastic, or ceramic  
36 pipes with or without screens, permanent screens, hashish heads,  
37 or punctured metal bowls.

38 (B) Water pipes.

39 (C) Carburetion tubes and devices.

40 (D) Smoking and carburetion masks.

1 (E) Roach clips, meaning objects used to hold burning material,  
2 such as a cannabis cigarette that has become too small or too short  
3 to be held in the hand.

4 (F) Miniature cocaine spoons, and cocaine vials.

5 (G) Chamber pipes.

6 (H) Carburetor pipes.

7 (I) Electric pipes.

8 (J) Air-driven pipes.

9 (K) Chillums.

10 (L) Bongs.

11 (M) Ice pipes or chillers.

12 ~~(12) Testing equipment designed for use or marketed for use in~~  
13 ~~identifying, or in analyzing the strength, effectiveness, or purity~~  
14 ~~of, controlled substances, except as otherwise provided in~~  
15 ~~subdivision (g).~~

16 (e) In determining whether an object is drug paraphernalia, a  
17 court or other authority may consider, in addition to all other  
18 logically relevant factors, the following:

19 (1) Statements by an owner or by anyone in control of the object  
20 concerning its use.

21 (2) Prior convictions, if any, of an owner, or of anyone in control  
22 of the object, under any state or federal law relating to any  
23 controlled substance.

24 (3) Direct or circumstantial evidence of the intent of an owner,  
25 or of anyone in control of the object, to deliver it to persons whom  
26 they know, or should reasonably know, intend to use the object to  
27 facilitate a violation of this section. The innocence of an owner,  
28 or of anyone in control of the object, as to a direct violation of this  
29 section shall not prevent a finding that the object is intended for  
30 use, or designed for use, as drug paraphernalia.

31 (4) Instructions, oral or written, provided with the object  
32 concerning its use.

33 (5) Descriptive materials, accompanying the object ~~which~~ *that*  
34 explain or depict its use.

35 (6) National and local advertising concerning its use.

36 (7) The manner in which the object is displayed for sale.

37 (8) Whether the owner or anyone in control of the object is a  
38 legitimate supplier of like or related items to the community, such  
39 as a licensed distributor or dealer of tobacco products.

1 (9) The existence and scope of legitimate uses for the object in  
2 the community.

3 (10) Expert testimony concerning its use.

4 (11) *If the possession of the object is related to, or is a result*  
5 *of, a substance use disorder treatment or recovery program, harm*  
6 *reduction program, syringe exchange program or syringe services*  
7 *program, or consistent with best clinical practices in alignment*  
8 *with the Substance Abuse and Mental Health Services*  
9 *Administration and the American Society of Addiction Medicine.*

10 (f) This section shall not apply to any of the following:

11 (1) Any pharmacist or other authorized person who sells or  
12 furnishes drug paraphernalia described in paragraph (10) of  
13 subdivision (d) upon the prescription of a physician, dentist,  
14 podiatrist, or veterinarian.

15 (2) Any physician, dentist, podiatrist, or veterinarian who  
16 furnishes or prescribes drug paraphernalia described in paragraph  
17 (10) of subdivision (d) to a patient.

18 (3) Any manufacturer, wholesaler, or retailer licensed by the  
19 California State Board of Pharmacy to sell or transfer drug  
20 paraphernalia described in paragraph (10) of subdivision (d).

21 (4) *A person who is at risk of overdose, a family member, friend,*  
22 *or other person in a position to assist a person at risk of overdose,*  
23 *in order to reduce the spread of HIV, viral hepatitis, and other*  
24 *bloodborne infections among the intravenous drug user population*  
25 *within California.*

26 (g) ~~Notwithstanding paragraph (12) of subdivision (a), “drug~~  
27 ~~paraphernalia” “Drug paraphernalia”~~ does not include any testing  
28 equipment designed, marketed, intended to be used, or used, to  
29 test a substance for the presence of contaminants, toxic substances,  
30 hazardous compounds, or other adulterants, or controlled  
31 substances that include, without limitation, fentanyl, ketamine,  
32 gamma hydroxybutyric acid, or any analog of fentanyl.

33 (h) Notwithstanding any other law, including Section 11374,  
34 violation of this section shall not constitute a criminal offense, but  
35 operation of a business in violation of the provisions of this section  
36 shall be grounds for revocation or nonrenewal of any license,  
37 permit, or other entitlement previously issued by a city, county,  
38 or city and county for the privilege of engaging in such business  
39 and shall be grounds for denial of any future license, permit, or  
40 other entitlement authorizing the conduct of such business or any

1 other business, if the business includes the sale of drug  
2 paraphernalia.

3 SEC. 6. Section 11364.7 of the Health and Safety Code is  
4 amended to read:

5 11364.7. (a) (1) Except as authorized by law, a person who  
6 delivers, furnishes, or transfers, possesses with intent to deliver,  
7 furnish, or transfer, or manufactures with the intent to deliver,  
8 furnish, or transfer, drug paraphernalia, knowing, or under  
9 circumstances where one reasonably should know, that it will be  
10 used to plant, propagate, cultivate, grow, harvest, compound,  
11 convert, produce, process, prepare, ~~test, analyze~~, pack, repack,  
12 store, contain, conceal, inject, ingest, inhale, or otherwise introduce  
13 into the human body a controlled substance, except as provided  
14 in subdivision (b), in violation of this division, is guilty of a  
15 misdemeanor.

16 (2) A public entity, its agents, or employees shall not be subject  
17 to criminal prosecution for distribution of hypodermic needles or  
18 syringes or any materials deemed by a local or state health  
19 department to be necessary to prevent the spread of communicable  
20 diseases, or to prevent drug overdose, injury, or disability to  
21 participants in clean needle and syringe exchange projects  
22 authorized by the public entity pursuant to Chapter 18  
23 (commencing with Section 121349) of Part 4 of Division 105.

