

Date of Hearing: April 8, 2025

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Alex Lee, Chair

AB 1172 (Nguyen) – As Introduced February 21, 2025

SUBJECT: Adult day programs: administration of inhalable emergency antiseizure medications

SUMMARY: Permits individuals with developmental disabilities to receive emergency seizure medication by creating a training pathway for employees of licensed facilities that choose to volunteer. Specifically, **this bill:**

- 1) Permits a licensed facility to designate one or more volunteers to receive training as described in 2) below, to administer inhalable emergency antiseizure medication to an individual during a seizure inhalable emergency, upon request from the representative of an individual with a developmental disability diagnosed with seizures, seizure disorder, or epilepsy, who has been prescribed inhalable emergency antiseizure medication by their health care provider.
- 2) Requires the California Department of Social Services (CDSS) to adopt minimum training standards for recognizing and responding to seizures that align with existing training requirements as described below in existing law.
- 3) Requires licensed facilities:
 - a) To retain written materials developed in 2) above.
 - b) Provide volunteers a notice informing them that they may rescind their offer to volunteer at any time without penalty or retaliation.
 - c) To inform the individual's regional center if there are no volunteers to administer inhalable emergency antiseizure medication.
- 4) Requires a licensed facility to develop a seizure action plan before administering inhalable emergency antiseizure medication prescribed to treat seizures in an individual diagnosed with seizures, a seizure disorder, or epilepsy. The action plan must include:
 - a) Written authorization for the inhalable emergency antiseizure medication to be administered to the individual at the licensed facility. The authorization shall be effective for the calendar year in which it is granted and shall be renewed each calendar year unless needed sooner;
 - b) A copy of a written statement from the individual's health care provider that includes all of the following information:
 - i) The individual's name;
 - ii) The name and purpose of the medication;
 - iii) The prescribed dosage;

- iv) The method of administration;
 - v) The frequency with which the medication may be administered;
 - vi) Detailed seizure symptoms, including frequency, type, or length of seizures, that identify when the administration of an inhalable emergency antiseizure medication becomes necessary;
 - vii) The circumstances under which the medication may be administered;
 - viii) Any potential adverse responses by the individual and recommended mitigation actions, including when to call emergency services, including the emergency 911 telephone number; and,
 - ix) A protocol for observing the individual after a seizure, including, but not limited to, either of the following:
 - (1) Whether the individual should rest in a specific area or return to regular activities; or,
 - (2) The length of time the individual should be under direct observation; and,
 - c) Clear instructions on how and where the inhalable emergency antiseizure medication should be stored at the licensed facility.
- 5) Requires an administrator to document the administration of the medication if a volunteer administers inhalable emergency antiseizure medication in accordance with Title 22 of the California Code of Regulations (CCR).
 - 6) Requires the inhalable emergency antiseizure medication prescribed for the individual provided to the licensed facility with the label affixed by the dispensing pharmacy intact.
 - 7) Provides that volunteers are provided defense and indemnification for any and all civil liability.
 - 8) Specifies that notwithstanding any other law, but subject to 9) below, a trained person who administers anti-seizure medication, in good faith and not for compensation, to a pupil who appears to be experiencing a seizure in compliance with the requirements of the bill will not be subject to professional review, be liable in a civil action, or be subject to criminal prosecution for the person's acts or omissions in administering the anti-seizure medication.
 - 9) Specifies that 8) above, does not affect any of the following:
 - a) A person's liability for an act or omission that constitutes gross negligence or willful or wanton misconduct.
 - b) A person's culpability for an act that constitutes a crime and is not specifically authorized by this bill.
 - c) The ability of a licensing board to take disciplinary action against a licensed healthcare professional for an act not specifically authorized by this article.

- 10) Specifies that any employee of a licensed facility who volunteers to administer inhalable emergency antiseizure medication as permitted by this bill is not providing inhalable emergency medical care for compensation, notwithstanding the fact that the employee is a paid staff member of the facility.

