

AMENDED IN SENATE AUGUST 31, 2015

AMENDED IN SENATE JULY 16, 2015

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AMENDED IN ASSEMBLY JUNE 1, 2015

AMENDED IN ASSEMBLY MAY 6, 2015

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CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 848**

**Introduced by Assembly Member Mark Stone**

February 26, 2015

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An act to amend Sections 11834.03 and 11834.36 of, and to add Sections 11834.025 and 11834.026 to, the Health and Safety Code, relating to alcohol and drug treatment programs.

LEGISLATIVE COUNSEL'S DIGEST

AB 848, as amended, Mark Stone. Alcoholism and drug abuse treatment facilities.

Existing law requires the State Department of Health Care Services to license adult alcoholism or drug abuse recovery or treatment facilities, as defined. Existing law provides for the licensure and regulation of health care practitioners by various boards and other entities within the Department of Consumer Affairs, and prescribes the scope of practice of those health care practitioners.

This bill would authorize an adult alcoholism or drug abuse recovery or treatment facility that is licensed under those provisions to allow a licensed physician and surgeon or other health care practitioner, as

defined, to provide incidental medical services ~~services, as defined,~~ to a resident of the facility at the facility premises under specified limited ~~circumstances.~~ *circumstances, including, among others, that the resident signs an admission agreement and a physician and surgeon or other health care practitioner determines that it is medically appropriate for the resident to receive these services.* The bill would require the department to establish and collect an additional fee from those facilities, in an amount sufficient to cover the department’s reasonable costs of regulating the provision of those services. *The bill would require the department, on or before July 1, 2018, to adopt regulations to implement its provisions.* The bill would also make related findings and declarations.

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. The Legislature hereby finds and declares all of
- 2 the following:
- 3 (a) Substance abuse is a medical condition requiring
- 4 interdisciplinary treatment including, when medically necessary,
- 5 treatment by a licensed physician and surgeon.
- 6 (b) Subsequent to the enactment of state law licensing and
- 7 regulating residential facilities providing alcohol and other drug
- 8 detoxification treatment, public knowledge of addiction and
- 9 treatment has advanced significantly.
- 10 (c) Lack of scientific understanding at the time of enactment of
- 11 those state laws prevents the State Department of Health Care
- 12 Services from licensing a residential treatment facility that uses a
- 13 California-licensed physician and surgeon to provide necessary
- 14 evaluation and treatment at the facility premises.
- 15 (d) This prohibition has been found to endanger persons in
- 16 treatment, can result in treatment below the recognized standard
- 17 of care, jeopardizes patient health, and delays patient recovery.
- 18 (e) To resolve this problem, it is the intent of the Legislature to
- 19 enact this act in order to modernize and update state law and allow
- 20 those in treatment to be protected and to receive modern medical
- 21 treatment for a medical condition.
- 22 SEC. 2. Section 11834.025 is added to the Health and Safety
- 23 Code, to read:

1 11834.025. (a) (1) As a condition of providing incidental  
2 medical services, as defined in subdivision (a) of Section  
3 11834.026, at a facility licensed by the department, the ~~facility~~  
4 *facility, within a reasonable period of time, as defined by the*  
5 *department in regulations*, shall obtain from ~~an applicant for~~  
6 ~~services~~ *each program participant*, a signed certification described  
7 in subdivision (b) from a health care practitioner.

8 (2) For purposes of this chapter, “health care practitioner” means  
9 a person duly licensed and regulated under Division 2  
10 (commencing with Section 500) of the Business and Professions  
11 Code, who is acting within the scope of practice of his or her  
12 license or certificate.

13 (b) The department shall develop a standard certification form  
14 for use by a health care practitioner. The form shall include, but  
15 not be limited to, a description of the alcoholism and drug abuse  
16 recovery or treatment services that an applicant needs.

17 (c) (1) The department shall adopt regulations, on or before  
18 July 1, ~~2017~~, 2018, to implement this section. The regulations shall  
19 be adopted in accordance with the Administrative Procedure Act  
20 (Chapter 3.5 (commencing with Section 11340) of Part 1 of  
21 Division 3 of Title 2 of the Government Code).