24 (b) Except as authorized by law, a person who manufactures  
25 with intent to deliver, furnish, or transfer drug paraphernalia  
26 knowing, or under circumstances where one reasonably should  
27 know, that it will be used to plant, propagate, cultivate, grow,  
28 harvest, manufacture, compound, convert, produce, process,  
29 prepare, ~~test, analyze~~, pack, repack, store, contain, conceal, inject,  
30 ingest, inhale, or otherwise introduce into the human body cocaine,  
31 cocaine base, heroin, phencyclidine, or methamphetamine in  
32 violation of this division shall be punished by imprisonment in a  
33 county jail for not more than one year, or in the state prison.

34 (c) Except as authorized by law, a person, 18 years of age or  
35 over, who violates subdivision (a) by delivering, furnishing, or  
36 transferring drug paraphernalia to a person under 18 years of age  
37 who is at least three years their junior, or who, upon the grounds  
38 of a public or private elementary, vocational, junior high, or high  
39 school, possesses a hypodermic needle, as defined in Section  
40 11014.5, with the intent to deliver, furnish, or transfer the

1 hypodermic needle, knowing, or under circumstances where one  
2 reasonably should know, that it will be used by a person under 18  
3 years of age to inject into the human body a controlled substance,  
4 is guilty of a misdemeanor and shall be punished by imprisonment  
5 in a county jail for not more than one year, by a fine of not more  
6 than one thousand dollars (\$1,000), or by both that imprisonment  
7 and fine.

8 (d) The violation, or the causing or the permitting of a violation,  
9 of subdivision (a), (b), or (c) by a holder of a business or liquor  
10 license issued by a city, county, or city and county, or by the State  
11 of California, and in the course of the licensee's business shall be  
12 grounds for the revocation of that license.

13 (e) All drug paraphernalia defined in Section 11014.5 is subject  
14 to forfeiture and may be seized by any peace officer pursuant to  
15 Section 11471 unless its distribution has been authorized pursuant  
16 to subdivision (a).

17 (f) If any provision of this section or the application thereof to  
18 any person or circumstance is held invalid, it is the intent of the  
19 Legislature that the invalidity shall not affect other provisions or  
20 applications of this section that can be given effect without the  
21 invalid provision or application and to this end the provisions of  
22 this section are severable.

23 SEC. 7. Section 11372.7 of the Health and Safety Code is  
24 amended to read:

25 11372.7. (a) Except as otherwise provided in subdivision (b)  
26 or (e), each person who is convicted of a violation of this chapter  
27 shall pay a drug program fee in an amount not to exceed one  
28 hundred fifty dollars (\$150) for each separate offense. The court  
29 shall increase the total fine, if necessary, to include this increment,  
30 which shall be in addition to any other penalty prescribed by law.

31 (b) The court shall determine whether or not the person who is  
32 convicted of a violation of this chapter has the ability to pay a drug  
33 program fee. If the court determines that the person has the ability  
34 to pay, the court may set the amount to be paid and order the person  
35 to pay that sum to the county in a manner that the court believes  
36 is reasonable and compatible with the person's financial ability.  
37 In its determination of whether a person has the ability to pay, the  
38 court shall take into account the amount of any fine imposed upon  
39 that person and any amount that person has been ordered to pay  
40 in restitution. If the court determines that the person does not have

1 the ability to pay a drug program fee, the person shall not be  
2 required to pay a drug program fee.

3 (c) The county treasurer shall maintain a drug program fund.  
4 For every drug program fee assessed and collected pursuant to  
5 subdivisions (a) and (b), an amount equal to this assessment shall  
6 be deposited into the fund for every conviction pursuant to this  
7 chapter, in addition to fines, forfeitures, and other moneys ~~which~~  
8 *that* are transmitted by the courts to the county treasurer pursuant  
9 to Sections 11372.5 and 11502. These deposits shall be made prior  
10 to any transfer pursuant to Section 11502. Amounts deposited in  
11 the drug program fund shall be allocated by the administrator of  
12 the county's drug program to drug abuse programs in the schools  
13 and the community, subject to the approval of the board of  
14 supervisors, as follows:

15 (1) The moneys in the fund shall be allocated through the  
16 planning process established pursuant to Sections 11983, 11983.1,  
17 11983.2, and 11983.3.

18 (2) A minimum of 33 percent of the fund shall be allocated to  
19 primary prevention programs in the schools and the community.  
20 Primary prevention programs developed and implemented under  
21 this article shall emphasize cooperation in planning and program  
22 implementation among schools and community drug abuse  
23 agencies, and shall demonstrate coordination through an  
24 interagency agreement among county offices of education, school  
25 districts, and the county drug program administrator. These primary  
26 prevention programs may include:

27 (A) School- and classroom-oriented programs, including, but  
28 not limited to, programs designed to encourage sound  
29 decisionmaking, an awareness of values, an awareness of drugs  
30 and their effects, enhanced self-esteem, social and practical skills  
31 that will assist students toward maturity, enhanced or improved  
32 school climate and relationships among all school personnel and  
33 students, and furtherance of cooperative efforts of school- and  
34 community-based personnel.

35 (B) School- or community-based nonclassroom alternative  
36 programs, or both, including, but not limited to, positive peer group  
37 programs, programs involving youth and adults in constructive  
38 activities designed as alternatives to drug use, and programs for  
39 special target groups, such as women, ethnic minorities, and other  
40 high-risk, high-need populations.



1 (C) Family-oriented programs, including, but not limited to,  
2 programs aimed at improving family relationships and involving  
3 parents constructively in the education and nurturing of their  
4 children, as well as in specific activities aimed at preventing ~~drug~~  
5 ~~abuse~~; *substance use disorders*.

