



City and County of San Francisco  
London Breed  
Mayor

## San Francisco Department of Public Health

Grant Colfax, MD  
Director of Health

Office of Policy and Planning

# MEMORANDUM

**DATE:** January 2, 2020

**TO:** James Loyce, Jr., M.S., President, San Francisco Health Commission and Members of the Health Commission

**THROUGH:** Grant Colfax, Director of Health  
Naveena Bobba, Deputy Director

**FROM:** Sneha Patil, Director, Office of Policy & Planning  
Maxwell Gara, Health Program Planner

**RE:** SFDPH 2019 Federal and State Legislative Summary and 2020 Federal and State Legislative Plans

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This memo presents the San Francisco Department of Public Health (SFDPH)'s annual federal and state legislative plans to the Health Commission for review and approval. This memo provides 1) background on the purpose and development of the legislative plans; 2) a summary of state legislation SFDPH and the City took a position on during the 2019 legislative session and emerging issues for 2020; 3) key federal updates for 2019 and emerging issues in 2020; and 4) a draft of SFDPH federal and state plans for the 2020 legislative cycle.

### **BACKGROUND**

The Department's state and federal legislative plans serve as guides for monitoring bills and budget proposals, and for identifying policy matters that may require City advocacy or action. These plans are intended to cover a broad range of health policy issues that may be addressed by state and federal lawmakers and agencies during the year. Additionally, the plans assist SFDPH staff who represent the Department on various professional associations or coalitions in presenting the Department's position on policy issues.

Aligned with overall SFDPH priorities, the legislative plans are drafted with input from content experts across the Department. The 2020 draft legislative plans were emailed to department leadership in September-October 2019 for the opportunity to review and provide feedback. The department's Office of Policy and Planning (the Office) also collected input through meetings with department content experts, outside city agencies, and professional associations to identify emerging policy themes and issues

for the upcoming legislative cycle. The Office will continue to meet with department staff and external content experts throughout the year to identify and update legislative priorities.

The 2020 State Legislative Platform will be submitted to the Mayor’s Office for review and incorporated into City-wide state and federal legislative plans.

**SUMMARY OF 2019 STATE LEGISLATIVE SESSION AND EMERGEING ISSUES IN 2020**

The Office of Policy and Planning tracks many state bills throughout the legislative session. The state and federal legislative plans are used to identify topic areas of importance and relevance across the department. The Office of Policy and Planning also monitors positions taken by other City departments or key external organizations (e.g. CHEAC, CAPH, CBHDA, etc.). For bills that impact multiple City departments, we work with staff from those departments to understand areas of agreement or divergence and may move forward jointly to recommend positions. Bills that SFDPH would like the City to take a position on are presented at the Mayor’s State Legislation Committee (SLC) each month for approval. Following approval, the City’s lobbyists advance official positions and/or the Department may write letters directly to legislators or provide expert testimony.

During the 2019 session, the legislature engaged in important health-related issues, including: Medi-Cal, private health coverage, conservatorship, safe consumption sites, homelessness, EMS alternative destination transport, substance use disorder and treatment, HIV prevention, hospital funding, maternal and child health, and tobacco. Throughout the session, SFDPH tracked over 100 state bills and recommended taking active positions on 22 bills, all of which were approved by the Mayor’s State Legislation Committee (SLC). Table 1 lists the outcomes for bills where position recommendations by the Department were approved by SLC, where DPH worked closely with the Mayor’s Office, or where the Board of Supervisors (BOS) took a position through a resolution.

**Table 1. Public Health Department Related Bills with Official City Positions, 2019**

| Subject   | Description  | Position                                |
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| <b>Bills Passed and Signed into Law</b>   |  |   |
| <a href="#">AB 174 -Health care</a><br>(Wood)   | Requires Covered CA to issue quarterly reports about the enrollment process for the individual market assistance program (coverage assistance for individuals below 600% of FPL), established in the 2019-2020 Budget Act.   | <b>DPH recommended support position</b> |
| <a href="#">AB 414 Healthcare coverage: minimum essential coverage</a> (Bonta)                          | Requires the Franchise Tax Board to annually report specified information about individuals who paid the Individual Shared Responsibility Penalty (i.e. individual mandate), established in the 2019-20 Budget   | <b>DPH recommended support position</b> |
| <a href="#">SB 40 - Conservatorship: serious mental illness and substance use disorders</a><br>(Wiener) | Provides follow-up language to last year’s bill <a href="#">SB 1045</a> , which expands and strengthens California's conservatorship laws with the aim of better meeting the needs of individuals who have serious mental illness and substance use disorders. Specifically, the bill changes 1045’s detention frequency requirements, AOT requirements, and time-limits on seeking conservatorship, and provides allowances for temporary 28-day conservatorship. | <b>Mayor’s Office sponsored</b>         |
| <a href="#">SB 159: HIV: preexposure and postexposure prophylaxis</a> (Wiener)                          | Reduces barriers to HIV biomedical prevention by removing insurance preauthorization requirements and authorizing pharmacists to furnish pre-exposure prophylaxis (PrEP) and post-exposure prophylaxis (PEP) without a prescription in an effort to lower the rates of HIV transmission. Bill also expands Medi-Cal to include PrEP/PEP  | <b>DPH recommended support position</b> |

