

Introduced by Senator Bates
(Principal coauthor: Assembly Member Brough)

February 19, 2016

An act to amend Sections 11834.01, 11834.02, 11834.09, 11834.10, 11834.15, 11834.17, 11834.18, 11834.20, 11834.21, 11834.22, 11834.23, 11834.24, 11834.25, 11834.26, 11834.29, 11834.30, 11834.31, 11834.32, 11834.36, and 11834.50 of, and to add Sections 11834.11 and 11834.265 to, the Health and Safety Code, relating to substance abuse.

LEGISLATIVE COUNSEL'S DIGEST

SB 1283, as introduced, Bates. Substance abuse: adult recovery maintenance facilities.

Existing law provides for the licensure and regulation of alcoholism or drug abuse recovery or treatment facilities serving adults by the State Department of Health Care Services, as prescribed.

This bill would also require the department to administer the licensure and regulation of adult recovery maintenance facilities, as defined, pursuant to those provisions. The bill would establish licensure fees for purposes of administering these provisions. The bill would make conforming changes.

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 11834.01 of the Health and Safety Code
- 2 is amended to read:

1 11834.01. The department has the sole authority in state
2 government to license adult alcoholism or drug abuse recovery or
3 ~~treatment facilities.~~ *facilities and adult recovery maintenance*
4 *facilities. The department, in consultation with providers of alcohol*
5 *and other drug recovery, treatment, detoxification, and adult*
6 *recovery maintenance services, county alcohol and drug program*
7 *administrators, local government jurisdictions, funding and referral*
8 *organizations and agencies, and appropriate state agencies, by*
9 *no later than July 1, 2017, shall develop and adopt emergency*
10 *regulations governing the licensing and operation of adult recovery*
11 *maintenance facilities.*

12 (a) In administering this chapter, the department shall issue new
13 licenses for a period of two years to those programs that meet the
14 criteria for licensure set forth in Section 11834.03.

15 (b) Onsite program visits for compliance shall be conducted at
16 least once during the license period.

17 (c) The department may conduct announced or unannounced
18 site visits to facilities licensed pursuant to this chapter for the
19 purpose of reviewing for compliance with all applicable statutes
20 and regulations.

21 (d) *Except where otherwise directly stated or necessarily*
22 *implied, all provisions of this chapter shall apply to adult*
23 *alcoholism or drug abuse recovery treatment facilities and to adult*
24 *recovery maintenance facilities.*

25 SEC. 2. Section 11834.02 of the Health and Safety Code is
26 amended to read:

27 11834.02. (a) As used in this chapter, “alcoholism or drug
28 abuse recovery or treatment facility” or “facility” means any
29 premises, place, or building that provides 24-hour residential
30 nonmedical services to adults who are recovering from problems
31 related to alcohol, drug, or alcohol and drug misuse or abuse, and
32 who ~~need~~ *receive* alcohol, drug, or alcohol and drug recovery
33 treatment or detoxification services.

34 (b) *As used in this chapter, “adult recovery maintenance*
35 *facility” means any facility, place, or building that provides*
36 *alcohol- or drug-free housing whose rules, peer-led groups, staff*
37 *activities, or other structured operations are directed toward*
38 *maintenance of sobriety for adults in early recovery from substance*
39 *abuse or who recently have completed alcoholism or drug abuse*
40 *recovery or treatment services who may be required by the licensee*

1 *to receive those treatment services at another facility. This facility*
2 *is designed to promote independent living in a supervised setting,*
3 *but does not require staff onsite on a 24-hour-a-day basis, and*
4 *does not provide professional recovery and treatment services*
5 *onsite.*

6 ~~(b)~~

7 (c) As used in this chapter, “adults” may include, but is not
8 limited to, all of the following:

9 ~~(1) Mothers over Persons 18 years of age and their children.~~
10 ~~or older.~~

11 (2) Emancipated minors, which may include, but is not limited
12 to, ~~mothers persons~~ under 18 years of ~~age and their children.~~ *age.*

13 ~~(e)~~

14 (d) As used in this chapter, “emancipated minors” means persons
15 under 18 years of age who have acquired emancipation status
16 pursuant to Section 7002 of the Family Code.

17 ~~(f)~~

18 (e) Notwithstanding subdivision (a), an alcoholism or drug abuse
19 recovery or treatment facility may serve adolescents upon the
20 issuance of a waiver granted by the department pursuant to
21 regulations adopted under subdivision (c) of Section 11834.50.

22 SEC. 3. Section 11834.09 of the Health and Safety Code is
23 amended to read:

24 11834.09. (a) Upon receipt of a completed written application,
25 fire clearance, and licensing fee from the prospective licensee, and
26 subject to the department’s review and determination that the
27 prospective licensee can comply with this chapter and regulations
28 adopted pursuant to this chapter, the department may issue ~~a single~~
29 ~~license to the following types of alcoholism or drug abuse recovery~~
30 ~~or treatment facilities:~~ *the following licenses:*

31 (1) *A single license to the following types of alcoholism or drug*
32 *abuse recovery or treatment facilities:*

33 ~~(1)~~

34 (A) A residential facility.