6 (D) *Primary prevention activities identified by the Substance*  
7 *Abuse and Mental Health Services Administration in the course*  
8 *of administering the Substance Use Prevention, Treatment, and*  
9 *Recovery Services Block Grant, authorized by Section 1921 of*  
10 *Subparts II and III of Part B of Title XIX of the Public Health*  
11 *Service Act.*

12 (d) Moneys deposited into a county drug program fund pursuant  
13 to this section shall supplement, and shall not supplant, any local  
14 funds made available to support the county's drug abuse prevention  
15 and treatment efforts.

16 (e) This section shall not apply to any person convicted of a  
17 violation of subdivision (b) of Section 11357 of the Health and  
18 Safety Code.

19 SEC. 8. The heading of Division 10.5 (commencing with  
20 Section 11750) of the Health and Safety Code is amended to read:

21  
22 DIVISION 10.5. ALCOHOL AND *OTHER* DRUG  
23 PROGRAMS  
24

25 SEC. 9. Section 11832 of the Health and Safety Code is  
26 amended to read:

27 11832. (a) The department has the sole authority in state  
28 government to certify alcohol or other drug programs.

29 (b) In administering this chapter, the department shall issue  
30 certifications for a period of two years to those alcohol or other  
31 drug programs that meet the requirements set forth in this chapter.

32 (c) *The department shall, on or before July 1, 2026, offer a*  
33 *combined application for entities seeking certification as an alcohol*  
34 *or other drug program to simultaneously apply for certification*  
35 *to provide incidental medical services as defined in Section*  
36 *11834.026.*

37 (d) *An additional fee shall not be charged for the combined*  
38 *application described in subdivision (c) in excess of the charge*  
39 *authorized in Sections 11832.1 and 11832.4.*

1     (e) The department shall post on its internet website a timeline  
2     with the relative dates of key milestones in the permit application  
3     review process and the average processing times for the  
4     department of each stage of key milestones in the permit  
5     application review process. The department shall note on its  
6     internet website that these times are estimates, and shall update  
7     the times as necessary.

8     (f) The department shall provide written notices of estimated  
9     dates of key milestones in the permit application review process  
10    to the applicant and the local continuum of care.

11    (g) Key milestones in the permit application review process  
12    shall include, but are not limited to, all of the following:

13    (1) Initial indication of whether the application is complete or  
14    incomplete within 45 working days of receipt of the application.

15    (A) If the application is incomplete, the department shall specify  
16    the information or documentation that is missing in a notice to the  
17    applicant within 45 working days of receipt of the application.

18    (B) The applicant shall have 60 working days from the date of  
19    the notification to provide the missing information or  
20    documentation.

21    (2) Indication of whether the application for certification to  
22    provide incidental medical services is complete or incomplete  
23    within 45 working days of receipt of the application.

24    (A) If the application for certification to provide incidental  
25    medical services is incomplete, the department shall specify the  
26    information or documentation that is missing in a notice to the  
27    applicant within 45 working days of receipt of the application.

28    (B) The applicant shall have 60 working days from the date of  
29    the notification to provide the missing information or  
30    documentation.

31    (3) Issuance of a certification to provide incidental medical  
32    services or a written notification of denial of certification within  
33    120 working days of determining that the application is complete.

34    (4) Issuance of a license by certified mail or a written  
35    notification of denial of licensure within 120 working days of  
36    determining that the application is complete.

37    (h) On or before December 31, 2026, the department shall post  
38    to its internet website the average processing times, as described  
39    in subdivision (e), for each application under review by the  
40    department.

1     *(i) Any necessary rules and regulations for the purpose of*  
2     *implementing this section may be adopted as emergency*  
3     *regulations in accordance with the Administrative Procedure Act*  
4     *(Chapter 3.5 (commencing with Section 11340) of Part 1 of*  
5     *Division 3 of Title 2 of the Government Code). The adoption of*  
6     *emergency regulations pursuant to this section shall be deemed*  
7     *to be an emergency and necessary for the immediate preservation*  
8     *of the public peace, health and safety, or general welfare.*

9     SEC. 10. Section 11834.026 of the Health and Safety Code is  
10    amended to read:

11     11834.026. (a) As used in this section, “incidental medical  
12    services” means services that are in compliance with the  
13    community standard of practice and are not required to be  
14    performed in a licensed clinic or licensed health facility, as defined  
15    by Section 1200 or 1250, respectively, to address medical issues  
16    associated with either detoxification from alcohol or other drugs  
17    or the provision of alcohol or other drug recovery or treatment  
18    services, including all of the following categories of services that  
19    the department shall further define by regulation:

20     (1) Obtaining medical histories.

21     (2) Monitoring health status to determine whether the health  
22    status warrants transfer of the patient in order to receive urgent or  
23    emergent care.

24     (3) Testing associated with detoxification from alcohol or *other*  
25    drugs.

26     (4) Providing alcohol or other drug recovery or treatment  
27    services.

28     (5) Overseeing patient self-administered medications.

29     (6) Treating substance use disorders, including detoxification.

30    (b) Incidental medical services do not include the provision of  
31    general primary medical care.

32    (c) Notwithstanding any other law, a licensed alcohol or other  
33    drug recovery or treatment facility may permit incidental medical  
34    services to be provided to a resident at the facility premises by, or  
35    under the supervision of, one or more physicians and surgeons  
36    licensed by the Medical Board of California or the Osteopathic  
37    Medical Board who are knowledgeable about addiction medicine,  
38    or one or more other health care practitioners acting within the  
39    scope of practice of their license and under the direction of a

1 physician and surgeon, and who are also knowledgeable about  
2 addiction medicine, if all of the following conditions are met:

3 (1) The facility, in the judgment of the department, has the  
4 ability to comply with the requirements of this chapter and all other  
5 applicable laws and regulations to meet the needs of a resident  
6 receiving incidental medical services pursuant to this chapter. The  
7 department shall specify in regulations the minimum requirements  
8 that a facility shall meet in order to be approved to permit the  
9 provision of incidental medical services on its premises. The license  
10 of a facility approved to permit the provision of incidental medical  
11 services shall reflect that those services are permitted at the facility  
12 premises.