EXISTING LAW:

- 1) Establishes the Seizure Safe Schools Act and authorizes schools to designate and train persons to provide anti-seizure medication in an emergency involving a pupil diagnosed with a seizure disorder while granting qualified immunity. (Education Code [EDC] § 49468)
- 2) Defines “developmental disability” as a disability that originates before an individual attains 18 years of age, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual. Further, as defined by the Director of the Department of Developmental Services, in consultation with the Superintendent of Public Instruction, this term shall include intellectual disability (ID), cerebral palsy, epilepsy, and autism. A developmental disability also includes disabling conditions found to be closely related to ID or to require treatment similar to that required for individuals with an ID, but does not include other handicapping conditions that are solely physical in nature. (Welfare and Institutions Code [WIC] § 4512)
- 3) Establishes the California Community Care Facilities Act and requires CDSS to administer and license community care facilities providing nonmedical services, including residential facilities and adult day programs, among others. (Health and Safety Code [HSC] §1500 *et seq.*)
- 4) Defines a “residential facility” as any family home, group care facility, or similar facility determined by CDSS, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living (ADLs) or for the protection of the individual. (HSC § 1502(a)(1))
- 5) Defines an “adult day program” as any community-based facility or program that provides care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the ADLs or for the protection of these individuals on less than a 24-hour basis. (HSC §1502(a)(2))
- 6) Provides civil liability protections for those who in good faith, and not for compensation, renders emergency medical or nonmedical care at the scene of an emergency. (HSC § 1799.102)
- 7) Prohibits an employer from adopting or enforcing a policy prohibiting an employee from voluntarily providing emergency medical services, including, but not limited to, cardiopulmonary resuscitation, in response to a medical emergency, except to adopt a policy 1) authorizing employees trained in emergency services to provide those services when the trained professional is not immediately available, or 2) when a patient has expressed do not resuscitate order, a Physician Orders for Life Sustaining Treatment form, an advance health care directive, or a legally recognized health care decisionmaker. (HSC § 1799.103)

- 8) Defines “adult residential facility” (ARF) to mean any facility of any capacity that provides 24-hour-a-day nonmedical care and supervision to persons 18 years of age through 59 years of age. (22 CCR § 80001(a)(5))
- 9) Requires licensed community care facilities to ensure that each client receives first aid and other needed medical or dental services, including arrangement for and/or provision of transportation to the nearest available services. Further, requires clients to be assisted with self-administration of medication. (22 CCR § 80075)

FISCAL EFFECT: Unknown, this bill has not been analyzed by a fiscal committee.

COMMENTS: This analysis only discusses policy issues germane to the jurisdiction of the Assembly Committee on Human Services.

Background: *Epilepsy and the Intellectual/Developmentally Disabled Community are Highly Correlated.* In California, epilepsy alone can be considered a developmental disability when it persists past 18 years of age and it impedes ADLs. Additionally, epilepsy is also often a comorbidity for individuals with autism spectrum disorder (ASD) or cerebral palsy.

Seizures are more common in individuals with ASD than in the general population. In the general population, less than 1% of individuals 17 years of age and younger develop clinical seizures. By comparison, in children 13 years of age and older with ASD, 26% were diagnosed with epilepsy. (Viscidi E.W. et. al, 2013) Similarly, the Epilepsy Foundation reports, “About 25% to 35% of all children with cerebral palsy have epilepsy.” There is not a conclusion on the precise correlation, but researchers generally believe it is linked to similar neurological abnormalities. Given the higher risk statistical chance that some with an Intellectual or Developmental Disability (I/DD), it does warrant the discussion: Should non-medical caretakers be trained and responsible to administer epileptic medication during an emergency?

Adult Day Programs and Adult Residential Facilities. CDSS is responsible for licensing and oversight of community care facilities that provide care to older adults as well as adults with disabilities. These programs do not and cannot provide medical services without additional licensing.

