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AB-1341 Public health: oral therapeutics. (2023-2024)

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Assembly Bill No. 1341

CHAPTER 276

An act to amend and repeal Section 1206.7 of, and to add and repeal Section 4052.04 of, the Business and Professions Code, and to amend Section 11215 of, and to amend and repeal Section 101161 of, the Health and Safety Code, relating to public health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2023. Filed with Secretary of State September 30, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1341, Berman. Public health: oral therapeutics.

Existing law authorizes a person to perform an analysis of samples to test for SARS-CoV-2 in a clinical laboratory or a city, county, or city and county public health laboratory if they meet the requirements under specified federal regulations for high complexity testing.

This bill would repeal these provisions as of July 1, 2028.

Existing law, the Pharmacy Law, establishes the California State Board of Pharmacy to license and regulate pharmacists. A violation of these requirements is a crime. Existing law authorizes a pharmacist, among other things, to administer drugs and biological products that have been ordered by a prescriber.

This bill, until January 1, 2025, would authorize a pharmacist to furnish COVID-19 oral therapeutics, as defined, following a positive test for SARS-CoV-2, the virus that causes COVID-19, as specified. Among other things, the bill would require a pharmacist to document, to the extent possible, the kind and amounts of COVID-19 oral therapeutics furnished pursuant to these provisions, as well as information regarding any testing services provided, in the record system maintained by the pharmacy and to maintain those records for 3 years. Because a violation of these requirements would be a crime, the bill would impose a state-mandated local program.

Existing law, the California Uniform Controlled Substances Act, regulates the distribution and use of controlled substances, as defined. Existing law authorizes specified individuals, when acting under the direction of a physician and surgeon, to administer a narcotic controlled substance orally in the treatment of a person with substance use disorder for addiction to a controlled substance.

This bill would instead authorize the above-described individuals to administer a narcotic controlled substance in the treatment of a person with substance use disorder for addiction to a controlled substance.

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

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

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1206.7 of the Business and Professions Code is amended to read:

1206.7. (a) Notwithstanding Section 1206.5, a person may perform an analysis of samples to test for SARS-CoV-2, the virus that causes COVID-19, in a clinical laboratory if they meet the requirements under the Clinical Laboratory Improvement Amendments in Section 493.1489 of Title 42 of the Code of Federal Regulations for high complexity testing.

(b) This section shall remain in effect only until July 1, 2028, and as of that date is repealed.

SEC. 2. Section 4052.04 is added to the Business and Professions Code, to read:

4052.04. (a) In addition to the authority provided in Section 4052, a pharmacist may furnish COVID-19 oral therapeutics following a positive test for SARS-CoV-2, the virus that causes COVID-19.

(b) Prior to furnishing COVID-19 oral therapeutics pursuant to subdivision (a), a pharmacist shall utilize relevant and appropriate evidence-based clinical guidelines published by the federal Food and Drug Administration in providing these patient care services.

(c) A pharmacist who furnishes COVID-19 oral therapeutics shall notify the patient's primary care provider, or enter the appropriate information in a patient record system shared with the primary care provider, as permitted by that primary care provider. If the patient does not have a primary care provider, the pharmacist shall provide the patient with a written record of the drugs furnished and advise the patient to consult a physician of the patient's choice.

(d) A pharmacist shall document, to the extent possible, the kind and amounts of COVID-19 oral therapeutics furnished pursuant to subdivision (a), as well as information regarding any testing services provided, in the patient's record in the record system maintained by the pharmacy. The records shall be maintained for three years and shall be available for inspection by all properly authorized personnel of the board.

(e) For purposes of this section, "COVID-19 oral therapeutics" means drugs that are approved or authorized by the United States Food and Drug Administration for the treatment of COVID-19 and administered orally.

(f) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 3. Section 11215 of the Health and Safety Code, as amended by Chapter 21 of the Statutes of 2023, is amended to read:

11215. (a) Except as provided in subdivision (b), any narcotic controlled substance employed in treating a person with substance use disorder for addiction shall be administered by:

(1) A physician and surgeon.

(2) A registered nurse acting under the instruction of a physician and surgeon.

(3) A physician assistant licensed pursuant to Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code acting under the patient-specific authority of their physician and surgeon.

(b) When acting under the direction of a physician and surgeon, the following persons may administer a narcotic controlled substance in the treatment of a person with substance use disorder for addiction to a controlled substance:

(1) A psychiatric technician licensed pursuant to Chapter 10 (commencing with Section 4500) of Division 2 of the Business and Professions Code.

(2) A vocational nurse licensed pursuant to Chapter 6.5 (commencing with Section 2840) of Division 2 of the Business and Professions Code.

(3) A pharmacist licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code.

(c) Except as permitted in this section, no person shall order, permit, or direct any other person to administer a narcotic controlled substance to a person being treated for addiction to a controlled substance.

SEC. 4. Section 101161 of the Health and Safety Code is amended to read:

101161. (a) A person may perform an analysis of samples to test for SARS-CoV-2, the virus that causes COVID-19, in any city or county public health laboratory if they meet the requirements under the Clinical Laboratory Improvement Amendments in Section 493.1489 of Title 42 of the Code of Federal Regulations for high complexity testing.

(b) This section shall remain in effect only until July 1, 2028, and as of that date is repealed.

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

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure the continued ability of pharmacists to furnish COVID-19 oral therapeutics to patients who test positive for SARS-CoV-2 at a pharmacy without delaying treatment, it is necessary that this act take effect immediately.