13 (2) The physician and surgeon and any other health care  
14 practitioner has signed an acknowledgment on a form provided  
15 by the department that they have been advised of and understand  
16 the statutory and regulatory limitations on the services that may  
17 legally be provided at a licensed alcohol or other drug recovery or  
18 treatment facility and the statutory and regulatory requirements  
19 and limitations for the physician and surgeon or other health care  
20 practitioner and for the facility, related to providing incidental  
21 medical services. The licensee shall maintain a copy of the signed  
22 form at the facility for a physician and surgeon or other health care  
23 practitioner providing incidental medical services at the facility  
24 premises.

25 (3) A physician and surgeon or other health care practitioner  
26 shall assess a resident, prior to that resident receiving incidental  
27 medical services, to determine whether it is medically appropriate  
28 for that resident to receive these services at the premises of the  
29 licensed facility. A copy of the form provided by the department  
30 shall be signed by the physician and surgeon and maintained in  
31 the resident's file at the facility.

32 (4) The resident has signed an admission agreement. ~~The~~

33 (A) *The* admission agreement, at a minimum, shall describe the  
34 incidental medical services that the facility may permit to be  
35 provided and shall state that the permitted incidental medical  
36 services will be provided by, or under the supervision of, a  
37 physician and surgeon. ~~The~~

38 (B) *The admission agreement shall not require a person to have*  
39 *been abstinent, to not be intoxicated, or to otherwise not be under*

1 *the influence in order to be admitted into care, be considered for*  
2 *treatment, or continue treatment.*

3 (C) The department shall specify in regulations, at a minimum,  
4 the content and manner of providing the admission agreement, and  
5 any other information that the department deems appropriate. The  
6 facility shall maintain a copy of the signed admission agreement  
7 in the resident's file.

8 (5) Once incidental medical services are initiated for a resident,  
9 the physician and surgeon and facility shall monitor the resident  
10 to ensure that the resident remains appropriate to receive those  
11 services. If the physician and surgeon determines that a change in  
12 the resident's medical condition requires other medical services  
13 or that a higher level of care is required, the facility shall  
14 immediately arrange for the other medical services or higher level  
15 of care, as appropriate.

16 (6) The facility maintains in its files a copy of the relevant  
17 professional license or other written evidence of licensure to  
18 practice medicine or perform medical services in the state for the  
19 physician and surgeon and any other health care practitioner  
20 providing incidental medical services at the facility.

21 (d) The department is not required to evaluate or have any  
22 responsibility or liability with respect to evaluating the incidental  
23 medical services provided by a physician and surgeon or other  
24 health care practitioner at a licensed facility. This section does not  
25 limit the department's ability to report suspected misconduct by  
26 a physician and surgeon or other health care practitioner to the  
27 appropriate licensing entity or to law enforcement.

28 (e) A facility licensed and approved by the department to allow  
29 provision of incidental medical services shall not by offering  
30 approved incidental medical services be deemed a clinic or health  
31 facility within the meaning of Section 1200 or 1250, respectively.

32 (f) Other than incidental medical services permitted to be  
33 provided or any urgent or emergent care required in the case of a  
34 life-threatening emergency, including the administration of  
35 naloxone hydrochloride, or any other opioid antagonist that is  
36 approved by the United States Food and Drug Administration for  
37 treatment of an opioid overdose, this section does not authorize  
38 the provision at the premises of the facility of any medical or health  
39 care services or any other services that require a higher level of

1 care than the care that may be provided within a licensed alcohol  
2 or other drug recovery or treatment facility.

3 (g) This section does not require a residential treatment facility  
4 licensed by the department to provide incidental medical services  
5 or any services not otherwise permitted by law.

6 (h) (1) On or before July 1, 2024, the department shall adopt  
7 regulations to implement this section in accordance with the  
8 Administrative Procedure Act (Chapter 3.5 (commencing with  
9 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
10 Code).

11 (2) Notwithstanding the rulemaking provisions of the  
12 Administrative Procedure Act, the department may, if it deems  
13 appropriate, implement, interpret, or make specific this section by  
14 means of provider bulletins, written guidelines, or similar  
15 instructions from the department until regulations are adopted.

16 SEC. 11. Section 11834.26 of the Health and Safety Code is  
17 amended to read:

18 11834.26. (a) The licensee shall provide at least one of the  
19 following *alcohol- or other drug-related* nonmedical services:

20 (1) Recovery services.

21 (2) Treatment services.

22 (3) Detoxification services.

23 (b) The department shall adopt regulations requiring records  
24 and procedures that are appropriate for each of the services  
25 specified in subdivision (a). The records and procedures may  
26 include all of the following:

27 (1) Admission criteria.

28 (2) Intake process.

29 (3) Assessments.

30 (4) Recovery, treatment, or detoxification planning.

31 (5) Referral.

32 (6) Documentation of provision of recovery, treatment, or  
33 detoxification services.

34 (7) Discharge and continuing care planning.

35 (8) Indicators of recovery, treatment, or detoxification outcomes.

36 (c) A licensee shall not deny admission to any individual based  
37 solely on ~~the~~ *either of the following*:

38 (1) *The* individual having a valid prescription from a licensed  
39 health care professional for a medication approved by the federal  
40 Food and Drug Administration for the purpose of narcotic

1 replacement treatment or medication-assisted treatment of  
2 substance use disorders.

