

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

AB 2132 (Low)
Version: June 25, 2024
Hearing Date: July 2, 2024
Fiscal: Yes
Urgency: No
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SUBJECT

Health care services

DIGEST

This bill requires an adult patient receiving primary care services in specified health care settings, to be offered a tuberculosis (TB) risk assessment and TB screening test, if certain conditions apply, and followup care if the patient tests positive. The bill provides that no liability attaches for a health care provider's failure to comply with these requirements.

EXECUTIVE SUMMARY

According to the World Health Organization, an estimate 10.6 million people fell ill with TB worldwide in 2022 with a total of 1.3 million people dying from TB. In 2022, almost 2,000 new TB cases were reported in California in 45 of California's local health jurisdictions. This is despite the fact that this infection is preventable and curable.

To respond to this increased incidence of TB in our communities, this bill requires patients to be offered TB risk assessment and screening tests if TB risk factors are identified based on the latest screening indications recommended by the United States Preventive Services Task Force (USPSTF), to the extent these services are covered under the patient's health insurance, and certain conditions are met. No liability attaches, however, for a health care provider's violation of this bill's provisions.

This bill is supported by various governmental entities and health care organizations, including the County of Santa Clara and the Coalition for a TB Free California. It is opposed by the California Primary Care Association Advocates. This bill passed out of the Senate Health Committee on a vote of 11 to 0.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Provides that any person who violates specified portions of the Health and Safety Code, or who willfully or repeatedly violates any rule or regulation adopted thereunder is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine or by imprisonment, or by both the fine and imprisonment. (Health & Saf. Code § 1290.)
- 2) Establishes the Department of Public Health (CDPH), directed by a state Public Health Officer (PHO), to be vested with all the duties, powers, purposes, functions, responsibilities, and jurisdiction as they relate to public health and licensing of health facilities, as specified. Gives the PHO broad authority to detect, monitor, and prevent the spread of communicable disease in the state. (Health & Saf. Code § 131050 and § 120130 et seq.)
- 3) Exempts various types of clinics from licensure and regulation by CDPH, including any place or establishment owned or operated as a clinic or office by one or more licensed health care practitioners and used as an office for the practice of their profession, and any clinic operated as an outpatient department of a hospital. (Health & Saf. Code § 1206.)
- 4) Requires every health care provider, knowing of or in attendance on a case or suspected case of a disease on the list of reportable diseases and conditions, to be reported as required to CDPH, including TB. (17 C.C.R. §§ 2500, 2593, 2641.5-2643.20, and 2800-2812.)
- 5) Requires an adult patient who receives primary care services in a facility, clinic, unlicensed clinic, center, office, or other setting where primary care services are provided, to be offered a hepatitis B screening test and a hepatitis C screening test, to the extent these services are covered under the patient's health insurance, based on the latest screening indications recommended by the USPSTF, unless the health care provider reasonably believes that specified conditions apply, including that the patient is being treated for a life-threatening emergency or the patient lacks capacity to consent to such tests. (Health & Saf. Code § 1316.7.)

This bill:

- 1) Provides that an adult patient who receives primary care services in a facility, clinic, unlicensed clinic, center, office, or other setting where primary care services are provided, shall be offered a TB risk assessment and TB screening test, if TB risk factors are identified, to the extent these services are covered under the patient's health care coverage, based on the latest screening indications

recommended by the USPSTF, unless the health care provider reasonably believes that one of the following conditions applies:

- a) The patient is being treated for a life-threatening emergency.
 - b) The patient has previously been offered or has been the subject of a TB risk assessment, TB screening test, or both, and has no new TB risk factors since the last TB risk assessment or TB screening test, unless the health care provider determines that they should be offered again.
 - c) The patient has a documented, previously positive Interferon-Gamma Release Assays (IGRA) test or has previously tested positive for a latent TB infection (LTBI).
 - d) The patient lacks capacity to consent to the assessment or test.
 - e) The patient is being treated in the emergency department of a general acute care hospital, as defined.
- 2) Requires a health care provider, if a patient accepts the offer of the TB screening test and the test is positive, to offer the patient followup health care or refer the patient to a health care provider who can provide followup health care.
 - 3) Clarifies that it does not affect the scope of practice of any health care provider or diminish any authority or legal or professional obligation of any health care provider to offer a TB risk assessment, TB screening test, or both, or to provide services or care for the patient of a TB risk assessment, TB screening test, or both.
 - 4) Provides that a health care provider that fails to comply with these requirements shall not be subject to any disciplinary actions related to their licensure or certification, or to any civil or criminal liability, because of the health care provider's failure to comply with these requirements.
 - 5) States that the penalties provided for in Section 1290 of the Health and Safety Code do not apply to a violation of this section.
 - 6) Defines the following terms:
 - a) "Followup health care" includes providing medical management and treatment for TB according to the latest national clinical practice guidelines recommended by the federal Centers for Disease Control and Prevention and the American Thoracic Society.
 - b) "Tuberculosis risk assessment" or "TB risk assessment" means a risk assessment questionnaire developed by CDPH, in consultation with the California Tuberculosis Controllers Association, to be used to conduct TB risk assessments pursuant to this section.
 - c) "Tuberculosis screening test" or "TB screening test" means either an approved intradermal tuberculin test or any other test for TB infection that is recommended by the federal Centers for Disease Control and

Prevention and licensed by the United States Food and Drug Administration.

- 7) Provides that a Medi-Cal managed care plan shall ensure access to care for latent TB infection and active TB disease and coordination with local health department TB control programs for plan enrollees with active TB disease, including, but not limited to, both of the following:
 - a) Arranging for and coordinating outpatient diagnostic and treatment services to all plan enrollees with suspected or active TB disease to minimize delays in initiating isolation and treatment of infectious patients. These outpatient services shall include physical examination, drug therapy, laboratory testing, and radiology.
 - b) Consulting with local health departments to assess the risk of noncompliance with drug therapy for each plan enrollee who requires placement on anti-TB drug therapy, in accordance with the plan's existing contract with the department.

COMMENTS

1. Author's comment

According to the author: "The recent rise in TB cases in Santa Clara County, a 19 percent increase from 2022 to 2023, presents a significant public health challenge that demands swift action. By increasing access to TB screening, AB 2132 ensures early detection and treatment to save lives."

2. This bill requires health care providers to offer TB risk assessments and screening tests under certain circumstances

TB is an infectious disease that most often affects the lungs and is caused by a type of bacteria. It spreads through the air when infected people cough, sneeze or spit. Despite TB being preventable and curable, about a quarter of the global population is estimated to have been infected with TB bacteria.¹

According to CDPH, not everyone who gets infected with TB becomes sick.² Those that are infected but not sick have latent TB infection (LTBI). California's annual TB incidence is nearly double the national incidence rate with the vast majority of those cases attributable to the progression of LTBI.

¹ TB (November 7, 2023) World Health Organization, <https://www.who.int/news-room/fact-sheets/detail/tuberculosis>. All internet citations are current as of June 3, 2024.

² TB in California: 2022 Snapshot (May 26, 2023) CDPH, <https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/TBCB-TB-Snapshot-2022.pdf>.

This bill seeks to root out TB infections more systematically by requiring specified health facilities to provide TB risk assessments and screening tests to adult patients if TB risk factors are identified and the services are covered by the patient's insurance, unless certain conditions are believed to apply. The goal is to expand the response to latent TB, not to punish health care professionals. Therefore, the bill specifically provides that health care providers that fail to comply are not subject to any disciplinary actions related to their licensure or certification, or to any civil or criminal liability for such failure.

This approach closely models that carried out in AB 789 (Low, Ch. 470, Stats. 2021), which requires similar screenings at these facilities for hepatitis B and C.