22 (2) Notwithstanding the rulemaking provisions of the  
23 Administrative Procedure Act, the department may, if it deems  
24 appropriate, implement, interpret, or make specific this section by  
25 means of provider bulletins, written guidelines, or similar  
26 instructions from the department only until the department adopts  
27 regulations.

28 SEC. 3. Section 11834.026 is added to the Health and Safety  
29 Code, to read:

30 11834.026. (a) As used in this section, “incidental medical  
31 services” means ~~services, as specified by the department in~~  
32 ~~regulations~~, *services that are in compliance with the community*  
33 *standard of practice and are not required to be performed in a*  
34 *licensed clinic or licensed health facility, as defined by Section*  
35 *1200 or 1250, respectively, to address physical and mental health*  
36 *medical issues associated with either detoxification from alcohol*  
37 *or drugs or the provision of alcoholism or drug abuse recovery or*  
38 *treatment services, that in the opinion of a physician are not*  
39 *required to be performed in a licensed clinic or a general acute*  
40 *care hospital, as defined in Section 1200 or 1250, respectively, or*

1 ~~a medically managed inpatient treatment program, including all~~  
 2 ~~of the following categories of services that the department shall~~  
 3 ~~further define by regulation:~~

- 4 (1) *Obtaining medical histories.*
- 5 (2) *Monitoring health status to determine whether the health*  
 6 *status warrants transfer of the patient in order to receive urgent*  
 7 *or emergent care.*
- 8 (3) *Testing associated with detoxification from alcohol or drugs.*
- 9 (4) *Providing alcoholism or drug abuse recovery or treatment*  
 10 *services.*
- 11 (5) *Overseeing patient self-administered medications.*
- 12 (6) *Treating substance abuse disorders, including detoxification.*

13 (b) *Incidental medical services do not include the provision of*  
 14 *general primary medical care.*

15 ~~(b)~~

16 (c) Notwithstanding any other law, a licensed alcoholism or  
 17 drug abuse recovery or treatment facility may permit incidental  
 18 medical services to be provided to a resident at the facility premises  
 19 ~~by~~ *by, or under the supervision of,* one or more ~~independent~~  
 20 physicians and surgeons licensed by the Medical Board of  
 21 California or the Osteopathic Medical Board who are  
 22 knowledgeable about addiction medicine, or one or more other  
 23 health care practitioners acting within the scope of practice of his  
 24 or her license and under the direction of a physician and surgeon,  
 25 and who are also knowledgeable about addiction medicine, ~~when~~  
 26 *if all of the following conditions are met:*

27 (1) The facility, in the judgment of the department, has the  
 28 ability to comply with the requirements of this chapter, ~~to provide~~  
 29 ~~any level of care between Level 3.1 and Level 3.7 of the American~~  
 30 ~~Society of Addiction Medicine criteria, and to comply with chapter~~  
 31 *and all other applicable laws and regulations to meet the needs of*  
 32 *a resident receiving incidental medical services from a physician*  
 33 *pursuant to this chapter. The department shall specify in regulations*  
 34 *the minimum requirements that a facility shall meet in order to be*  
 35 *approved to permit the provision of incidental medical services*  
 36 *on its premises. The license of a facility approved to provide permit*  
 37 *the provision of incidental medical services shall reflect that those*  
 38 *services are permitted to be provided at the facility premises.*

39 (2) The physician and surgeon and any other health care  
 40 practitioner has signed an acknowledgment on a form provided

1 by the department that he or she has been advised of and  
2 understands the statutory and regulatory limitations on the services  
3 that may legally be provided ~~by~~ at a licensed alcoholism or drug  
4 abuse recovery or treatment facility ~~that is providing any level of~~  
5 ~~care between Level 3.1 and Level 3.7 of the American Society of~~  
6 ~~Addiction Medicine criteria~~, and the statutory and regulatory  
7 requirements and limitations for the physician and surgeon or other  
8 health care ~~protection~~ *practitioner* and for the facility, related to  
9 providing incidental medical services. The licensee shall maintain  
10 a copy of the signed form at the facility for a physician and surgeon  
11 or other health care practitioner providing incidental medical  
12 services at the facility premises.