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| <a href="#">SB 389 - Mental Health Services Act.</a> (Hertzberg)  | Allows the counties to use MHSAs funds to provide services to persons who are participating in a pre-sentencing or post sentencing diversion program or who are on parole, probation, post release community supervision, or mandatory supervision.   | <b>DPH recommended support position</b>                    |
| <a href="#">SB 464 - California Dignity in Pregnancy and Childbirth Act</a> (Mitchell)                                    | Establishes the California Dignity in Pregnancy and Childbirth Act, which requires hospitals and alternative birth centers or primary care clinics to implement an evidence-based implicit bias program for all health providers involved in the perinatal care of patients. Requires CA Department of Public Health to track pregnancy-related death and severe morbidity data.  | <b>DPH recommended support position</b>                    |
| <b>Bills Vetoed by Governor</b>   |   |  |
| <a href="#">AB 914: Medi-Cal: inmates: eligibility</a> (Holden)   | For individuals under 26 years of age, DHCS would be required to suspend Medi-Cal eligibility. End of suspension would occur either on the date they are no longer an inmate of the public institution or no longer eligible for Medi-Cal (whichever is sooner)   | <b>DPH recommended support position</b>                    |
| <a href="#">SB 127 - Transportation funding: active transportation: complete streets</a> (Wiener)                         | Requires California Department of Transportation (Caltrans) to incorporate new pedestrian and bicycle facilities into projects in an “active transportation place type,” which is defined as rural main streets, suburban main streets, lower density and residential neighborhoods or higher density urban main streets.   | <b>DPH, MTA, and Planning recommended support position</b> |
| <b>Bills Stalled in Legislature (Two-Year Bills)</b>  |   |  |
| <a href="#">AB 362- Controlled substances: overdose prevention program</a> (Wiener and Eggman)                            | Would, until Jan 1, 2026, authorize San Francisco to approve entities to operate overdose prevention programs within their jurisdiction for those over 18 years of age who consume intravenous drugs. The program must satisfy specified requirements, including, among other things, a hygienic space supervised by health care professionals, as defined, where people who use drugs can consume pre-obtained drugs, sterile consumption supplies, and access to referrals to substance use disorder treatment. | <b>Mayor’s Office officially supports bill</b>             |
| <a href="#">AB 1031 - Youth Substance Use Disorder Treatment and Recovery Program Act of 2019</a> (Nazarian)              | Enacts the Youth Substance Use Disorder Treatment and Recovery Program Act of 2019 and require DHCS, on or before January 1, 2021, to establish community-based nonresidential and residential treatment and recovery programs to intervene and treat the problems of alcohol and drug use among youth under 21 years of age.   | <b>DPH recommended support position</b>                    |
| <a href="#">AB 1058 - Medi-Cal: specialty mental health services and substance use disorder treatment</a> (Salas)         | Requires the DHCS to engage in a stakeholder process to develop recommendations for addressing the legal and administrative barriers to the delivery of integrated behavioral health services for Medi-Cal beneficiaries with co-occurring substance use disorders (SUD) and mental health conditions who access services through the Drug Medi-Cal Treatment program, the Drug Medi-Cal Organized Delivery System (DMC-ODS) and the Medi-Cal Specialty Mental Health Program (Medi-Cal SMH Program).             | <b>DPH recommended support position</b>                    |
| <a href="#">AB 1557 - MAT in County Jails</a> (Chiu)  | Would require Department of Health Care Services to establish a three-year pilot program for San Francisco that reimburses county agencies for the cost of providing medications in the medication-assisted treatment (MAT) of inmates in county jail systems with a history of substance use.  | <b>DPH sponsored bill with Mayor’s Office</b>              |
| <a href="#">AB 1544 - Community Paramedicine or Triage to Alternate Destination Act</a> (Gipson, Gloria, & Hertzberg)     | Establishes, until January 1, 2030, the Community Paramedicine or Triage to Alternate Destination Act of 2019, with approval by the Emergency Medical Services Authority, to develop programs to provide community paramedic or triage to alternate destination services.   | <b>DPH recommended support position</b>                    |
| <a href="#">SB 66 - Medi-Cal: federally qualified health center and rural health clinic services</a> (Atkins and McGuire) | Allows reimbursement for a maximum of two visits taking place on the same day at a single location: (1) if after the first visit the patient suffers illness or injury requiring additional diagnosis or treatment; or (2) if the patient has a medical visit and a mental health visit or a dental visit   | <b>DPH recommended support position</b>                    |
| <a href="#">SB 665 - Mental Health Services Fund: county jails</a> (Umberg)   | Allows counties to use MHSAs funds to provide services to persons who are incarcerated in a county jail or subject to mandatory supervision, except persons who are incarcerated in a county jail, or subject to mandatory  | <b>DPH recommended support and amend position</b>          |

