

Senate Bill No. 973

CHAPTER 484

An act to amend Sections 11839.3, 11839.22, and 11839.24 of the Health and Safety Code, relating to narcotic treatment.

[Approved by Governor September 19, 2014. Filed with
Secretary of State September 19, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

SB 973, 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 and would require the program to assign a unique identifier to, and maintain an individual record of, each patient of the program.

Existing law specifies the intent of the Legislature that self-administered dosage of the narcotic replacement only be provided when the patient is clearly adhering to the requirements of the program and where daily attendance at a clinic would be incompatible with gainful employment, education, and responsible homemaking.

This bill, in addition, would authorize take-home doses to be provided to patients who are clearly adhering to the requirements of the program if daily attendance at a clinic would be incompatible with retirement or medical disability or if the program is closed on Sundays or holidays and providing a take-home dose is not contrary to federal laws and regulations. The bill would require a narcotic treatment program medical director to determine whether or not to dilute take-home doses.

This bill would make technical, nonsubstantive changes to these provisions.

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

SECTION 1. Section 11839.3 of the Health and Safety Code is amended to read:

11839.3. (a) In addition to the duties authorized by other statutes, the department shall perform all of the following:

(1) 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, except that the Research Advisory Panel shall have authority to approve methadone or LAAM research programs. The department shall establish and enforce the criteria for the eligibility of patients to be included in the programs, program operation guidelines, such as dosage levels, recordkeeping and reporting, urinalysis requirements, take-home doses of controlled substances authorized for use pursuant to Section 11839.2, security against redistribution of the narcotic replacement drugs, and any other regulations that are necessary to protect the safety and well-being of the patient, the local community, and the public, and to carry out this chapter. A program may admit a patient to narcotic maintenance or narcotic detoxification treatment at the discretion of the medical director. The program shall assign a unique identifier to, and maintain an individual record for, each patient of the program. The arrest and conviction records and the records of pending charges against a person seeking admission to a narcotic treatment program shall be furnished to narcotic treatment program directors upon written request of the narcotic treatment program director provided the request is accompanied by a signed release from the person whose records are being requested.

(2) Inspect narcotic treatment programs in this state and ensure that programs are operating in accordance with the law and regulations. The department shall have sole responsibility for compliance inspections of all programs in each county. Annual compliance inspections shall consist of an evaluation by onsite review of the operations and records of licensed narcotic treatment programs' compliance with applicable state and federal laws and regulations and the evaluation of input from local law enforcement and local governments, regarding concerns about the narcotic treatment program. At the conclusion of each inspection visit, the department shall conduct an exit conference to explain the cited deficiencies to the program staff and to provide recommendations to ensure compliance with applicable laws and regulations. The department shall provide an inspection report to the licensee within 30 days of the completed onsite review describing the program deficiencies. A corrective action plan shall be required from the program within 30 days of receipt of the inspection report. All corrective actions contained in the plan shall be implemented within 30 days of receipt of approval by the department of the corrective action plan submitted by the narcotic treatment program. For programs found not to be in compliance, a subsequent inspection of the program shall be conducted within 30 days after the receipt of the corrective action plan in order to ensure that corrective action has been implemented satisfactorily. Subsequent inspections of the program shall be conducted to determine and ensure that the corrective action has been implemented satisfactorily. For purposes of this requirement,

“compliance” shall mean to have not committed any of the grounds for suspension or revocation of a license provided for under subdivision (a) of Section 11839.9 or paragraph (2) of subdivision (b) of Section 11839.9. Inspection of narcotic treatment programs shall be based on objective criteria including, but not limited to, an evaluation of the programs’ adherence to all applicable laws and regulations and input from local law enforcement and local governments. Nothing in this section shall preclude counties from monitoring their contract providers for compliance with contract requirements.

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

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

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

(6) In its discretion, to approve local agencies or bodies to assist it in carrying out this chapter provided that the department may not delegate responsibility for inspection or any other licensure activity without prior and specific statutory approval. However, the department shall evaluate recommendations made by county alcohol and drug program administrators regarding licensing activity in their respective counties.

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

(b) It is the intent of the Legislature in enacting this section, in order to protect the general public and local communities, that take-home doses shall only be provided when the patient is clearly adhering to the requirements of the program, and if daily attendance at a clinic would be incompatible with gainful employment, education, responsible homemaking, retirement or medical disability, or if the program is closed on Sundays or holidays and providing a take-home dose is not contrary to federal laws and regulations governing narcotic treatment programs. The department shall define “satisfactory adherence” and shall ensure that patients not satisfactorily adhering to their programs shall not be provided take-home doses. A narcotic treatment program medical director shall determine whether or not to dilute take-home doses.

(c) There is established in the State Treasury the Narcotic Treatment Program Licensing Trust Fund. All licensure fees collected from the

providers of narcotic treatment services shall be deposited in this fund. Except as otherwise provided in this section, if funds remain in this fund after appropriation by the Legislature and allocation for the costs associated with narcotic treatment licensure actions and inspection of narcotic treatment programs, a percentage of the excess funds shall be annually rebated to the licensees based on the percentage their licensing fee is of the total amount of fees collected by the department. A reserve equal to 10 percent of the total licensure fees collected during the preceding fiscal year may be held in each trust account to reimburse the department if the actual cost for the licensure and inspection exceed fees collected during a fiscal year.

(d) Notwithstanding any provision of this code or regulations to the contrary, the department shall have sole responsibility and authority for determining if a state narcotic treatment program license shall be granted and for administratively establishing the maximum treatment capacity of a license. However, the department shall not increase the capacity of a program unless it determines that the licensee is operating in full compliance with applicable laws and regulations.

SEC. 2. Section 11839.22 of the Health and Safety Code is amended to read:

11839.22. The state department shall require a system to detect multiple registrations by narcotic treatment program patients.

SEC. 3. Section 11839.24 of the Health and Safety Code is amended to read:

11839.24. Substance abuse testing for narcotic treatment programs operating in the state shall be performed only by a laboratory approved and licensed by the State Department of Public Health for the performance of those tests.