13 ~~(3) There is an agreed-upon written protocol between the~~  
14 ~~physician and surgeon and the alcoholism or drug abuse recovery~~  
15 ~~or treatment facility signed by the physician and surgeon and the~~  
16 ~~licensee. The protocol shall address, at a minimum, the respective~~  
17 ~~areas of responsibility of the physician and surgeon and the facility~~  
18 ~~and the need for communicating and sharing resident information~~  
19 ~~related to the physician and surgeon providing incidental medical~~  
20 ~~services. The department shall specify by regulations the issues~~  
21 ~~that shall be addressed and the information that shall be included~~  
22 ~~in the protocol. The facility shall maintain a copy of the signed~~  
23 ~~protocol at the facility.~~

24 ~~(4) The facility in its admissions agreement with a client shall~~  
25 ~~clearly identify the individual financially responsible for incidental~~  
26 ~~medical services provided and the manner in which those services~~  
27 ~~shall be billed.~~

28 ~~(5) There is ongoing communication between the physician and~~  
29 ~~the alcoholism or drug abuse recovery or treatment facility about~~  
30 ~~the services provided to the resident by the physician and surgeon~~  
31 ~~and the frequency and duration of incidental medical services to~~  
32 ~~be provided. Resident information shall be shared between the~~  
33 ~~physician and surgeon and the alcoholism or drug abuse recovery~~  
34 ~~or treatment facility regarding the resident's need for incidental~~  
35 ~~medical services and the services to be provided to the resident by~~  
36 ~~the physician and surgeon, including, but not limited to, medical~~  
37 ~~information, as defined by the Confidentiality of Medical~~  
38 ~~Information Act (Part 2.6 (commencing with Section 56) of~~  
39 ~~Division 1 of the Civil Code). The department shall specify by~~

1 ~~regulations any other requirements or limitations on these~~  
2 ~~communications.~~

3 ~~(6) There is initial and ongoing communication between the~~  
4 ~~physician and surgeon or other health care practitioner and the~~  
5 ~~resident’s health plan or health insurer prior to the provision of~~  
6 ~~incidental medical services, to the extent allowable by state and~~  
7 ~~federal privacy and confidentiality laws, to ensure coordination of~~  
8 ~~care.~~

9 ~~(7) The facility does not interfere with the physician and surgeon~~  
10 ~~or other health care practitioner providing incidental medical~~  
11 ~~services.~~

12 ~~(8) In addition to any other medical authorization that may be~~  
13 ~~required before a facility resident receives incidental medical~~  
14 ~~services, the resident is authorized by the physician and surgeon~~  
15 ~~as medically appropriate to receive the incidental medical services~~  
16 ~~at the premises of the licensed facility. A~~

17 ~~(3) A physician and surgeon or other health care practitioner~~  
18 ~~shall assess a resident, prior to that resident receiving incidental~~  
19 ~~medical services, to determine whether it is medically appropriate~~  
20 ~~for that resident to receive these services at the premises of the~~  
21 ~~licensed facility. A copy of the authorization, on a form provided~~  
22 ~~by the department, department shall be signed by the physician~~  
23 ~~and surgeon and maintained in the resident’s file at the facility.~~

24 ~~(9) Before a facility resident receives incidental medical~~  
25 ~~services, the resident~~

26 ~~(4) The resident has signed an acknowledgment and consent to~~  
27 ~~receive those services on a form provided by the department.~~  
28 ~~admission agreement. The form, admission agreement, at a~~  
29 ~~minimum, shall describe the incidental medical services that the~~  
30 ~~facility may permit to be provided and shall state that the permitted~~  
31 ~~incidental medical services will be provided by by, or under the~~  
32 ~~supervision of, a physician and surgeon or other health care~~  
33 ~~practitioner working under the direction of the physician and~~  
34 ~~surgeon. The department shall specify in regulations, at a minimum,~~  
35 ~~the content and manner of providing the form, admission~~  
36 ~~agreement, and any other information that the department deems~~  
37 ~~appropriate. The facility shall maintain a copy of the signed~~  
38 ~~acknowledgment and consent admission agreement in the resident’s~~  
39 ~~file.~~

40 (10)