3 *(2) The individual having consumed, used, or otherwise been*  
4 *under the influence of alcohol or other drugs, as these*  
5 *circumstances represent symptoms of the condition of substance*  
6 *use disorders.*

7 (d) A licensee shall develop a plan to address when a resident  
8 relapses, including when a resident is on the licensed premises  
9 ~~after consuming alcohol or using illegal~~ *using alcohol or other*  
10 ~~drugs. The~~

11 *(1) The plan shall include details of how the treatment stay and*  
12 *treatment plan of the resident will be adjusted to address the relapse*  
13 *episode and how the resident will be treated and supervised while*  
14 *under the influence of alcohol or illegal other drugs, as well as*  
15 *discharge and continuing care planning, including when a licensee*  
16 *determines that a resident requires services beyond the scope of*  
17 *the licensee. This*

18 *(2) This subdivision does not require a licensee to discharge a*  
19 ~~resident.~~ *resident, as relapse, lapses, and momentary reengagement*  
20 *with alcohol or other drugs are symptoms of the condition of*  
21 *substance use disorders.*

22 *(3) In developing a plan pursuant to this subdivision, the*  
23 *licensee shall consider options to avoid disconnection of the*  
24 *resident from treatment and shall prioritize the individual*  
25 *maintaining some level of connection to treatment, rather than a*  
26 *complete disconnection from treatment.*

27 (e) The department shall have the authority to implement  
28 subdivisions (d) and (f) by bulletin or all-county or all-provider  
29 letter, after stakeholder input, until regulations are promulgated.  
30 The department shall promulgate regulations to implement  
31 subdivisions (d) and (f) no later than July 1, 2024.

32 (f) (1) A licensee shall, at all times, maintain at least two  
33 unexpired doses of naloxone hydrochloride, or any other opioid  
34 antagonist that is approved by the United States Food and Drug  
35 Administration for treatment of an opioid overdose, on the premises  
36 and shall, at all times, have at least one staff member on the  
37 premises who knows the specific location of the naloxone  
38 hydrochloride, or other opioid antagonist that is approved by the  
39 United States Food and Drug Administration for treatment of an  
40 opioid overdose, and who has been trained on the administration

1 of naloxone hydrochloride, or the other opioid antagonist that is  
2 approved by the United States Food and Drug Administration for  
3 treatment of an opioid overdose, in accordance with the training  
4 requirements set forth by the department. Proof of completion of  
5 training on the administration of naloxone hydrochloride, or other  
6 opioid antagonist that is approved by the United States Food and  
7 Drug Administration for treatment of an opioid overdose, shall be  
8 documented in the staff member's individual personnel file.

9 (2) A trained staff member shall not be liable for damages in a  
10 civil action or subject to criminal prosecution for the  
11 administration, in good faith, of naloxone hydrochloride, or any  
12 other opioid antagonist that is approved by the United States Food  
13 and Drug Administration for treatment of an opioid overdose, to  
14 a person appearing to experience an ~~opioid-related~~ overdose. This  
15 paragraph shall not apply in a case where the person who renders  
16 emergency care treatment by the use of naloxone hydrochloride,  
17 or any other opioid antagonist that is approved by the United States  
18 Food and Drug Administration for treatment of an ~~opioid~~ overdose,  
19 acts with gross negligence or engages in willful and wanton  
20 misconduct.

21 (g) In the development of regulations implementing this section,  
22 the written record requirements shall be modified or adapted for  
23 social model programs.

24 SEC. 12. The heading of Division 10.7 (commencing with  
25 Section 11999) of the Health and Safety Code is repealed.

26  
27 ~~DIVISION 10.7. ILLEGAL USE OF DRUGS AND ALCOHOL~~

28  
29 SEC. 13. The heading of Division 10.7 (commencing with  
30 Section 11999) is added to the Health and Safety Code, to read:

31  
32 DIVISION 10.7. SUBSTANCE USE DISORDER  
33 PREVENTION, TREATMENT, AND RECOVERY PROGRAMS

34  
35 SEC. 14. Section 11999 of the Health and Safety Code is  
36 amended to read:

37 11999. The Legislature finds and declares all of the following:

38 (a) The Legislature has established various drug- and  
39 alcohol-related programs which provide for education, prevention,  
40 intervention, treatment, or enforcement.



1 (b) The Legislature has classified certain substances as  
2 controlled substances and has defined the lawful and unlawful use  
3 of controlled substances which are commonly referred to as, but  
4 not limited to, anabolic steroids, marijuana, and cocaine.

5 (c) The Legislature has classified certain substances as imitation  
6 controlled substances which are commonly referred to as, but not  
7 limited to, designer drugs.

8 (d) The Legislature has determined that the possession with the  
9 intent to be under the influence, or being under the influence of  
10 toluene, or any substance or material containing toluene, or any  
11 substance with similar toxic qualities, is unlawful. Some substances  
12 or materials containing toluene, or substances with similar toxic  
13 qualities are commonly referred to, but not limited to, inhalants  
14 such as cement, glue, and paint thinner.

15 (e) The Legislature has determined that the purchase, possession,  
16 or use of alcohol by persons under 21 years of age is unlawful.

