

Introduced by Senator Hernandez

February 10, 2014

An act to amend Section 11839.3 of the Health and Safety Code, relating to narcotic treatment.

LEGISLATIVE COUNSEL'S DIGEST

SB 973, as introduced, Hernandez. Narcotic treatment programs.

Existing law requires the State Department of Health Care Services to administer prevention, treatment, and recovery services for alcohol and drug abuse. Existing law requires the department to license the establishment of narcotic treatment programs in this state to use narcotic replacement therapy in the treatment of addicted persons whose addiction was acquired or supported by the use of a narcotic drug or drugs, not in compliance with a physician and surgeon's legal prescription. Existing law authorizes a program to admit a patient to narcotic maintenance or narcotic detoxification treatment 7 days after completion of a prior withdrawal treatment episode.

This bill, instead, would authorize a program to admit a patient to narcotic maintenance or narcotic detoxification treatment at the discretion of the medical director.

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 11839.3 of the Health and Safety Code
- 2 is amended to read:
- 3 11839.3. (a) In addition to the duties authorized by other
- 4 statutes, the department shall perform all of the following:

1 (1) License the establishment of narcotic treatment programs
2 in this state to use narcotic replacement therapy in the treatment
3 of addicted persons whose addiction was acquired or supported
4 by the use of a narcotic drug or drugs, not in compliance with a
5 physician and surgeon's legal prescription, except that the Research
6 Advisory Panel shall have authority to approve methadone or
7 LAAM research programs. The department shall establish and
8 enforce the criteria for the eligibility of patients to be included in
9 the programs, program operation guidelines, ~~such as~~ *including*
10 dosage levels, recordkeeping and reporting, urinalysis
11 requirements, take-home doses of controlled substances authorized
12 for use pursuant to Section 11839.2, security against redistribution
13 of the narcotic replacement drugs, and any other regulations that
14 are necessary to protect the safety and well-being of the patient,
15 the local community, and the public, and to carry out this chapter.
16 A program may admit a patient to narcotic maintenance or narcotic
17 detoxification treatment ~~seven days after completion of a prior~~
18 ~~withdrawal treatment episode~~ *at the discretion of the medical*
19 *director*. The arrest and conviction records and the records of
20 pending charges against ~~any~~ *a* person seeking admission to a
21 narcotic treatment program shall be furnished to narcotic treatment
22 program directors upon written request of the narcotic treatment
23 program director provided the request is accompanied by a signed
24 release from the person whose records are being requested.

25 (2) Inspect narcotic treatment programs in this state and ensure
26 that programs are operating in accordance with the law and
27 regulations. The department shall have sole responsibility for
28 compliance inspections of all programs in each county. Annual
29 compliance inspections shall consist of an evaluation by onsite
30 review of the operations and records of licensed narcotic treatment
31 programs' compliance with applicable state and federal laws and
32 regulations and the evaluation of input from local law enforcement
33 and local governments, regarding concerns about the narcotic
34 treatment program. At the conclusion of each inspection visit, the
35 department shall conduct an exit conference to explain the cited
36 deficiencies to the program staff and to provide recommendations
37 to ensure compliance with applicable laws and regulations. The
38 department shall provide an inspection report to the licensee within
39 30 days of the completed onsite review describing the program
40 deficiencies. A corrective action plan shall be required from the

1 program within 30 days of receipt of the inspection report. All
2 corrective actions contained in the plan shall be implemented
3 within 30 days of receipt of approval by the department of the
4 corrective action plan submitted by the narcotic treatment program.
5 For programs found not to be in compliance, a subsequent
6 inspection of the program shall be conducted within 30 days after
7 the receipt of the corrective action plan in order to ensure that
8 corrective action has been implemented satisfactorily. Subsequent
9 inspections of the program shall be conducted to determine and
10 ensure that the corrective action has been implemented
11 satisfactorily. For purposes of this requirement, “compliance” shall
12 mean to have not committed any of the grounds for suspension or
13 revocation of a license provided for under subdivision (a) of
14 Section 11839.9 or paragraph (2) of subdivision (b) of Section
15 11839.9. Inspection of narcotic treatment programs shall be based
16 on objective criteria including, but not limited to, an evaluation of
17 the programs’ adherence to all applicable laws and regulations and
18 input from local law enforcement and local governments. Nothing
19 in this section shall preclude counties from monitoring their
20 contract providers for compliance with contract requirements.

21 (3) Charge and collect licensure fees. In calculating the licensure
22 fees, the department shall include staff salaries and benefits, related
23 travel costs, and state operational and administrative costs. Fees
24 shall be used to offset licensure and inspection costs not to exceed
25 actual costs.

26 (4) Study and evaluate, on an ongoing basis, narcotic treatment
27 programs including, but not limited to, the adherence of the
28 programs to all applicable laws and regulations and the impact of
29 the programs on the communities in which they are located.

30 (5) Provide advice, consultation, and technical assistance to
31 narcotic treatment programs to ensure that the programs comply
32 with all applicable laws and regulations and to minimize any
33 negative impact that the programs may have on the communities
34 in which they are located.

35 (6) In its discretion, to approve local agencies or bodies to assist
36 it in carrying out this chapter provided that the department may
37 not delegate responsibility for inspection or any other licensure
38 activity without prior and specific statutory approval. However,
39 the department shall evaluate recommendations made by county

1 alcohol and drug program administrators regarding licensing
2 activity in their respective counties.

3 (7) The director may grant exceptions to the regulations adopted
4 under this chapter if he or she determines that this action would
5 improve treatment services or achieve greater protection to the
6 health and safety of patients, the local community, or the general
7 public. No exception may be granted if it is contrary to, or less
8 stringent than, the federal laws and regulations ~~which~~ *that* govern
9 narcotic treatment programs.

10 (b) It is the intent of the Legislature in enacting this section in
11 order to protect the general public and local communities, that
12 self-administered dosage shall only be provided when the patient
13 is clearly adhering to the requirements of the program, and where
14 daily attendance at a clinic would be incompatible with gainful
15 employment, education, and responsible homemaking. The
16 department shall define “satisfactory adherence” and shall ensure
17 that patients not satisfactorily adhering to their programs shall not
18 be provided take-home dosage.

19 (c) There is established in the State Treasury the Narcotic
20 Treatment Program Licensing Trust Fund. All licensure fees
21 collected from the providers of narcotic treatment service shall be
22 deposited in this fund. Except as otherwise provided in this section,
23 if funds remain in this fund after appropriation by the Legislature
24 and allocation for the costs associated with narcotic treatment
25 licensure actions and inspection of narcotic treatment programs,
26 a percentage of the excess funds shall be annually rebated to the
27 licensees based on the percentage their licensing fee is of the total
28 amount of fees collected by the department. A reserve equal to 10
29 percent of the total licensure fees collected during the preceding
30 fiscal year may be held in each trust account to reimburse the
31 department if the actual cost for the licensure and inspection exceed
32 fees collected during a fiscal year.

33 (d) Notwithstanding any provision of this code or regulations
34 to the contrary, the department shall have sole responsibility and
35 authority for determining if a state narcotic treatment program
36 license shall be granted and for administratively establishing the
37 maximum treatment capacity of ~~any~~ *a* license. However, the
38 department shall not increase the capacity of a program unless it

- 1 determines that the licensee is operating in full compliance with
- 2 applicable laws and regulations.

O