3. Stakeholder positions

The County of Santa Clara explains their support:

TB is a preventable and curable infectious disease that can cause serious illness and death. In Santa Clara County, TB cases are on the rise, with the number of new TB cases increasing nineteen percent from 2022 to 2023. Santa Clara County has one of the highest TB case rates in California and in the country. It is estimated that 170,000 people in Santa Clara County have latent TB infection (LTBI), which is not contagious but can progress into an infectious form called active tuberculosis or TB disease. Five to ten percent of all people with LTBI will develop TB disease within their lifetime. This rate is much higher in children under 5 years of age and people with conditions which compromise their immune system. Significantly decreasing the number of people with TB disease will require more individuals with risk factors for TB to receive testing and treatment.

To address TB cases, our County's TB Prevention and Control program supports individuals with confirmed or suspected TB disease to help ensure completion of TB treatment as well as to identify and evaluate close contacts who may need treatment for LTBI or TB disease. This program also works with local healthcare providers to increase TB screenings and treatment as part of routine care. AB 2132 will help the County work with other healthcare providers by raising awareness and encouraging providers outside of the County health system to screen for TB risk factors, administer TB tests, and provide LTBI treatment when tests are positive. This will create a coordinated effort among our health systems to decrease TB infection in our community.

The California Primary Care Association (CPCA) writes in an oppose unless amended position:

CPCA Advocates has long supported healthcare access for all Californians, including comprehensive infectious disease testing. Adequate testing is an important tool in combating the spread of potentially deadly or disabling infections and diseases. Unfortunately, we believe AB 2132 has gone too far in legislating the practice of medicine, which will unintentionally prevent clinicians from following the best standard of care for their individual patient.

Quality public health policy requires prioritizing interventions based on risk assessments and epidemiological data. Which is why we have concerns with the “one-size-fits-all approach” under this bill, requiring all adult patients to be tested for TB every time they receive primary care in a clinic, hospital, or doctor’s office. Rather than a blanket mandate, we should focus on high-risk groups, improve access to voluntary testing, and invest in education, prevention, and access to treatment.

SUPPORT

Asian Americans for Community Involvement
Asian and Pacific Islander Council of San Francisco (API Council)
Asian & Pacific Islander Health Parity Coalition
Association of Asian Pacific Community Health Organizations (AAPCHO)
Breathe California
Breathe California of the Bay Area, Golden Gate and Central Coast
California Academy of Preventive Medicine
California Pan - Ethnic Health Network
California TB Controllers Association
City and County of San Francisco
Coalition for a Tuberculosis Free California
Community Youth Center of San Francisco
Contra Costa County
County of Santa Clara
End the Epidemics: Californians Mobilizing to End HIV, Viral Hepatitis, STIS, and Overdose
Health Officers Association of California
Nicos Chinese Health Coalition
North East Medical Services
On Lok Senior Health Services
Self-help for the Elderly
SF Hep B Free - Bay Area
Sunset Chinese Cultural District
Together Against TB
Tuberculosis Elimination Alliance
Vietnamese American Cancer Foundation

OPPOSITION

California Primary Care Association Advocates

RELATED LEGISLATION

Pending Legislation: SB 1333 (Eggman, 2024) authorizes CDPH and local health departments (LHD) to disclose personally identifying information in public health records of persons with HIV or AIDS for the coordination of, linkage to, or reengagement in care, as determined by CDPH or a LHD. SB 1333 is currently in the Assembly Health Committee.

Prior Legislation: AB 789 (Low, Ch. 470, Stats. 2021) *See* Comment 2.

PRIOR VOTES:

Senate Health Committee (Ayes 11, Noes 0)
Assembly Floor (Ayes 70, Noes 0)
Assembly Appropriations Committee (Ayes 15, Noes 0)
Assembly Health Committee (Ayes 13, Noes 1)