17 ~~(f) Public and private agencies that provide information~~  
18 ~~pertaining to the drug and alcohol-related programs provide mixed~~  
19 ~~messages and misinformation relating to the unlawful use of drugs~~  
20 ~~and alcohol. It is the intent of the Legislature that the messages~~  
21 ~~and information provided by the drug and alcohol programs~~  
22 ~~promote no unlawful use of any drugs or alcohol. Mixed messages~~  
23 ~~mean communications discussing how to use or when to use~~  
24 ~~unlawful drugs or alcohol.~~

25 ~~(g) Any material, curricula, teachings, or promotion of~~  
26 ~~responsible use, if the use is unlawful, of drugs or alcohol is~~  
27 ~~inconsistent with the law.~~

28 ~~(h) The “no unlawful use” message applies to all drug and~~  
29 ~~alcohol programs for the people of the State of California. These~~  
30 ~~materials are to teach and promote that any unlawful use of drugs~~  
31 ~~and alcohol is illegal and dangerous.~~

32 *(f) Substance use disorder should be viewed and treated as a*  
33 *health problem, as well as a public safety problem as described*  
34 *in Section 11760.5.*

35 *(g) Comprehensive prevention and treatment services for*  
36 *individuals experiencing or recovering from substance use*  
37 *disorders must be medically accurate, culturally congruent, and*  
38 *evidence based.*

39 *(h) Naloxone, a life-saving opioid antagonist medication used*  
40 *to reverse an opioid overdose, including heroin, fentanyl, and*

1 *prescription opioid medications, is safe and easy to use, works*  
2 *almost immediately, and is not addictive. Naloxone has very few*  
3 *negative effects, and has no effect if opioids are not in a person's*  
4 *system.*

5 *(i) With the establishment of the Naloxone Distribution Program*  
6 *and the United States Food and Drug Administration's approval*  
7 *for over-the-counter, nonprescription use of naloxone for the*  
8 *reversal of an opioid overdose, the Legislature further finds that*  
9 *carrying naloxone provides an extra layer of protection for those*  
10 *at a higher risk for overdose. Although most professional first*  
11 *responders and emergency departments carry naloxone, they may*  
12 *not arrive in time to reverse an opioid overdose. Anyone can carry*  
13 *naloxone, give it to someone having an overdose, and potentially*  
14 *save a life. Bystanders such as friends, family, non-health care*  
15 *providers, and persons who use drugs can reverse an opioid*  
16 *overdose with naloxone.*

17 SEC. 15. Section 11999.1 of the Health and Safety Code is  
18 amended to read:

19 11999.1. For the purpose of this division, the following  
20 definitions apply:

21 (a) "Drug" means all of the following:

22 (1) Any controlled substance as defined in Division 10  
23 (commencing with Section 11000).

24 (2) Any imitation controlled substance as defined in Chapter 1  
25 (commencing with Section 11670) of Division 10.1.

26 (3) Toluene or any substance or material containing toluene or  
27 any substance with similar toxic qualities as set forth in Sections  
28 380 and 381 of the Penal Code.

29 (b) "Drug- or alcohol-related program" means any program  
30 designed to ~~reduce the unlawful use of, or assist those who engage~~  
31 ~~in the unlawful use of, drugs or alcohol;~~ *assist persons with*  
32 *substance use disorders* whether through education, prevention,  
33 intervention, treatment, ~~enforcement~~, or other means.

34 (c) "Local agency" shall include, but is not limited to, a county,  
35 a city, a city and county, and school district.

36 (d) "State agency" shall include the State Department of Health  
37 Care Services, the State Department of Education, the Department  
38 of Justice, the Office of Criminal Justice Planning, and the Office  
39 of Traffic Safety. Any other state agency or department may  
40 comply with this division.

1 SEC. 16. Section 11999.2 of the Health and Safety Code is  
2 repealed.

3 ~~11999.2. (a) Notwithstanding any other provision of law,~~  
4 ~~commencing July 1, 1990, no state funds shall be encumbered by~~  
5 ~~a state agency for allocation to any entity, whether public or~~  
6 ~~private, for a drug- or alcohol-related program, unless the drug-~~  
7 ~~or alcohol-related program contains a component that clearly~~  
8 ~~explains in written materials that there shall be no unlawful use of~~  
9 ~~drugs or alcohol. No aspect of a drug- or alcohol-related program~~  
10 ~~shall include any message on the responsible use, if the use is~~  
11 ~~unlawful, of drugs or alcohol.~~

12 ~~(b) All aspects of a drug- or alcohol-related program shall be~~  
13 ~~consistent with the “no unlawful use” message, including, but not~~  
14 ~~limited to, program standards, curricula, materials, and teachings.~~

15 ~~These materials and programs may include information regarding~~  
16 ~~the health hazards of use of illegal drugs and alcohol, concepts~~  
17 ~~promoting the well-being of the whole person, risk reduction, the~~  
18 ~~addictive personality, development of positive self-esteem,~~  
19 ~~productive decisionmaking skills, and other preventive concepts~~  
20 ~~consistent with the “no unlawful use” of drugs and alcohol~~  
21 ~~message.~~

22 ~~(c) The “no unlawful use” of drugs and alcohol message~~  
23 ~~contained in drug- or alcohol-related programs shall apply to the~~  
24 ~~use of drugs and alcohol prohibited by law.~~

25 ~~(d) This section does not apply to any program funded by the~~  
26 ~~state that provides education and prevention outreach to intravenous~~  
27 ~~drug users with AIDS or AIDS-related conditions, or persons at~~  
28 ~~risk of HIV-infection through intravenous drug use.~~

29 SEC. 17. Section 11999.2 is added to the Health and Safety  
30 Code, to read:

31 11999.2. (a) Notwithstanding any other law, an alcohol or  
32 other drug-related program shall be consistent with best clinical  
33 practices in alignment with the Substance Abuse and Mental Health  
34 Services Administration and the American Society of Addiction  
35 Medicine in order for state funds to be encumbered by a state  
36 agency for allocation to any entity, whether public or private.

37 (b) This section includes any program funded by the state that  
38 provides education and prevention outreach to persons at risk of  
39 HIV-infection, viral hepatitis, or other bloodborne infections through  
40 intravenous drug use, or an opioid overdose prevention and

1 treatment training program as defined in paragraph (2) of  
2 subdivision (a) of Section 1714.22 of the Civil Code.

