

Assembly Bill No. 848

CHAPTER 744

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.

[Approved by Governor October 10, 2015. Filed with
Secretary of State October 10, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 848, 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, as defined, to a resident of the facility at the facility premises under specified limited 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.

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

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) Substance abuse is a medical condition requiring interdisciplinary treatment including, when medically necessary, treatment by a licensed physician and surgeon.

(b) Subsequent to the enactment of state law licensing and regulating residential facilities providing alcohol and other drug detoxification treatment, public knowledge of addiction and treatment has advanced significantly.

(c) Lack of scientific understanding at the time of enactment of those state laws prevents the State Department of Health Care Services from licensing a residential treatment facility that uses a California-licensed physician and surgeon to provide necessary evaluation and treatment at the facility premises.

(d) This prohibition has been found to endanger persons in treatment, can result in treatment below the recognized standard of care, jeopardizes patient health, and delays patient recovery.

(e) To resolve this problem, it is the intent of the Legislature to enact this act in order to modernize and update state law and allow those in treatment to be protected and to receive modern medical treatment for a medical condition.

SEC. 2. Section 11834.025 is added to the Health and Safety Code, to read:

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

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

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

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

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

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

11834.026. (a) As used in this section, “incidental medical services” means services that are in compliance with the community standard of practice and are not required to be performed in a licensed clinic or licensed health facility, as defined by Section 1200 or 1250, respectively, to address medical issues associated with either detoxification from alcohol or drugs or the provision of alcoholism or drug abuse recovery or treatment services, including all of the following categories of services that the department shall further define by regulation:

- (1) Obtaining medical histories.
 - (2) Monitoring health status to determine whether the health status warrants transfer of the patient in order to receive urgent or emergent care.
 - (3) Testing associated with detoxification from alcohol or drugs.
 - (4) Providing alcoholism or drug abuse recovery or treatment services.
 - (5) Overseeing patient self-administered medications.
 - (6) Treating substance abuse disorders, including detoxification.
- (b) Incidental medical services do not include the provision of general primary medical care.

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

(1) The facility, in the judgment of the department, has the ability to comply with the requirements of this chapter and all other applicable laws and regulations to meet the needs of a resident receiving incidental medical services pursuant to this chapter. The department shall specify in regulations the minimum requirements that a facility shall meet in order to be approved to permit the provision of incidental medical services on its premises. The license of a facility approved to permit the provision of incidental medical services shall reflect that those services are permitted at the facility premises.

(2) The physician and surgeon and any other health care practitioner has signed an acknowledgment on a form provided by the department that he or she has been advised of and understands the statutory and regulatory limitations on the services that may legally be provided at a licensed alcoholism or drug abuse recovery or treatment facility and the statutory and regulatory requirements and limitations for the physician and surgeon or other health care practitioner and for the facility, related to providing incidental medical services. The licensee shall maintain a copy of the signed form at the facility for a physician and surgeon or other health care practitioner providing incidental medical services at the facility premises.

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

(4) The resident has signed an admission agreement. The admission agreement, at a minimum, shall describe the incidental medical services that the facility may permit to be provided and shall state that the permitted incidental medical services will be provided by, or under the supervision of, a physician and surgeon. The department shall specify in regulations, at

a minimum, the content and manner of providing the admission agreement, and any other information that the department deems appropriate. The facility shall maintain a copy of the signed admission agreement in the resident's file.

(5) Once incidental medical services are initiated for a resident, the physician and surgeon and facility shall monitor the resident to ensure that the resident remains appropriate to receive those services. If the physician and surgeon determines that a change in the resident's medical condition requires other medical services or that a higher level of care is required, the facility shall immediately arrange for the other medical services or higher level of care, as appropriate.

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

(d) The department is not required to evaluate or have any responsibility or liability with respect to evaluating the incidental medical services provided by a physician and surgeon or other health care practitioner at a licensed facility. This section does not limit the department's ability to report suspected misconduct by a physician and surgeon or other health care practitioner to the appropriate licensing entity or to law enforcement.

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

(f) Other than incidental medical services permitted to be provided or any urgent or emergent care required in the case of a life threatening emergency, this section does not authorize the provision at the premises of the facility of any medical or health care services or any other services that require a higher level of care than the care that may be provided within a licensed alcoholism or drug abuse recovery or treatment facility.

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

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

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

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

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

- (1) A completed written application for licensure.
- (2) A fire clearance approved by the State Fire Marshal or local fire enforcement officer.
- (3) A licensure fee, established in accordance with Chapter 7.3 (commencing with Section 11833.01).
- (b) (1) If an applicant intends to permit services pursuant to Section 11834.026, the applicant shall submit evidence of a valid license of the physician and surgeon who will provide or oversee those services, and any other information the department deems appropriate.
- (2) The department shall establish and collect an additional licensure fee for an application that includes a request to provide services pursuant to Section 11834.026. The fee shall be set at an amount sufficient to cover the reasonable costs to the department of the additional assessment and investigation necessary to license facilities to provide these services, including, but not limited to, processing applications, issuing licenses, and investigating reports of noncompliance with licensing regulations.

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

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

- (1) Violation by the licensee of any provision of this chapter or regulations adopted pursuant to this chapter.
- (2) Repeated violation by the licensee of any of the provisions of this chapter or regulations adopted pursuant to this chapter.
- (3) Aiding, abetting, or permitting the violation of, or any repeated violation of, any of the provisions described in paragraph (1) or (2).
- (4) 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.
- (5) Misrepresentation of any material fact in obtaining the alcoholism or drug abuse recovery or treatment facility license, including, but not limited to, providing false information or documentation to the department.
- (6) The licensee's refusal to allow the department entry into the facility to determine compliance with the requirements of this chapter or regulations adopted pursuant to this chapter.
- (7) Violation by the licensee of Section 11834.026 or the regulations adopted pursuant to that section.
- (8) Failure to pay any civil penalties assessed by the department.

(b) The director may temporarily suspend any license prior to any hearing when, in the opinion of the director, the action is necessary to protect residents of the alcoholism or drug abuse recovery or treatment facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety. The director shall notify the licensee of the temporary suspension and the effective date of the temporary suspension and at the

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