

State of California  
Department of Industrial Relations  
Occupational Safety and Health Standards Board

Petition File No. 602

Board Staff Evaluation  
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April 10, 2024



State of California  
Gavin Newsom, Governor

## INTRODUCTION

Petition 602 (Petition) was submitted by Lorraine M. Martin, President and CEO of the National Safety Council (NSC, Petitioner) on January 29, 2024. The Petition seeks changes to section 1512 of the Construction Safety Orders and section 3400 of the General Industry Safety Orders. Both sections address emergency medical services and first aid kits.

## REQUESTED ACTION

The Petitioner requests that opioid overdose reversal medication be added to the list of required items in job site first aid kits described in sections 1512 and 3400. Additionally, the Petitioner requests the addition of provisions for training employees to safely administer the medication.

## BACKGROUND/HISTORY

According to the April 2023 *Fatal Occupational Injuries in California 2013-2021* report developed by the Census of Fatal Occupational Injuries Program within the Cal/OSHA program, “The largest recent increase in fatalities by event occurred among those fatally exposed to harmful substances...[and much of that increase] was due to one particular cause: drug or alcohol overdoses.” The report states that “in 2018, 23 of 39 [59%] fatal occupational injuries from exposures to harmful substances were from unintentional overdoses” and in 2021, 85 of the 103 fatalities (83%) in the same category were from unintentional overdoses occurring at work<sup>1</sup>.

Assemblymember Matt Haney (D-San Francisco) recently introduced Assembly Bill (AB) 1976, which, if chaptered, would require naloxone to be included in workplace first aid kits.<sup>2</sup> Senate Bill (SB) 234, authored by Senator Anthony J. Portantino (D – Burbank) and signed by Governor Newsom on October 8, 2023, requires naloxone to be present at stadiums, concert venues and amusement parks.<sup>3</sup>

On November 3, 2010, the Board received Petition 519 from Ricardo Beas, requesting that section 3400 be amended to allow employers to consult sources other than a physician to determine first aid kit contents and that a table be added to the section with a list of acceptable items that should be included in the kit, similar to the corresponding Construction Safety Order’s section 1512 in existence at the time. The Board granted the petition to the extent that an advisory committee was convened, but staff is aware of no further action.

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<sup>1</sup> [https://www.dir.ca.gov/dosh/cfoi/CFOI\\_2021/Fatalities-Report-2013-2021.pdf](https://www.dir.ca.gov/dosh/cfoi/CFOI_2021/Fatalities-Report-2013-2021.pdf). Accessed 2/12/2024.

<sup>2</sup> <https://a17.asmdc.org/press-releases/20240201-first-nation-law-require-overdose-reversing-nasal-spray-all-first-aid-kits>. Accessed 2/22/2024.

<sup>3</sup> [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202320240SB234](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240SB234). Accessed 2/22/2024.

## **PETITIONER'S ASSERTIONS**

The Petitioner asserts the following in support of the request:

- With the number of workplace overdose deaths on the rise, opioid overdose reversal medication is now an essential component of an adequate first aid kit.
- According to provisional data from the Centers for Disease Control and Prevention (CDC), approximately 83,000 people died of an opioid overdose in 2022, including almost 7,000 deaths in California.
- No industry or occupation is immune to this crisis, and workplace overdose deaths have increased 536 percent since 2011.
- Nationally, overdoses now account for nearly 1 in 11 worker deaths on the job.
- In California, over 18 percent of workplace fatalities in 2021 were due to an unintentional overdose.
- Including opioid overdose reversal medications at worksites – either in a first aid kit or elsewhere – and training employees to use them is a critical component of emergency response.
- Anyone at a workplace, including workers, clients, customers and visitors, is at risk of overdosing if using opioids.
- The inclusion of an opioid overdose reversal medication requirement in sections 1512 and 3400 will help California combat the opioid crisis by ensuring worksites are appropriately equipped to respond to such an emergency.

## **DIVISION OF OCCUPATIONAL SAFETY AND HEALTH (Cal/OSHA) EVALUATION**

The Cal/OSHA evaluation, dated April 2, 2024, recommends that the Petition be granted to the extent that Cal/OSHA is requested to “propose a necessary amendment to title 8, separate from sections 1512 and 3400 [that] would require employers to provide ready access by employees to opioid antagonists, and to train employees on their safe use.” The evaluation states that requirements for opioid reversal medication should be kept separate from first aid kit requirements so that the contents of the kits can be consistent with ANSI national consensus standards.

## **STAFF EVALUATION**

### **Relevant Standards**

#### ***Federal Standards***

Paragraph (b) of CFR 1910.151 “Medical services and first aid” for general industry employers requires that “Adequate first aid supplies shall be readily available.” Non-mandatory Appendix A to CFR 1910.151 states:

[E]mployers who have unique or changing first-aid needs in their workplace may need to enhance their first-aid kits. The employer can use the OSHA 300 log, OSHA 301 log, or other reports to identify these unique problems. Consultation from the local fire/rescue department, appropriate medical professional, or local emergency room may be helpful to employers in these circumstances. By assessing the specific needs of their workplace, employers can ensure that reasonably anticipated supplies are available. Employers should assess the specific needs of their worksite periodically and augment the first aid kit appropriately.