3 SEC. 18. The heading of Part 4 (commencing with Section  
4 120775) of Division 105 of the Health and Safety Code is amended  
5 to read:

6  
7 PART 4. HUMAN IMMUNODEFICIENCY VIRUS (HIV) AND  
8 *OTHER BLOODBORNE DISEASES*  
9

10 SEC. 19. The heading of Chapter 1.5 (commencing with  
11 Section 120780) of Part 4 of Division 105 of the Health and Safety  
12 Code is amended to read:

13  
14 CHAPTER 1.5. STATE-~~HIV~~ HIV, VIRAL HEPATITIS, AND OTHER  
15 *BLOODBORNE DISEASE* PREVENTION AND EDUCATION FUNDS  
16

17 SEC. 20. Section 120780.1 of the Health and Safety Code is  
18 amended to read:

19 120780.1. A public entity that receives General Fund money  
20 from the State Department of Public Health for-~~HIV~~ HIV, viral  
21 hepatitis, and other bloodborne disease prevention and education  
22 may use that money to support clean needle and syringe exchange  
23 programs authorized pursuant to existing law. The money may be  
24 used for, but is not limited to, the purchase of sterile hypodermic  
25 needles and syringes as part of a clean needle and syringe exchange  
26 program ~~only if all of the following conditions are met: in~~  
27 ~~alignment with primary prevention activities as determined by the~~  
28 ~~Substance Abuse and Mental Health Services Administration for~~  
29 ~~the purposes of the administration of the Substance Use Prevention,~~  
30 ~~Treatment, and Recovery Services Block Grant, authorized by~~  
31 ~~Section 1921 of Subparts II and III of Part B of Title XIX of the~~  
32 ~~Public Health Service Act.~~

33 ~~(a) The General Fund money used for purchasing the sterile~~  
34 ~~hypodermic needles and syringes does not supplant any other~~  
35 ~~public or private funds or other resources for this purpose.~~

36 ~~(b) The amount of the General Fund money used for purchasing~~  
37 ~~the sterile hypodermic needles and syringes does not exceed 7.5~~  
38 ~~percent of the total amount of the General Fund money received~~  
39 ~~by the public entity for HIV prevention and education.~~

1 ~~(e) Each dollar of General Fund money used for purchasing the~~  
2 ~~sterile hypodermic needles and syringes is matched by forty-three~~  
3 ~~cents (\$0.43) of moneys from nonstate public funds or private~~  
4 ~~funds.~~

5 ~~(d) The allocation of General Fund money for the purchase of~~  
6 ~~sterile hypodermic needles and syringes is based upon~~  
7 ~~epidemiological data as reported by the health jurisdiction in its~~  
8 ~~local HIV prevention plan submitted to the Office of AIDS within~~  
9 ~~the department.~~

10 SEC. 21. Section 120780.2 of the Health and Safety Code is  
11 amended to read:

12 120780.2. In order to reduce the spread of HIV, ~~hepatitis C,~~  
13 *viral hepatitis*, and other potentially deadly bloodborne pathogens,  
14 the State Department of Public Health may purchase sterile  
15 hypodermic needles and syringes, and other supplies, for  
16 distribution to syringe exchange programs authorized pursuant to  
17 law and support any costs associated with distribution of supplies.  
18 Supplies provided to programs, including those administered by  
19 local health departments, are not subject to the formulas and limits  
20 of Section 120780.1.

21 SEC. 22. Section 120780.5 of the Health and Safety Code is  
22 amended to read:

23 120780.5. (a) Upon an appropriation in the annual Budget  
24 Act, the State Department of Public Health shall award funding,  
25 on a competitive basis, to community-based organizations or local  
26 health jurisdictions to provide comprehensive HIV prevention and  
27 control activities for the most vulnerable and underserved  
28 individuals living with, or at high risk for, HIV infection.  
29 Applicants may include individual community-based organizations  
30 and local health jurisdictions, as well as collaborations between  
31 community-based organizations and local health jurisdictions.

32 (b) Entities located in any county are eligible to receive grant  
33 funding.

34 (c) ~~Comprehensive—HIV~~ *HIV, viral hepatitis, and other*  
35 *bloodborne disease* prevention and control activities may include,  
36 but are not limited to, any of the following:

- 37 (1) HIV testing, including the purchase of HIV test kits.  
38 (2) Linkage to and retention in care for people living with HIV.  
39 (3) Pre-exposure prophylaxis (PrEP)-related and post-exposure  
40 prophylaxis (PEP)-related activities.

1 (4) Syringe services programs.

2 (d) The department shall determine the funding levels of each  
3 award based on scope and geographic area. Priority for grants shall  
4 be given to community-based organizations or local health  
5 jurisdictions that, through their applications, demonstrate expertise,  
6 history, and credibility at working successfully in engaging the  
7 most vulnerable and underserved individuals living with, or at high  
8 risk for, ~~HIV infection~~. *HIV, viral hepatitis, or other bloodborne*  
9 *infections*.

10 (e) Funds shall be allocated in a manner that balances the need  
11 to spread funding to as many local health jurisdictions and  
12 community-based organizations as possible and the need to provide  
13 meaningful activities to each recipient. Not less than 50 percent  
14 of the funds allocated shall be provided to community-based  
15 organizations, for purposes consistent with this section.

16 (f) The department shall determine the application process,  
17 selection criteria, and any reporting requirements for the grant,  
18 consistent with this section.

19 (g) The department shall develop measures for each local health  
20 jurisdiction and community-based organization funded pursuant  
21 to this section to demonstrate accountability.

22 (h) This section shall be operative only if funds are explicitly  
23 appropriated in the annual Budget Act specifically for purposes  
24 of this section.