Adult day programs often assist working caregivers to balance the needs of work and caregiving responsibilities as well as respite for full-time family caregivers. These programs are designed to help people stay mentally and physically active while reducing their isolation, improving their health, and preventing the decline of their abilities. These programs may serve persons who are between 18 and 59 years of age or those who are 60 years of age or older under specified requirements. These clients may have a mental, physical, or developmental disability.

Sometimes called board and care homes, ARFs are residential facilities that offer 24-hour nonmedical care and supervision for persons in need of personal services, supervision, or assistance essential for sustaining the ADLs or for the protection of the individual. ARFs may serve persons who are between 18 and 59 years of age or those who are 60 years of age or older under specified requirements. These clients may have a mental, physical, or developmental disability.

ARFs are for people who are unable to live by themselves but who do not need 24-hour nursing care. They are considered non-medical facilities and are not required to have nurses, certified

nursing assistants, or doctors on staff. Facilities usually centrally store and distribute medications for residents to self-administer.

Epileptic Drugs for Emergency Use. Emergency rescue medications for epilepsy can stop a seizure crisis near immediately. These medications are fast-acting with their effects wearing off within hours. Because taking an oral medication is often not possible during a seizure, emergency management of seizures is available in forms that can be injected into a muscle, administered intravenously, used as a nasal spray, or administered rectally. Often these varied approaches are tailored to the individual's needs. For example, someone who experiences cluster seizures is recommended to take benzodiazepine; however, Nasal Valtoco, Nayzilam, and rectal diazepam gel are FDA-approved rescue medications. (Jafarpour S. et. al, 2018)

This bill only allows for the use of inhalable medications. A staff volunteer would not be permitted to administer intramuscularly, intravenously, or rectally.

Author's Statement: According to the Author, "Community Care Licensed day programs and Adult Residential Facilities provide essential care for individuals who have developmental disabilities. Despite providing care to a population which is 20 times more likely to suffer from epilepsy than the general population, Community Care Licensed day program and Adult Residential Facility staff are prohibited by current regulations from administering emergency inhalable anti-seizure medication. As a result individuals experiencing seizures must either wait for emergency medical personnel or be transported to a hospital, leading to prolonged seizures and unnecessary hospitalizations.

"[This bill] addresses this issue by establishing a framework to enable trained, voluntary staff within Community Care Licensed day programs and Adult Residential Facilities to administer emergency inhalable anti-seizure medication. This bill prevents delays in treatment, lowering the risk of serious medical outcomes and helping the developmentally disabled remain in stable care settings."

Policy Considerations: This bill only provides for individuals with I/DD to receive emergency antiseizure medication in adult day programs and residential facilities. However, both license types serve a broader population.

Should this bill move forward, the Author may wish to include all individuals in these facilities.

This bill attempts to replicate procedures put in place by a previous bill that pertains only to the education system, which services a population of mostly abled-bodied children. The populations in adult day programs and residential facilities are different, and the procedures decided upon for school children may not always be analogous.

Should this bill move forward, the Author may wish to further expand on the requirements for the procedures that CDSS would be required to adopt.

This bill allows non-medical persons to administer medication, but does not require notice to caretakers or individuals themselves.

Should this bill move forward, the Author may wish to require written notification and acknowledgement from caregivers of who will be administering the medication.

Proposed Committee Amendments: The Committee proposes amendments to address policy considerations stated above to do the following:

- HSC 1528. (1) “Licensed facility” means an adult day program or an adult residential facility, as defined in Section 1502, ~~that is licensed under this chapter and serves adults with developmental disabilities, as defined in Section 4512 of the Welfare and Institutions Code.~~
- HSC 1528.1 (a) The State Department of Social Services, on or before January 1, 2027, in consultation with, organizations and providers with expertise in epilepsy and administering emergency anti-seizure medication and administering medication in a school environment, including, but not limited to, the Epilepsy Foundation, Epilepsy Foundations in California, and the California Medical Association, shall adopt minimum training standards for recognizing and responding to seizures, including administering inhalable emergency antiseizure medication. ~~These standards shall align with the training requirements described in Article 4.6 (commencing with Section 49468) of Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code.~~

These standards may align with the training requirements described in Article 4.6 (commencing with Section 49468) of Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code when appropriate to the setting, age, and ability of residents and participants pursuant to this section.