Paragraph (d) of 1926.50 “Medical services and first aid” for construction employers contains requirements for first aid kits as follows:

1926.50(d)(1) First aid supplies shall be easily accessible when required.

1926.50(d)(2) The contents of the first aid kit shall be placed in a weatherproof container with individual sealed packages for each type of item, and shall be checked by the employer before being sent out on each job and at least weekly on each job to ensure that the expended items are replaced.

### ***California Standards***

Section 1512 “Emergency Medical Services” of the Construction Safety Orders requires employers in the construction industry to provide at least one first aid kit. The kit must be inspected to ensure that expended items are promptly replaced and arranged so items in the kit can be found quickly and remain sanitary.

The section contains a list of supplies required to be present in the kit, depending on the number of employees at the worksite. Subsections 1512(c)(2) – (3) address the inclusion of items not specifically listed in the regulation as follows:

1512(c)(2) Other supplies and equipment, when provided, shall be in accordance with the documented recommendations of an employer-authorized, licensed physician upon consideration of the extent and type of emergency care to be given based upon the anticipated incidence and nature of injuries and illnesses and availability of transportation to medical care.

(3) Drugs, antiseptics, eye irrigation solutions, inhalants, medicines, or proprietary preparations shall not be included in first-aid kits unless specifically approved, in writing, by an employer-authorized, licensed physician.

Section 3400 “Medical Services and First Aid” in the General Industry Safety Orders requires first aid materials as follows:

3400(c) There shall be adequate first-aid materials, approved by the consulting physician, readily available for employees on every job. Such materials shall be kept in a sanitary and usable condition. A frequent inspection shall be made of all first-aid materials, which shall be replenished as necessary.

Health and Safety Code article 2.5 “Requirements for Licensees” section 11834.26(f)(1) requires that a licensee maintain at least two unexpired doses of naloxone on the premises. The text also exempts trained staff members from liability for administration of the medicine.<sup>4</sup>

### ***Consensus Standards***

ANSI/ISEA Z308.1-2021 “American National Standard - Minimum Requirements for Workplace First Aid Kits and Supplies” establishes minimum performance requirements for first aid kits and their supplies that are intended for use in various work environments. Classification of first aid kits, designating the assortment of items and quantity of each item is based on the complexity of the work environment and level of hazards. First aid kit containers are classified by portability, ability to be mounted, resistance to water and corrosion and impact resistance.<sup>5</sup>

### **Staff Analysis**

The term “narcotic drugs” has been used historically to refer to any substance that dulls the senses and relieves pain. To avoid confusion with illicit drugs, the term “opioid” is now preferred, though the meaning of the terms is synonymous. Opioids can be natural, synthetic, semi-synthetic, legal and illegal chemicals used to reduce the intensity of pain signals and feelings of pain in the body.<sup>6</sup> Examples of opioids include heroin, fentanyl, oxycodone (OxyContin®), hydrocodone (Vicodin®), codeine, and morphine.<sup>7</sup>

According to the CDC, more than 1 million people have died from a drug overdose since 1999. In 2021, more than 75% of drug overdose deaths involved an opioid. The number of overdose deaths involving opioids, including prescription opioids, heroin, and synthetic opioids (like fentanyl), in 2021 was 10 times the number in 1999. Overdoses involving opioids killed more than 80,000 people in 2021, and nearly 88% of those deaths involved synthetic opioids.<sup>8</sup>

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[https://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?division=10.5.&chapter=7.5.&part=2.&lawCode=HSC&article=2.5](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?division=10.5.&chapter=7.5.&part=2.&lawCode=HSC&article=2.5). Accessed 2/22/2024.

<sup>5</sup> <https://webstore.ansi.org/standards/isea/ansiiseaz3082021>. Accessed 2/13/2024.

<sup>6</sup> <https://www.cdc.gov/opioids/basics/terms.html>. Accessed 2/13/2024.

<sup>7</sup> <https://nida.nih.gov/publications/drugfacts/naloxone>. Accessed 2/13/2024.

<sup>8</sup> <https://www.cdc.gov/opioids/data/index.html>. Accessed 2/13/2024.

To reverse the effects of an opioid overdose and restore normal breathing, opioid antagonist drugs have been developed. Naloxone is an FDA-approved opioid antagonist available in an injectable and nasal spray form and marketed under the names Zimhi (injectable) and generic naloxone, Narcan and Kloxxado (nasal spray).<sup>9</sup>

The National Institute on Drug Abuse within the National Institutes of Health recommends that “families with loved ones who struggle with opioid addiction [have] naloxone nearby.”<sup>10</sup> According to a CDC fact sheet for families and caregivers of opioid users, “Naloxone can be given safely to people of all ages, from infants to older adults.” The same fact sheet warns that naloxone only works in the body for 30 to 90 minutes, while opioids can remain in the body for much longer. The CDC recommends calling 911 after the naloxone is administered to ensure that the patient receives the proper care.<sup>11</sup>

