

AMENDED IN ASSEMBLY APRIL 17, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 40

Introduced by Assembly Member Mansoor

December 6, 2012

An act to amend Sections ~~11834.02, 11834.09, and 11834.23~~ *11833 and 11834.26* of, *and to add Section 11830.01 to*, the Health and Safety Code, relating to substance abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 40, as amended, Mansoor. Substance abuse: recovery and treatment facilities.

Existing law provides for the licensure, certification, and regulation of alcoholism or drug abuse recovery or treatment facilities serving adults, administered by the State Department of Alcohol and Drug Programs. Existing law authorizes the department to issue a license to specified types of facilities if certain criteria are met. ~~Under existing law, these facilities include a facility wherein separate buildings or portions of a residential facility are integral components of a single alcoholism or drug abuse recovery or treatment facility and all of the components of the facility are managed by the same licensee.~~

~~Existing law deems an alcoholism or drug abuse recovery or treatment facility that serves 6 or fewer persons to be a residential use of property for the purposes of the law relating to regulating alcoholism or drug abuse recovery or treatment facilities, whether or not unrelated persons are living together, and subject to specified conditions. In addition, the residents and operators of a facility that satisfies these conditions are considered a family for the purposes of any law or zoning ordinance that relates to the residential use of property.~~

~~This bill would require, rather than authorize, the department to issue a license if the above criteria are met. The bill would identify facilities with common management of separate facility components, as specified, as “integral facilities,” and would exclude these integral facilities from being considered a residential use of property for purposes of the law regulating alcoholism or drug abuse recovery or treatment facilities. The bill would authorize integral facilities to collectively serve 7 or more persons, as specified.~~

~~This bill also would make technical, nonsubstantive changes to the provisions described above.~~

Existing law reorganizes the duties of the State Department of Alcohol and Drug Programs to be under the authority of the California Health and Human Services Agency, and to be continued by departments within that agency.

This bill would require an alcoholism or drug abuse program licensee to report specified events or incidents, including among other things, the death of a program resident, telephonically within one working day of the event or incident, and to provide a written report, as specified, within 7 days of the event or incident. The bill would require licensees offering medical detoxification services to do so under the supervision of a medical doctor and would require the department that will succeed to the State Department of Alcohol and Drug Programs’ duties in this regard to confirm health care providers providing medical services, as specified, have appropriate licenses and that monitoring is in place, as specified. The bill would require the department to establish a formal procedure for obtaining information from boards that license health care providers as to any potential disciplinary proceedings against those providers by a board.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 11830.01 is added to the Health and*
- 2 *Safety Code, to read:*
- 3 *11830.01. (a) The death investigation policy of the department*
- 4 *is designed to ensure that a resident’s death is reported by the*
- 5 *licensee and addressed by the department in a timely manner.*
- 6 *(b) The licensee shall make a telephonic report to the department*
- 7 *within one working day for any of the following events or incidents:*

1 (1) Death of any resident for any cause, even if the death did
2 not occur at the facility.

3 (2) Any facility-related injury of any resident that requires
4 medical treatment.

5 (3) All cases of communicable disease reportable under Section
6 2500 of Title 17 of the California Code of Regulations.

7 (4) Poisonings.

8 (5) Natural disasters that affect the facility premises.

9 (6) Fires or explosions that occur in or on the facility premises.

10 (7) Unusual events or incidents that affect the physical or
11 emotional health or safety of any resident.

12 (c) The telephonic report described in subdivision (b) shall be
13 followed by a written report to the department, in a form prescribed
14 by the department, within seven days of the event or incident.

15 (d) The telephonic and written reports shall include, but not be
16 limited to, a description of the event or incident, including the
17 time, location, and nature of the event or incident, a list of
18 immediate actions that were taken, including persons contacted,
19 and a description of the followup action that is planned, including,
20 but not limited to, steps taken to prevent a recurrence of the event
21 or incident.