25 SEC. 23. Section 121349 of the Health and Safety Code is  
26 amended to read:

27 121349. (a) The Legislature finds and declares that scientific  
28 data from needle exchange programs in the United States and in  
29 Europe have shown that the exchange of used hypodermic needles  
30 and syringes for clean hypodermic needles and syringes does not  
31 increase drug use in the population, can serve as an important  
32 bridge to treatment and recovery from ~~drug abuse~~, *substance use*  
33 *disorder*, and can curtail the spread of human immunodeficiency  
34 virus (HIV) infection among the intravenous drug user population.

35 (b) In order to reduce the spread of HIV infection and  
36 bloodborne hepatitis among the intravenous drug user population  
37 within California, the Legislature hereby authorizes a clean needle  
38 and syringe exchange project pursuant to this chapter in any city,  
39 county, or city and county upon the action of a county board of  
40 supervisors and the local health officer or health commission of

1 that county, or upon the action of the city council, the mayor, and  
2 the local health officer of a city with a health department, or upon  
3 the action of the city council and the mayor of a city without a  
4 health department.

5 (c) In order to reduce the spread of HIV infection, viral hepatitis,  
6 and other potentially deadly bloodborne infections, the State  
7 Department of Public Health may, notwithstanding any other law,  
8 authorize entities that provide services set forth in paragraph (1)  
9 of subdivision (d), and that have sufficient staff and capacity to  
10 provide the services described in Section 121349.1, as determined  
11 by the department, to apply for authorization under this chapter to  
12 provide hypodermic needle and syringe exchange services  
13 consistent with state standards in any location where the department  
14 determines that the conditions exist for the rapid spread of HIV,  
15 viral hepatitis, or any other potentially deadly or disabling  
16 infections that are spread through the sharing of used hypodermic  
17 needles and syringes. Authorization shall be made after  
18 consultation with the local health officer and local law enforcement  
19 leadership, and after a period of public comment, as described in  
20 subdivision (e). In making the determination, the department shall  
21 balance the concerns of law enforcement with the public health  
22 benefits. The authorization shall not be for more than two years.  
23 Before the end of the two-year period, the department may  
24 reauthorize the program in consultation with the local health officer  
25 and local law enforcement leadership.

26 (d) In order for an entity to be authorized to conduct a project  
27 pursuant to this chapter, its application to the department shall  
28 demonstrate that the entity complies with all of the following  
29 minimum standards:

30 (1) The entity provides, directly or through referral, all of the  
31 following services:

- 32 (A) ~~Drug abuse~~ *Substance use disorder* treatment services.
- 33 (B) HIV or hepatitis screening.
- 34 (C) Hepatitis A and hepatitis B vaccination.
- 35 (D) Screening for sexually transmitted infections.
- 36 (E) Housing services for the homeless, for victims of domestic  
37 violence, or other similar housing services.
- 38 (F) Services related to provision of education and materials for  
39 the reduction of sexual risk behaviors, including, but not limited  
40 to, the distribution of condoms.

1 (2) The entity has the capacity to commence needle and syringe  
2 exchange services within three months of authorization.

3 (3) The entity ~~has adequate funding~~ *can demonstrate that it has*  
4 *the ability* to do all of the following at reasonably projected  
5 program participation ~~levels~~: *levels within three months of*  
6 *authorization*:

7 (A) Provide needles and syringe exchange services for all of its  
8 participants.

9 (B) Provide HIV and viral hepatitis prevention education  
10 services for all of its participants.

11 (C) Provide for the safe recovery and disposal of used syringes  
12 and sharps waste from all of its participants.

13 (4) The entity has the capacity, and an established plan, to collect  
14 evaluative data in order to assess program impact, including, but  
15 not limited to, all of the following:

16 (A) The total number of persons served.

17 (B) The total number of needles and syringes distributed,  
18 recovered, and disposed of.

19 (C) The total numbers and types of referrals to drug treatment  
20 and other services.

21 (e) If the application is provisionally deemed appropriate by the  
22 department, the department shall, at least 45 days prior to approval  
23 of the application, provide for a period of public comment as  
24 follows:

25 (1) Post on the department's internet website the name of the  
26 applicant, the nature of the services, and the location where the  
27 applying entity will provide the services.

28 (2) Send a written and an email notice to the local health officer  
29 of the affected jurisdiction.

30 (3) Send a written and an email notice to the chief of police, the  
31 sheriff, or both, as appropriate, of the jurisdictions in which the  
32 program will operate.

33 (f) The department shall establish and maintain on its internet  
34 website the address and contact information of programs providing  
35 hypodermic needle and syringe exchange services pursuant to this  
36 chapter.

37 (g) The authorization provided under this section is only for a  
38 clean needle and syringe exchange project as described in Section  
39 121349.1.



1 (h) (1) Needle and syringe exchange services application  
2 submissions, authorizations, and operations performed pursuant  
3 to this chapter shall be exempt from review under the California  
4 Environmental Quality Act, Division 13 (commencing with Section  
5 21000) of the Public Resources Code.

6 (2) This subdivision is intended to be declaratory of existing  
7 law.

8 (i) If the department, in its discretion, determines that a state  
9 authorized syringe exchange program continues to meet all  
10 standards set forth in subdivision (d) and that a public health need  
11 exists, it may administratively approve amendments to a program's  
12 operations including, but not limited to, modifications to the time,  
13 location, and type of services provided, including the designation  
14 as a fixed site or a mobile site. The amendment approval is not  
15 subject to the noticing requirements of subdivision (e).

16 (j) The department shall have 30 business days to review and  
17 respond to the applicant's request for amendment of the  
18 authorization. If the department does not respond in writing within  
19 30 business days, the request shall be deemed denied.

20 (k) The provisions of this section are severable. If any provision  
21 of this section or its application is held invalid, that invalidity shall  
22 not affect other provisions or applications that can be given effect  
23 without the invalid provision or application.