

AMENDED IN ASSEMBLY AUGUST 6, 2013

AMENDED IN ASSEMBLY JUNE 27, 2013

AMENDED IN SENATE MAY 24, 2013

AMENDED IN SENATE APRIL 16, 2013

SENATE BILL

No. 570

Introduced by Senator DeSaulnier

February 22, 2013

An act to add Division 10.11 (commencing with Section 11999.40) to the Health and Safety Code, relating to alcohol and other drug counselors.

LEGISLATIVE COUNSEL'S DIGEST

SB 570, as amended, DeSaulnier. Alcohol and other drug counselors.

Existing law provides for the registration, certification, and licensure of various healing arts professionals. Existing law provides for various programs to eliminate alcohol and drug abuse, and states the finding of the Legislature that state government has an affirmative role in alleviating problems related to the inappropriate use of alcoholic beverages and other drug use.

This bill would require the State Department of Health Care Services, *commencing January 1, 2015*, to require each person who applies to an approved certifying organization to become *registered or certified* as an alcohol or other drug counselor (AOD counselor) *or any AOD counselor who is registered or certified as of January 1, 2015*, to submit to a criminal background check, as specified. *The bill would require the State Department of Health Care Services to submit to the Department of Justice fingerprint images and related information for the purpose of obtaining information as to the existence of past criminal*

conduct, as specified. The bill would require the Department of Justice to obtain specified information from the Federal Bureau of Investigation with respect to an applicant’s or AOD counselor’s past criminal conduct, and to provide this information to the State Department of Health Care Services. The bill would require the Department of Justice to charge a reasonable fee sufficient to cover the cost of processing the criminal background check request. The bill would authorize the State Department of Health Care Services to establish regulations to implement the provisions described in the bill, including establishing an application fee to be charged to the certifying organization for each applicant or AOD counselor requesting a background check. The bill would require the department State Department of Health Care Services to establish the Director’s Advisory Panel for purposes, among other things, of reviewing the results of the criminal background checks, reviewing complaints made against AOD counselors, and advising, and would authorize the panel to advise the department on the development of criteria for baseline decisions regarding AOD counselors, as these decisions relate to criminal background checks, to review the results of criminal background results, and to make recommendations to the department regarding the criteria for disciplinary guidelines. The bill would require the department and approved certifying organizations to share specified information.

~~This bill would require the department to contract to have an occupational analysis for the profession of alcohol and other drug counseling completed no later than January 1, 2015.~~

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. Division 10.11 (commencing with Section
2 11999.40) is added to the Health and Safety Code, to read:

3

4 DIVISION 10.11. ALCOHOL AND OTHER DRUG
5 COUNSELORS

6

7 11999.40. For purposes of this division, the following
8 definitions apply:

1 (a) “AOD counselor” means a person ~~who has been~~ *registered*
2 *or certified as an alcohol or other drug counselor by an approved*
3 *certifying organization.*

4 (b) “Approved certifying organization” means an organization
5 that the department has approved to *register and certify AOD*
6 *counselors.*

7 (c) “Department” means the State Department of Health Care
8 *Services.*

9 (d) “Director” means the Director of Health Care *Services.*

10 (e) “Panel” means the Director’s Advisory Panel established
11 pursuant to Section ~~11999.42.~~ *11999.43.*

12 ~~11999.41. In order to protect consumers utilizing alcohol and~~
13 ~~drug abuse treatment services, the~~ *(a) Commencing January 1,*
14 *2015, the department shall require approved certifying*
15 *organizations to require each person who applies to become*
16 *registered or certified as an AOD counselor or any AOD counselor*
17 *who is registered or certified as an AOD counselor as of January*
18 *1, 2015, to submit to a criminal background check via LiveScan,*
19 *identifying the department as the recipient.*

20 *(b) For persons described in subdivision (a), the department*
21 *shall electronically submit to the Department of Justice fingerprint*
22 *images and related information required by the Department of*
23 *Justice for the purpose of obtaining both of the following:*

24 *(1) The existence and content of a record of state or federal*
25 *convictions and state or federal arrests.*

26 *(2) Information as to the existence and content of a record of*
27 *state or federal arrests for which the Department of Justice*
28 *establishes that the person is free on bail or on his or her*
29 *recognizance pending trial or appeal.*

30 *(c) The Department of Justice shall forward to the Federal*
31 *Bureau of Investigation requests for federal summary criminal*
32 *history information received pursuant to this section. The*
33 *Department of Justice shall review the information returned from*
34 *the Federal Bureau of Investigation and compile and disseminate*
35 *a response to the department.*

36 *(d) The Department of Justice shall provide a state or federal*
37 *response to the department pursuant to subdivision (p) of Section*
38 *11105 of the Penal Code.*

39 *(e) The department shall request from the Department of Justice*
40 *subsequent notification service, as provided pursuant to Section*

1 11105.2 of the Penal Code, for persons described in subdivision
2 (a).