22 SEC. 2. Section 11833 of the Health and Safety Code is
23 amended to read:

24 11833. The department shall have the sole authority in state
25 government to determine the qualifications, including the
26 appropriate skills, education, training, and experience of personnel
27 working within alcoholism or drug abuse recovery and treatment
28 programs licensed, certified, or funded under this part. *The*
29 *department shall establish a formal procedure for obtaining, to*
30 *the extent permitted by law, information from boards that license*
31 *health care providers as to any potential disciplinary proceedings*
32 *against those providers by the board.*

33 SEC. 3. Section 11834.26 of the Health and Safety Code is
34 amended to read:

35 11834.26. (a) The licensee shall provide at least one of the
36 following nonmedical services:

37 (1) Recovery services.

38 (2) Treatment services.

39 (3) Detoxification services.

1 (b) Licensees offering medical detoxification services shall
2 provide those services under the supervision of a medical doctor.

3 (c) The department shall confirm that appropriate licensing is
4 in place for medical doctors providing services pursuant to
5 subdivision (b), and confirm that appropriate licensing and
6 monitoring is in place for health care providers who provide any
7 intravenous medication or detoxification medication.

8 ~~(b)~~

9 (d) The department shall adopt regulations requiring records
10 and procedures that are appropriate for each of the services
11 specified in subdivision (a). The records and procedures may
12 include all of the following:

- 13 (1) Admission criteria.
- 14 (2) Intake process.
- 15 (3) Assessments.
- 16 (4) Recovery, treatment, or detoxification planning.
- 17 (5) Referral.
- 18 (6) Documentation of provision of recovery, treatment or
19 detoxification services.
- 20 (7) Discharge and continuing care planning.
- 21 (8) Indicators of recovery, treatment, or detoxification outcomes.

22 ~~(e)~~

23 (e) In the development of regulations implementing this section,
24 the written record requirements shall be modified or adapted for
25 social model programs.

26 SECTION 1. Section 11834.02 of the Health and Safety Code
27 is amended to read:

28 11834.02. ~~(a) As used in this chapter, "alcoholism or drug
29 abuse recovery or treatment facility," "facility," or "facilities,"
30 means any premises, place, or building that provides 24-hour
31 residential nonmedical services to adults who are recovering from
32 problems related to alcohol, drug, or alcohol and drug misuse or
33 abuse, and who need alcohol, drug, or alcohol and drug recovery
34 treatment or detoxification services.~~

35 ~~(b) As used in this chapter, "adults" may include, but is not
36 limited to, all of the following:~~

- 37 ~~(1) Mothers over 18 years of age and their children.~~
- 38 ~~(2) Emancipated minors, which may include, but is not limited
39 to, mothers under 18 years of age and their children.~~

1 ~~(e) As used in this chapter, “emancipated minors” means persons~~
2 ~~under 18 years of age who have acquired emancipation status~~
3 ~~pursuant to Section 7002 of the Family Code.~~

4 ~~(d) As used in this chapter, “integral facilities” means any~~
5 ~~combination of two or more facilities, located on the same or~~
6 ~~different parcels, that collectively serve seven or more persons,~~
7 ~~not including the licensee or members of the licensee’s family or~~
8 ~~persons employed as facility staff, that are under the control or~~
9 ~~management of the same owner, operator, management company,~~
10 ~~or licensee, or any affiliate of any of them, and which together~~
11 ~~comprise one operation. Integral facilities shall include, but not~~
12 ~~be limited to, the provision of housing in one facility and recovery~~
13 ~~programming, treatment, meals, or any other service or services~~
14 ~~at another facility, or facilities, or by assigning staff, or a consultant~~
15 ~~or consultants, to provide services to or in more than one facility.~~

16 ~~(e) Notwithstanding subdivision (a), an alcoholism or drug abuse~~
17 ~~recovery or treatment facility may serve adolescents upon the~~
18 ~~issuance of a waiver granted by the department pursuant to~~
19 ~~regulations adopted under subdivision (c) of Section 11834.50.~~

20 ~~SEC. 2. Section 11834.09 of the Health and Safety Code is~~
21 ~~amended to read:~~