(b) Training established pursuant to this subdivision shall include all of the following:

(1) Recognition of the signs and symptoms of seizures and the appropriate steps to be taken to respond to those symptoms.

(2) Administration, or assisting with the self-administration of, an inhalable emergency antiseizure medication.

(3) Basic emergency followup procedures.

(4) Written materials covering the information required under this subdivision.

~~(b)~~ (c) The training developed pursuant to this section shall be consistent with the requirements for medication administration specified in Title 22 of the California Code of Regulations.

(c) Licensed facilities shall retain, for reference, the written materials prepared pursuant to this section.

(d) Training shall be provided to volunteers at no cost to the volunteer and during the volunteer’s regular working hours.

(e) Licensed facilities shall provide a notice to volunteers that informs them of their right to rescind an offer to volunteer at any time, including after receiving training, without penalty or retaliation. The notice shall state there that there will be no retaliation against any employee for rescinding their offer to volunteer.

(f) If there are no volunteers at the licensed facility to administer inhalable emergency antiseizure medication, the facility shall notify the requesting individual's regional center service coordinator.

- HSC 1528.3. (a) Before administering inhalable emergency antiseizure medication prescribed to treat seizures in an individual diagnosed with seizures, a seizure disorder, or epilepsy, a licensed facility shall develop, **and approved by the individual or their legal guardian,** a seizure action plan that includes all of the following:

(1) Written authorization for the inhalable emergency antiseizure medication to be administered to the individual at the licensed facility. The authorization shall be effective for the calendar year in which it is granted and shall be renewed each calendar year, unless needed sooner.

(2) A copy of a written statement from the individual's health care provider that includes all of the following information:

(A) The individual's name.

(B) The name and purpose of the medication.

(C) The prescribed dosage.

(D) The method of administration.

(E) The frequency with which the medication may be administered.

(F) Detailed seizure symptoms, including frequency, type, or length of seizures, that identify when the administration of an inhalable emergency antiseizure medication becomes necessary.

(G) The circumstances under which the medication may be administered.

(H) Any potential adverse responses by the individual and recommended mitigation actions, including when to call emergency services, including the emergency 911 telephone number.

(I) A protocol for observing the individual after a seizure, including, but not limited to, either of the following:

(i) Whether the individual should rest in a specific area or return to regular activities.

(ii) The length of time the individual should be under direct observation.

(3) Clear instructions on how and where the inhalable emergency antiseizure medication should be stored at the licensed facility.

(b) The facility administrator or their designee shall document and maintain a copy of the individual's seizure action plan in compliance with all applicable state and federal privacy laws.

(c) If a volunteer administers inhalable emergency antiseizure medication pursuant to this article, the administrator or their designee shall document the administration of the medication in accordance with Title 22 of the California Code of Regulations.

(d) Inhalable emergency antiseizure medication prescribed for the individual shall be provided to the licensed facility with the label affixed by the dispensing pharmacy intact.

(4) A signed notice verifying that an individual's seizure may be responded to, including with the administration of emergency anti-seizure medication prescribed to the individual, by a nonmedical professional who has received training.

Double referral: Should this bill pass out of this committee, it will be referred to the Assembly Committee on Judiciary.

RELATED AND PRIOR LEGISLATION:

AB 1810 (Levine) Chapter 906, Statutes of 2022, authorized a trained employee volunteer to administer emergency anti-seizure medication to a pupil upon the request of the parent, required the development of state standards for the training, and required the parent to provide specified information to the local educational agencies, including a seizure action plan.

REGISTERED SUPPORT / OPPOSITION:

Support

Association of Regional Center Agencies (Sponsor)
Epilepsy Foundation Los Angeles
Epilepsy Foundation of America
Epilepsy Foundation of Northern California
Epilepsy Foundation of San Diego County
The Arc and United Cerebral Palsy California Collaboration

Opposition

None on file.

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