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|   | supervision, for a conviction of a felony. Bill is a three-year pilot that expires January 1, 2024.   |   |
| <a href="#">AB 565 -Public health workforce planning: loan forgiveness, loan repayment, and scholarship programs.</a> (Maienschein) | Changes the criteria for and distribution of awards made by an existing physician loan repayment program by expanding eligible practice settings to include a program or facility operated by, or contracted to, a county mental health plan. Would also require a certain percent of awards go to applicants who practice specialties outside of a primary specialty, including psychiatry.  | <b>DPH recommended support position</b>                     |
| <a href="#">AB 4 - Medi-Cal: Eligibility</a> (Arambula)   | Expands full-scope Medi-Cal coverage to low-income undocumented adults over the age of 19.  | <b>DPH/HSA recommended support position</b>                 |
| <a href="#">SB 29- Medi-Cal: eligibility</a> (Lara)   | Expands full-scope Medi-Cal coverage to low-income undocumented adults 65 years and older. Would require the age of eligibility to be expanded to 26 in 2021, and to increase one year of age every year thereafter.  | <b>DPH/HSA recommended support</b>                          |
| <a href="#">SB 175 - Healthcare coverage: minimum essential coverage</a> (Pan)  | Would implement an individual insurance mandate for state resident and require residents to have insurance coverage meeting minimum essential coverage requirements starting in 2020. The bill imposes penalty for not having coverage, with money collected from the penalty being placed in the Health Care Coverage Penalty Fund. This fund would be required to be used to improve the affordability of healthcare coverage for Californians. | <b>DPH recommended support position</b>                     |
| <a href="#">AB 1611 - Emergency hospital services: costs</a> (Chiu and Wiener);   | Hospitals would be prohibited from billing insured patients, regardless of their plan type, and could not charge them rates higher than their copay or deductible. The bill would also limit payments from insurance companies to hospitals to no greater than the “reasonable and customary value” of the hospital services or the “average contracted rate” with insurance companies in the geographic area.                                    | <b>Board of Supervisors passed resolution of support</b>    |
| <a href="#">AB 732: County jails-Prison: pregnant inmates</a> (Bonta)   | Requires county jails and Prisons to provide services, accommodations, and supplies to pregnant and possibly-pregnant inmates and would prohibit solitary confinement for incarcerated pregnant persons.  | <b>Reentry Council and DPH recommended support position</b> |
| <a href="#">AB 50 - Medi-Cal: Assisted Living Waiver program</a> (Kalra)  | Increases the number of ALW participants beyond the currently authorized 5,744 to at least 18,500. At least 60 percent of the expanded participant population is to be reserved for those transitioning from an institutional setting.  | <b>BOS passed resolution of support</b>                     |
| <a href="#">AB 715 - Medi-Cal: program for aged and disabled persons.</a> (Arumbula)  | This bill would raise the Medi-Cal Aged and Disabled income level to 138% FPL, an amount equivalent to most other Medi-Cal income levels for adults. Under current law, adults age 64 or younger qualify for Medi-Cal if their income is less than 138% FPL. For seniors living on their own, eligibility is limited to those below 100% FPL.   | <b>HSA/DPH recommended support position</b>                 |
| <a href="#">SB 440 – Cognitive Impairment Safety Net System Task Force</a> (Pan)  | Require the Secretary of Health and Human Services to convene a task force to study and assess the need for a cognitive impairment safety net system to serve at-risk adults with cognitive impairment. The task force would be required to determine both short-term and long-term needs of this population and present its findings to both the Legislature and the Governor by January 1, 2021.  | <b>HSA/DPH recommended support position</b>                 |
| <a href="#">AB 1625 - Unflavored tobacco list</a> (Rivas)   | Requires California Attorney General to establish and maintain an online list of tobacco products that lack a characterizing flavor. Authorizes AG to require that all tobacco manufacturers submit list of all brand styles of tobacco products.   | <b>DPH recommended support position</b>                     |