1 (5) Once incidental medical services are initiated for a resident,  
2 the physician and surgeon and facility shall ~~continuously~~ monitor  
3 the resident to ensure that the resident remains appropriate to  
4 receive those services. If the physician and surgeon determines  
5 that a change in the resident's medical ~~or psychiatric~~ condition  
6 requires other medical ~~or psychiatric~~ services or that a higher level  
7 of care is ~~required than the facility may legally provide, the~~  
8 ~~physician and surgeon~~ *required, the facility* shall immediately  
9 notify the licensee and shall assist the licensee to initiate emergency  
10 care, urgent care, or other *arrange for the other medical services*  
11 *or higher level of care, as appropriate.* ~~If the licensee believes that~~  
12 ~~a resident requires a higher level of care than the facility can legally~~  
13 ~~provide, the licensee shall immediately notify the physician and~~  
14 ~~surgeon and the department. The department shall specify by~~  
15 ~~regulations any other requirements or limitations pertaining to~~  
16 ~~changes in condition of a resident who is receiving incidental~~  
17 ~~medical services, and any other requirements the department deems~~  
18 ~~appropriate.~~

19 (11)

20 (6) The facility maintains in its files a copy of the ~~physician and~~  
21 ~~surgeon's license~~ *relevant professional license* or other written  
22 evidence of licensure to practice medicine ~~in the state.~~ *or perform*  
23 *medical services in the state for the physician and surgeon and*  
24 *any other health care practitioner providing incidental medical*  
25 *services at the facility.*

26 (12) ~~The physician and surgeon and the facility both maintain~~  
27 ~~compliance with the department's regulations relating to providing~~  
28 ~~incidental medical services.~~

29 (e) ~~The facility shall report to the department in a timely manner~~  
30 ~~any violation of the regulations relating to providing incidental~~  
31 ~~medical services or the signed protocol described in paragraph (3)~~  
32 ~~of subdivision (b). The department shall specify in regulations, at~~  
33 ~~a minimum, the steps required to be taken when the department~~  
34 ~~substantiates that information provided by the licensee.~~

35 (d) ~~Nothing in this section requires a facility to provide~~  
36 ~~incidental medical services or any services beyond those otherwise~~  
37 ~~permitted by this chapter.~~

38 (e)

39 (d) ~~The department shall~~ *is not required to* evaluate or have any  
40 responsibility or liability with respect to evaluating *the* incidental

1 medical services ~~provided~~ *provided by a physician and surgeon*  
2 *or other health care practitioner at a licensed facility.* This section  
3 does not limit the department's ability to report suspected  
4 misconduct by a physician and surgeon or other health care  
5 practitioner to the appropriate licensing entity or to law  
6 enforcement.

7 ~~(f)~~

8 (e) A facility licensed and approved by the department to allow  
9 provision of incidental medical services shall not by offering  
10 approved incidental medical services be ~~considered~~ *deemed* a clinic  
11 or health facility within the meaning of Section 1200 or 1250,  
12 respectively.

13 ~~(g)~~

14 (f) Other than incidental medical ~~services, including those~~  
15 ~~provided at any level between Level 3.1 and Level 3.7 of the~~  
16 ~~American Society of Addiction Medicine criteria, minor first aid,~~  
17 ~~services permitted to be provided or any urgent or emergent care~~  
18 ~~required~~ in the case of a life threatening emergency, this section  
19 does not authorize the provision at the premises of the facility of  
20 any medical or health care services or any other services that  
21 require a higher level of care than the care that may be provided  
22 within a licensed alcoholism or drug abuse recovery or treatment  
23 facility.

24 (g) *This section does not require a residential treatment facility*  
25 *licensed by the department to provide incidental medical services*  
26 *or any services not otherwise permitted by law.*

27 (h) (1) On or before July 1, ~~2017, 2018~~, the department shall  
28 adopt regulations to implement this section in accordance with the  
29 Administrative Procedure Act (Chapter 3.5 (commencing with  
30 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
31 Code).

32 (2) Notwithstanding the rulemaking provisions of the  
33 Administrative Procedure Act, the department may, if it deems  
34 appropriate, implement, interpret, or make specific this section by  
35 means of provider bulletins, written guidelines, or similar  
36 instructions from the department until regulations are adopted.