According to the California Department of Public Health (CDPH), “Naloxone has very few negative effects, and has no effect if opioids are not in a person’s system.” CDPH also states that naloxone should be kept in its box until ready for use, protected from light, stored at room temperature below 77 degrees Fahrenheit (°F) or as directed by the manufacturer. Care must be taken to prevent freezing or exposure to heat above 104°F.<sup>12</sup>

Board staff surveyed various pharmacies (Walgreens, CVS, Target) in the Sacramento area and found that a two-pack of Narcan nasal spray (4 mg single dose) costs \$44.99 at each of the stores. On January 17, 2024, the FDA announced that the shelf life of the Narcan nasal spray (4 mg single dose) was extended to four years from the date of manufacture.<sup>13</sup>

A briefing published by the CDPH’s Overdose Prevention Initiative entitled, “Opioid-Related Overdose Deaths in California, 2021” states that “in 2021, there were 10,898 all drug-related overdose deaths in California.” The brief continues, stating “the majority (65.8%) of these drug-related overdose deaths involved an opioid, a total of 7,175 opioid-related overdose deaths.”

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<sup>9</sup> <https://nida.nih.gov/publications/drugfacts/naloxone>. Accessed 2/13/2024.

<sup>10</sup> Ibid. Accessed 2/13/2024.

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[https://www.cdc.gov/opioids/naloxone/factsheets/pdf/Naloxone\\_FactSheet\\_FamilyandCaregivers\\_WhatYouNeedToKnow.pdf](https://www.cdc.gov/opioids/naloxone/factsheets/pdf/Naloxone_FactSheet_FamilyandCaregivers_WhatYouNeedToKnow.pdf). Accessed 2/13/2024.

<sup>12</sup> <https://www.cdph.ca.gov/Programs/CCDPPH/sapb/Pages/Naloxone.aspx#tag6>. Accessed 2/21/2024.

<sup>13</sup> <https://www.fda.gov/drugs/drug-safety-and-availability/fda-announces-shelf-life-extension-naloxone-nasal-spray>. Accessed 2/13/2024.

### Discussion

Although the CDC and CDPH recommend that opioid users and their families and friends carry naloxone,<sup>14,15</sup> requiring the medicine in every first aid kit in a California workplace could pose challenges to employers. The “Opioids at Work, Employer Toolkit” developed by the NSC (the Petitioner’s organization), warns employers to consider “liability and other legal issues” before implementing a workplace naloxone program. To address legal and liability concerns, the NSC suggests program development in partnership with an organization’s legal advisors.

Furthermore, the NSC alerts employers that the program must ensure employee confidentiality, compliance with federal, state and local regulations, including but not limited to OSHA, the Americans with Disabilities Act (ADA), Mental Health Parity Act and HIPAA, and comply with union and industry regulations. A significant number of California businesses may lack access to the necessary resources to properly implement an onsite naloxone program, as recommended by NSC.

As described above, the CDPH states that in 2021 there were 7,175 opioid overdose deaths in California. The April 2023 *Fatal Occupational Injuries in California 2013-2021* report from Cal/OSHA says that in 2021 there were 85 work-related fatalities due to drug or alcohol overdoses; however, the report does not specify how many were related to opioid use. About 1% of the more than 7,000 opioid deaths in California are potentially work related.

Existing Cal/OSHA regulations regarding first aid kits do not prohibit employers from stocking naloxone if the employer obtains physician approval prior to providing such protection. Maintaining a supply of naloxone onsite may be easier for some employers than others. For instance, a mobile work crew with a first aid kit located in a vehicle may have more difficulty keeping the medicine at the recommended storage temperature than an office-based employer. Privacy (employee confidentiality, ADA, Mental Health Parity Act, HIPAA, etc.), training availability and comprehension and other concerns can also be expected to impact different workplaces unequally.

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[https://www.cdc.gov/opioids/naloxone/factsheets/pdf/Naloxone\\_FactSheet\\_FamilyandCaregivers\\_WhatYouNeedToKnow.pdf](https://www.cdc.gov/opioids/naloxone/factsheets/pdf/Naloxone_FactSheet_FamilyandCaregivers_WhatYouNeedToKnow.pdf). Accessed 2/21/2024.

<sup>15</sup> <https://www.cdph.ca.gov/Programs/CCDPHP/sapb/Pages/Naloxone.aspx#tag6>. Accessed 2/21/2024.

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Within the Non-mandatory Appendix A to CFR 1910.151 federal OSHA suggests that employers refer to “the OSHA 300 log, OSHA 301 log, or other reports to identify” the need for adding items to their first aid kit. Board staff opines that the decision on whether or not to stock naloxone in a first aid kit should be left up to the employer’s evaluation of workplace hazards. Although some workplaces could decide that having naloxone available in their first aid kits is protective of employee safety and health, mandating its presence in all workplace first aid kits could prove unnecessarily burdensome to many employers.

### **STAFF RECOMMENDATION**

Board staff recommends Petition File No. 602 be DENIED.