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## State Health Care Updates

Through the fiscal year (FY) 2019-20 budget signed into law by Governor Newsom, the state enacted several significant policy changes that aim to improve affordability and access to health care. Specifically, the budget:

- Expands full-scope Medi-Cal coverage to eligible young adults aged 19 through 25 regardless of immigration status. This expansion will provide full-scope coverage to approximately 90,000 undocumented adults in the first year across state. Initial estimates suggest 1,000-2,000 individuals in San Francisco will become eligible for Medi-Cal.
- Increases Covered California health insurance premium supports for individuals with incomes between 400 and 600 percent of the federal poverty level (FPL) as well as reduce out-of-pocket premiums for those with incomes under 138 percent of the FPL over the next three years. Covered California projects that 922,000 people will be eligible to benefit from the new state subsidies.
- Reinstate the individual mandate that was part of the Affordable Care Act (ACA), but revoked in 2017. Like the ACA's mandate, individuals opting not to carry insurance coverage will incur a financial penalty under the state-level mandate. The penalty could be up to \$2,100 per family, which is based on 2.5 percent of household income or a minimum of \$695 per adult, whichever is greater.

These health-focused measures are scheduled to take effect January 1<sup>st</sup>, 2020. In addition to these changes, the Governor has proposed several policies to address prescription drug costs.

- Transition all pharmacy services for Medi-Cal managed care to a fee-for-service (FFS) benefit by January 2021. This proposal is expected reduce the savings public health care systems and other safety net providers receive from the 340B Drug Discount Program and shift these funds to the State.
- Expand the State's Bulk Drug Purchasing Program: This initiative would expand the state's existing bulk purchasing program for prescription drugs where state agencies and programs (excluding the Medi-Cal program) collectively purchase drugs to obtain lower prices.

## Emerging State Issues for 2020

The upcoming 2019-20 state legislative session marks the second and final year of the current two-year session. Legislators are expected to take up many of the same issues addressed during the 2019-20 session. SFDPH will closely monitor, and take positions as needed, on proposals related to health care, behavioral health, homelessness, safe consumption sites, and other state issues of relevance to the Department as detailed in the 2020 State Legislative Platform.

In 2020, Department of Health Care Services (DHCS) will be leading a comprehensive and ambitious framework to guide the 1115(a) and 1915(b) waiver renewal process and to set the future plans for the Medi-Cal delivery system, referred to as California Advancing and Innovating Medi-Cal (CalAIM). This multi-year initiative is expected to encompass broad delivery systems and program and payment reforms across the Medi-Cal program, including Medi-Cal Managed Care, Behavioral Health, Dental, and other county programs and services. In Fall 2019, DHCS began the stakeholder engagement process for the initiative - SFDPH will remain engaged in this process throughout 2020.

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## KEY FEDERAL UPDATES FOR 2019

In 2019, the Federal Administration continued to engage in various actions to undermine Affordable Care Act (ACA) related health reforms, immigration protections and rights, and women's and LGBTQ health. SFPDH, along with other City agencies, focused its advocacy efforts on opposing these actions and supporting local and statewide efforts to mitigate and prevent any resulting harms.

**Health Reform Updates:** On January 1, 2019, the repeal of the ACA's individual insurance mandate penalty became effective. The Congressional Budget Office and the Joint Committee on Taxation (CBO/JCT) has estimated that four million fewer individuals will be insured nationwide by 2020, and individual health plan premiums will increase by 10 percent. Due to the new State level individual mandate, California is not expected to experience significant impact from this change.

In addition to the mandate's effective repeal, this past year saw other efforts to continue weakening ACA-related health reforms. This includes ongoing litigation and administrative rulemaking regarding the denial of birth control coverage for religious reasons, the repeal of discrimination protection regulations under Section 1557 of ACA, Cost-Sharing Reductions (CSR) payment delays, and challenges to the overall constitutional legitimacy of the ACA.

