

AMENDED IN SENATE JUNE 24, 2013

AMENDED IN ASSEMBLY MAY 24, 2013

AMENDED IN ASSEMBLY APRIL 18, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 395

**Introduced by Assembly Member Fox
(Coauthor: Assembly Member Chesbro)**

February 15, 2013

An act to amend Sections 11834.02 and 11834.36 of the Health and Safety Code, relating to alcohol and drug programs.

LEGISLATIVE COUNSEL'S DIGEST

AB 395, as amended, Fox. Alcoholism and drug abuse treatment facilities.

Existing law requires the State Department of Alcohol and Drug Programs to license adult alcoholism and drug abuse recovery or treatment facilities, as defined.

This bill would include in the definition of alcoholism and drug abuse recovery and treatment facilities a premises, place, or building that provides 24-hour residential—~~medical~~ services to adults who are recovering from problems related to alcohol, drug, or alcohol and drug misuse or abuse and who need alcohol, drug, or alcohol and drug recovery treatment or detoxification services and medical care under specified circumstances.

Existing law provides that the State Department of Alcohol and Drug Programs has the sole authority in state government to license adult alcoholism or drug abuse recovery or treatment facilities. Existing law authorizes the director of the department to suspend or revoke any

license issued, or deny an application for licensure, for extension of the licensing period, or to modify the terms and conditions of a license under specified circumstances, including conduct in the operation of an alcoholism or drug abuse recovery or treatment facility that is inimical to the health, morals, welfare, or safety of either an individual in, or receiving services from, the facility or to the people of the State of California.

This bill would revise that circumstance to instead apply to conduct in the operation of an alcoholism or drug abuse recovery or treatment facility that endangers the health or safety of an individual receiving services. The bill would also revise the list of circumstances described above to include the failure to report to the department, within 24 hours, the death of ~~any~~ a resident for any cause, even if the death did not occur at the facility.

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 11834.02 of the Health and Safety Code
- 2 is amended to read:
- 3 11834.02. (a) As used in this chapter, “alcoholism or drug
- 4 abuse recovery or treatment facility” or “facility” means either of
- 5 the following:
- 6 (1) A premises, place, or building that provides 24-hour
- 7 residential nonmedical services to adults who are recovering from
- 8 problems related to alcohol, drug, or alcohol and drug misuse or
- 9 abuse, and who need alcohol, drug, or alcohol and drug recovery
- 10 treatment or detoxification services.
- 11 (2) A premises, place, or building that provides 24-hour
- 12 residential ~~medical~~ services to adults who are recovering from
- 13 problems related to alcohol, drug, or alcohol and drug misuse or
- 14 abuse and who need alcohol, drug, or alcohol and drug recovery
- 15 treatment or detoxification services and medical care if the
- 16 premises, place, or building is not a chemical recovery dependency
- 17 hospital pursuant to Section 1250.3, is accredited by a nationally
- 18 recognized accrediting organization, and uses a multidisciplinary
- 19 team that includes at least one physician and surgeon, licensed by
- 20 the Medical Board of California or the Osteopathic Medical Board,
- 21 who is knowledgeable about addiction medicine.

1 (b) As used in this chapter, “adults” includes, but is not limited
2 to, all of the following:

3 (1) Mothers over 18 years of age and their children.

4 (2) Emancipated minors, which may include, but is not limited
5 to, mothers under 18 years of age and their children.

6 (c) As used in this chapter, “emancipated minors” means persons
7 under 18 years of age who have acquired emancipation status
8 pursuant to Section 7002 of the Family Code.

9 (d) Notwithstanding subdivision (a), an alcoholism or drug
10 abuse recovery or treatment facility may serve adolescents upon
11 the issuance of a waiver granted by the department pursuant to
12 regulations adopted under subdivision (c) of Section 11834.50.

13 SEC. 2. Section 11834.36 of the Health and Safety Code is
14 amended to read:

15 11834.36. (a) The director may suspend or revoke any license
16 issued under this chapter, or deny an application for licensure, for
17 extension of the licensing period, or to modify the terms and
18 conditions of a license, upon any of the following grounds and in
19 the manner provided in this chapter:

20 (1) Violation by the licensee of any provision of this chapter or
21 regulations adopted pursuant to this chapter.

22 (2) Repeated violation by the licensee of any of the provisions
23 of this chapter or regulations adopted pursuant to this chapter.

24 (3) Aiding, abetting, or permitting the violation of, or any
25 repeated violation of, any of the provisions described in paragraph
26 (1) or (2).

27 (4) Conduct in the operation of an alcoholism or drug abuse
28 recovery or treatment facility that endangers the health or safety
29 of an individual receiving services.

30 (5) Failure to report to the department, within 24 hours, the
31 death of ~~any~~ a resident for any cause, even if the death did not
32 occur at the facility.

33 (6) Misrepresentation of any material fact in obtaining the
34 alcoholism or drug abuse recovery or treatment facility license.

35 (7) Failure to pay any civil penalties assessed by the department.

36 (b) The director may temporarily suspend any license prior to
37 any hearing when, in the opinion of the director, the action is
38 necessary to protect residents of the alcoholism or drug abuse
39 recovery or treatment facility from physical or mental abuse,
40 abandonment, or any other substantial threat to health or safety.

1 The director shall notify the licensee of the temporary suspension
2 and the effective date of the temporary suspension and at the same
3 time shall serve the provider with an accusation. Upon receipt of
4 a notice of defense to the accusation by the licensee, the director
5 shall, within 15 days, set the matter for hearing, and the hearing
6 shall be held as soon as possible. The temporary suspension shall
7 remain in effect until the time the hearing is completed and the
8 director has made a final determination on the merits. However,
9 the temporary suspension shall be deemed vacated if the director
10 fails to make a final determination on the merits within 30 days
11 after the department receives the proposed decision from the Office
12 of Administrative Hearings.

O