3 (f) The Department of Justice shall charge a reasonable fee
4 sufficient to cover the cost of processing the request described in
5 this section.

6 11999.42. The department may establish by regulation both
7 of the following:

8 (a) Criteria to implement this division, which may include, but
9 is not limited to, standards, exemptions, and terms of rehabilitation
10 for eligibility to become or to continue to be registered or certified
11 as an AOD counselor, including rebuttable presumptions with
12 respect to the acceptance or rejection of an applicant or an AOD
13 counselor with a prior criminal conviction.

14 (b) A reasonable application fee to be charged to the certifying
15 organization for each applicant or AOD counselor requesting a
16 background check, not to exceed the reasonable cost of
17 implementing this division.

18 ~~11999.42.~~

19 11999.43. The department shall establish the Director's
20 Advisory Panel.

21 (a) The director shall select the members of the panel in
22 accordance with the following:

23 (1) Each panel member shall be a certified AOD counselor and
24 have at least five years of experience in alcohol and drug treatment
25 services.

26 (2) Each panel member shall submit to a criminal background
27 check via LiveScan for review by the director prior to being
28 selected for the panel.

29 (b) The panel shall may do all of the following:

30 ~~(1) Review LiveScan results pursuant to Section 11999.41, and~~
31 ~~advise the director as to whether the applicant should be accepted,~~
32 ~~based on the LiveScan results.~~

33 ~~(2) Review complaints made against AOD counselors and advise~~
34 ~~the director with respect to disciplinary actions, including~~
35 ~~revocation, suspension, and referral for criminal prosecution.~~

36 ~~(3) For purposes of improving quality assurance in the~~
37 ~~profession of alcohol and other drug abuse counseling, advise~~

38 (1) Consistent with any applicable regulations established
39 pursuant to Section 11999.42, advise the department on the
40 development of criteria for baseline decisions regarding AOD

1 counselors, as these decisions relate to criminal background checks.
2 These criteria may include, but are not limited to, the circumstances
3 that would warrant the automatic rejection of an applicant *or AOD*
4 *counselor* and the circumstances that would allow for *registration*
5 *or* certification of an applicant *or AOD counselor*, notwithstanding
6 an applicant's *or AOD counselor's* prior criminal conviction.

7 ~~(4) Make recommendations to the department regarding the~~
8 ~~initial entry into the profession of counseling and continuing~~
9 ~~participation in the profession.~~

10 (2) *Based on the criteria developed pursuant to paragraph (1),*
11 *at the department's request, review an applicant's or AOD*
12 *counselor's LiveScan results and provide a recommendation to*
13 *the director regarding an applicant's or AOD counselor's*
14 *qualifications to receive a registration or certification.*

15 ~~(5)~~

16 (3) Make recommendations to the department regarding criteria
17 for disciplinary guidelines.

18 ~~(6) Make recommendations to the department for creating~~
19 ~~systems for sharing information about violators between the~~
20 ~~department and approved certifying organizations.~~

21 ~~11999.43.~~

22 ~~11999.44.~~ An approved certifying organization shall do ~~both~~
23 ~~all~~ of the following:

24 (a) Report complaints made against an AOD counselor to the
25 department, and assist in documenting these complaints.

26 (b) Comply with the department's decisions, ~~based upon the~~
27 ~~panel's recommendations,~~ regarding disciplinary actions, including
28 initial denial of a *registration or* certification.

29 (c) Report any known criminal convictions of an AOD counselor
30 to the department.

31 ~~11999.44.~~

32 ~~11999.45.~~ The department shall report any complaints made
33 to the department against an AOD counselor to the approved
34 certifying organization that conferred the individual's *registration*
35 *or* certification and assist that organization in documenting the
36 complaint.

37 ~~11999.45.~~ ~~The department shall contract to have an~~
38 ~~occupational analysis for the profession of alcohol and other drug~~
39 ~~counseling completed no later than January 1, 2015. This analysis~~
40 ~~shall include an examination of the varying levels of certification~~

1 and licensure of individuals providing counseling services, and an
2 examination of how these varying levels affect the implementation
3 of the California Health Benefit Exchange. This analysis also shall
4 define scopes of practice for common levels of certification in the
5 profession.

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