Despite continuous actions taken against the ACA, the national uninsured rate has remained steady at 9.4% in 2018.<sup>1</sup> This rate is not significantly different from 2017 and represents 18.2 million fewer uninsured persons than in 2010. San Francisco's uninsured rate has also remained steady, year-to-year, at 3.5 percent, or about 30,766 residents in 2018.<sup>2</sup> An estimated 34,120 residents (March 2019)<sup>3</sup> were enrolled in the insurance marketplaces (Covered CA) and 71,491 (May 2019)<sup>4</sup> were enrolled in the Medicaid expansion. Additionally, 13,084 (September 2019)<sup>5</sup> residents are enrolled in Healthy San Francisco.

**Title X Updates:** In July 2019, new rules came into effect changing the Title X Family Planning grant program, which would prevent clinicians and other clinic staff from providing complete and unbiased reproductive health information, and a full range of services, to their patients.<sup>6</sup> Following this change, SFPDH withdrew from the program (announced August 2019). Before withdrawing, DPH's Family Planning Program worked with the SF City Attorney's Office and DPH Policy and Planning to provide official commentary to the rule when it was initially released in draft form, and testimony for the lawsuit filed by the CA Attorney General. The San Francisco Board of Supervisors issued a resolution opposing the regulations.

**Conscience Rights in Health Care:** In May 2019, Health & Human Services (HHS) finalized a rule that would require hospitals and physician practices to create standards and procedures to protect their employees' religious and moral beliefs.<sup>7</sup> These protections would allow providers to refuse to provide services they have religious or moral objections to like abortion and gender reassignment surgery. Federal regulation would take away funding for states that don't comply. DPH formally submitted written comment on rule

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<sup>1</sup> Cohen, Robin A., Emily P. Terlizzi, and Michael E. Martinez. "Health Insurance Coverage: Early Release of Estimates From the National Health Interview Survey, 2018." National Center for Health Statistics, May 2019. <https://www.cdc.gov/nchs/nhis/releases.htm>.

<sup>2</sup> U.S. Census Bureau, 2018 American Community Survey 1-year estimate

<sup>3</sup> 2019 March Profile. Covered CA June 2019. Access: [https://hbex.coveredca.com/data-research/library/active-member-profiles/CC\\_Membership\\_Profile\\_2019\\_03.xlsx](https://hbex.coveredca.com/data-research/library/active-member-profiles/CC_Membership_Profile_2019_03.xlsx)

<sup>4</sup> State of California, Department of Health Care Services Research and Analytics Studies Division, Medi-Cal Certified Eligible Data Table by County and Aid Code Groups for Month of Eligibility May 2019, Report Date: September 2019

<sup>5</sup> San Francisco Department of Public Health, Office of Managed Care. Healthy San Francisco Dashboard. November 2018

<sup>6</sup> Department of Health and Human Services Proposed Rule, "Compliance with Statutory Program Integrity Requirements"

<sup>7</sup> Department of Health and Human Services Proposed Rule, "Protecting Statutory Conscience Rights in Health Care; Delegations of Authority"

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citing concerns with its discriminatory effects and both California Attorney General and San Francisco City Attorney brought lawsuits against the rule. In November 2019, a federal judge blocked this rule from taking effect.

**Public Charge:** In 2019 the Federal Administration continued attempts to undermine the health and safety of San Francisco’s immigrant communities by targeting the health and social benefits used by the immigrant community via administrative changes to Public Charge rules. In August 2019, the City Attorney, in coordination with HSA, DPH, OCIA and the Mayor’s Office, filed a legal challenge to the new Public Charge rule. As of October 2019, the courts have indefinitely delayed the rule’s implementation. If the rule were to take effect, it is expected to result in disenrollment from social benefits program like Medi-Cal among immigrant households.

#### **EMERGING FEDERAL ISSUES FOR 2020**

The upcoming year can expect continued administrative and legal action to undermine health reform, immigrant rights, and LGBTQ and Women’s protections. These actions will be closely monitored and analyzed for their impacts on SFDPH and the City’s residents. Legislatively, the Department will continue to monitor activity related to the budget, balance billing proposals, and other issues of relevance to the Department as detailed in the 2020 Federal Legislative Platform.

#### **ATTACHMENTS**

**2020 SFDPH DRAFT STATE LEGISLATIVE PLAN**

**2020 SFDPH DRAFT FEDERAL LEGISLATIVE PLAN**