37 SEC. 4. Section 11834.03 of the Health and Safety Code is  
38 amended to read:

1 11834.03. (a) A person or entity applying for licensure shall  
2 file with the department, on forms provided by the department, all  
3 of the following:

- 4 (1) A completed written application for licensure.
- 5 (2) A fire clearance approved by the State Fire Marshal or local  
6 fire enforcement officer.
- 7 (3) A licensure fee, established in accordance with Chapter 7.3  
8 (commencing with Section 11833.01).

9 (b) (1) If an applicant intends to permit services pursuant to  
10 Section 11834.026, the applicant shall submit ~~a copy of the written~~  
11 ~~protocol~~, evidence of a valid license of the physician and surgeon  
12 who will provide *or oversee* those services, and any other  
13 information the department deems appropriate, ~~including, but not~~  
14 ~~limited to, a copy of the alcoholism or drug abuse recovery or~~  
15 ~~treatment facility's accreditation by a nationally recognized~~  
16 ~~accrediting organization that evaluates the level of services~~  
17 ~~provided, if the facility is accredited.~~ *appropriate.*

18 (2) The department shall establish and collect an additional  
19 licensure fee for an application that includes a request to provide  
20 services pursuant to Section 11834.026. The fee shall be set at an  
21 amount sufficient to cover the ~~department's~~ reasonable costs ~~of~~  
22 ~~regulating the provision of those services.~~ *to the department of the*  
23 *additional assessment and investigation necessary to license*  
24 *facilities to provide these services, including, but not limited to,*  
25 *processing applications, issuing licenses, and investigating reports*  
26 *of noncompliance with licensing regulations.*

27 SEC. 5. Section 11834.36 of the Health and Safety Code is  
28 amended to read:

29 11834.36. (a) The director may suspend or revoke any license  
30 issued under this chapter, or deny an application for licensure, ~~for~~  
31 extension of the licensing period, or ~~to modify the terms and~~  
32 ~~conditions of modification~~ to a license, upon any of the following  
33 grounds and in the manner provided in this chapter:

- 34 (1) Violation by the licensee of any provision of this chapter or  
35 regulations adopted pursuant to this chapter.
- 36 (2) Repeated violation by the licensee of any of the provisions  
37 of this chapter or regulations adopted pursuant to this chapter.
- 38 (3) Aiding, abetting, or permitting the violation of, or any  
39 repeated violation of, any of the provisions described in paragraph  
40 (1) or (2).

- 1 (4) Conduct in the operation of an alcoholism or drug abuse  
2 recovery or treatment facility that is inimical to the health, morals,  
3 welfare, or safety of either an individual in, or receiving services  
4 from, the facility or to the people of the State of California.
- 5 (5) Misrepresentation of any material fact in obtaining the  
6 alcoholism or drug abuse recovery or treatment facility license,  
7 including, but not limited to, providing false information or  
8 documentation to the department.
- 9 (6) The licensee’s refusal to allow the department entry into the  
10 facility to determine compliance with the requirements of this  
11 chapter or regulations adopted pursuant to this chapter.
- 12 (7) Violation by the licensee of Section 11834.026 or the  
13 regulations adopted pursuant to that section.
- 14 (8) Failure to pay any civil penalties assessed by the department.
- 15 (b) The director may temporarily suspend any license prior to  
16 any hearing when, in the opinion of the director, the action is  
17 necessary to protect residents of the alcoholism or drug abuse  
18 recovery or treatment facility from physical or mental abuse,  
19 abandonment, or any other substantial threat to health or safety.  
20 The director shall notify the licensee of the temporary suspension  
21 and the effective date of the temporary suspension and at the same  
22 time shall serve the provider with an accusation. Upon receipt of  
23 a notice of defense to the accusation by the licensee, the director  
24 shall, within 15 days, set the matter for hearing, and the hearing  
25 shall be held as soon as possible. The temporary suspension shall  
26 remain in effect until the time the hearing is completed and the  
27 director has made a final determination on the merits. However,  
28 the temporary suspension shall be deemed vacated if the director  
29 fails to make a final determination on the merits within 30 days  
30 after the department receives the proposed decision from the Office  
31 of Administrative Hearings.