22 ~~11834.09. (a) Upon receipt of a completed written application,~~
23 ~~fire clearance, and licensing fee from the prospective licensee, and~~
24 ~~subject to the department’s review and determination that the~~
25 ~~prospective licensee can comply with this chapter and regulations~~
26 ~~adopted pursuant to this chapter, the department shall issue a single~~
27 ~~license to the following types of alcoholism or drug abuse recovery~~
28 ~~or treatment facilities:~~

29 ~~(1) A residential facility, other than integral facilities.~~

30 ~~(2) Integral facilities, as defined in subdivision (d) of Section~~
31 ~~11834.02.~~

32 ~~(b) Failure to submit a completed written application, fire~~
33 ~~clearance, and payment of the required licensing fee in a timely~~
34 ~~manner shall result in termination of the department’s licensure~~
35 ~~review and shall require submission of a new application by the~~
36 ~~prospective licensee.~~

37 ~~(e) Failure of the prospective licensee to demonstrate the ability~~
38 ~~to comply with this chapter or the regulations adopted pursuant to~~
39 ~~this chapter shall result in departmental denial of the prospective~~
40 ~~licensee’s application for licensure.~~

1 ~~SEC. 3. Section 11834.23 of the Health and Safety Code is~~
2 ~~amended to read:~~

3 ~~11834.23. (a) Whether or not unrelated persons are living~~
4 ~~together, an alcoholism or drug abuse recovery or treatment facility~~
5 ~~that serves six or fewer persons shall be considered a residential~~
6 ~~use of property for the purposes of this article. In addition, the~~
7 ~~residents and operators of the facility shall be considered a family~~
8 ~~for the purposes of any law or zoning ordinance that relates to the~~
9 ~~residential use of property pursuant to this article.~~

10 ~~(b) For the purpose of all local ordinances, an alcoholism or~~
11 ~~drug abuse recovery or treatment facility that serves six or fewer~~
12 ~~persons shall not be included within the definition of a boarding~~
13 ~~house, rooming house, institution, or home for the care of minors,~~
14 ~~the aged, or the mentally infirm, foster care home, guest home,~~
15 ~~rest home, sanitarium, mental hygiene home, or other similar term~~
16 ~~that implies that the alcoholism or drug abuse recovery or treatment~~
17 ~~home is a business run for profit, or differs in any other way from~~
18 ~~a single-family residence.~~

19 ~~(c) This section shall not be construed to forbid a city, county,~~
20 ~~or other local public entity from placing restrictions on building~~
21 ~~heights, setback, lot dimensions, or placement of signs of an~~
22 ~~alcoholism or drug abuse recovery or treatment facility that serves~~
23 ~~six or fewer persons as long as the restrictions are identical to those~~
24 ~~applied to other single-family residences.~~

25 ~~(d) This section shall not be construed to forbid the application~~
26 ~~to an alcoholism or drug abuse recovery or treatment facility of~~
27 ~~any local ordinance that deals with health and safety, building~~
28 ~~standards, environmental impact standards, or any other matter~~
29 ~~within the jurisdiction of a local public entity. However, the~~
30 ~~ordinance shall not distinguish alcoholism or drug abuse recovery~~
31 ~~or treatment facilities that serve six or fewer persons from other~~
32 ~~single-family dwellings, or distinguish residents of alcoholism or~~
33 ~~drug abuse recovery or treatment facilities, from persons who~~
34 ~~reside in other single-family dwellings.~~

35 ~~(e) A conditional use permit, zoning variance, or other zoning~~
36 ~~clearance shall not be required of an alcoholism or drug abuse~~
37 ~~recovery or treatment facility that serves six or fewer persons that~~
38 ~~is not required of a single-family residence in the same zone.~~

39 ~~(f) Use of a single-family dwelling for purposes of an alcoholism~~
40 ~~or drug abuse recovery facility serving six or fewer persons shall~~

1 not constitute a change of occupancy for purposes of Part 1.5
2 (commencing with Section 17910) of Division 13 or local building
3 codes. However, nothing in this section is intended to supersede
4 Section 13143 or 13143.6, to the extent those sections are
5 applicable to alcoholism or drug abuse recovery or treatment
6 facilities serving six or fewer residents.

7 (g) This section shall not apply to integral facilities, as defined
8 in subdivision (d) of Section 11834.02.