35 ~~(2)~~

36 (B) A facility wherein separate buildings or portions of a
37 residential facility are integral components of a single alcoholism
38 or drug abuse recovery or treatment facility and all of the
39 components of the facility are managed by the same licensee. *This*

1 *subparagraph does not apply to adult recovery maintenance*
2 *facilities.*

3 (2) *A single license to an adult recovery maintenance facility.*
4 *The department shall commence the licensure of adult recovery*
5 *maintenance facilities only after the development and adoption of*
6 *regulations pursuant to Section 11834.01. However, the licensing*
7 *activity shall in no event commence later than January 1, 2018.*

8 (b) Failure to submit a completed written application, fire
9 clearance, and payment of the required licensing fee in a timely
10 manner shall result in termination of the department's licensure
11 review and shall require submission of a new application by the
12 prospective licensee.

13 (c) Failure of the prospective licensee to demonstrate the ability
14 to comply with this chapter or the regulations adopted pursuant to
15 this chapter shall result in departmental denial of the prospective
16 licensee's application for licensure.

17 SEC. 4. Section 11834.10 of the Health and Safety Code is
18 amended to read:

19 11834.10. A licensee shall not operate an alcoholism or drug
20 abuse recovery or treatment facility *or an adult recovery*
21 *maintenance facility* beyond the conditions and limitations
22 specified on the license.

23 SEC. 5. Section 11834.11 is added to the Health and Safety
24 Code, to read:

25 11834.11. Beginning January 1, 2018, no state or local social
26 services, law enforcement, or corrections agency, or a court,
27 probation officer, or parole officer may refer any person to an
28 alcoholism or drug abuse recovery or treatment facility or an adult
29 recovery maintenance facility that is not licensed.

30 SEC. 6. Section 11834.15 of the Health and Safety Code is
31 amended to read:

32 11834.15. (a) *The department shall calculate and establish*
33 *the fee for initial licensure and for extension of the period of*
34 *licensure. The nonrefundable licensing fee shall be calculated*
35 *every two years based upon the department's reasonable cost in*
36 *administering the licensure under this chapter for other than local*
37 *governmental entities. No fee shall be levied for licensure of local*
38 *governmental entities.*

1 (b) *The license fee proceeds for adult alcoholism or drug abuse*
2 *recovery or treatment facilities shall equal the department's*
3 *reasonable cost in administering the licensure of these facilities.*

4 (c) *The license fee proceeds for adult recovery maintenance*
5 *facilities shall be sufficient to cover the department's reasonable*
6 *cost in administering the licensure of these facilities. The total*
7 *amount of this fee shall not exceed the licensing fee authorized in*
8 *subdivision (b).*

9 ~~The~~

10 (d) *The department may assess civil penalties in accordance*
11 *with Sections 11834.31 and 11834.34.*

12 SEC. 7. Section 11834.17 of the Health and Safety Code is
13 amended to read:

14 11834.17. No city, county, city and county, or district shall
15 adopt or enforce any building ordinance or local rule or regulations
16 relating to the subject of fire and life safety in alcoholism and drug
17 abuse recovery facilities ~~which~~ *or adult recovery maintenance*
18 *facilities that is more restrictive than those standards adopted by*
19 *the State Fire Marshal.*

20 SEC. 8. Section 11834.18 of the Health and Safety Code is
21 amended to read:

22 11834.18. (a) Nothing in this chapter shall authorize the
23 imposition of rent regulations or controls for licensed alcoholism
24 or drug abuse recovery or treatment ~~facilities.~~ *facilities or adult*
25 *recovery maintenance facilities.*

26 (b) Licensed alcoholism and drug abuse recovery or treatment
27 *facilities and adult recovery maintenance facilities* shall not be
28 subject to controls on rent imposed by any state or local agency
29 or other local government or entity.

30 SEC. 9. Section 11834.20 of the Health and Safety Code is
31 amended to read:

32 11834.20. The Legislature hereby declares that it is the policy
33 of this state that each county and city shall permit and encourage
34 the development of sufficient numbers and types of alcoholism or
35 drug abuse recovery or treatment *facilities and adult recovery*
36 *maintenance facilities* as are commensurate with local need.

37 The provisions of this article apply equally to any chartered city,
38 general law city, county, city and county, district, and any other
39 local public entity.

1 For the purposes of this article, “six or fewer persons” does not
2 include the licensee or licensee, members of the licensee’s family
3 or persons employed as facility staff, staff, or minor dependents
4 of the resident.

5 SEC. 10. Section 11834.21 of the Health and Safety Code is
6 amended to read:

7 11834.21. (a) Any person licensed under this chapter who
8 operates or proposes to operate an alcoholism or drug abuse
9 recovery or treatment facility, facility or an adult recovery
10 maintenance facility, the department or other public agency
11 authorized to license such a facility, or any public or private agency
12 which that uses or may use the services of the facility to place its
13 clients, may invoke the provisions of this article.

14 (b) This section shall not be construed to prohibit any interested
15 party from bringing suit to invoke the provisions of this article.

16 SEC. 11. Section 11834.22 of the Health and Safety Code is
17 amended to read:

18 11834.22. An alcoholism or drug abuse recovery or treatment
19 facility which or an adult recovery maintenance facility that serves
20 six or fewer persons shall not be subject to any business taxes,
21 local registration fees, use permit fees, or other fees to which other
22 single-family dwellings are not likewise subject. Nothing in this
23 section shall be construed to forbid the imposition of local property
24 taxes, fees for water service and garbage collection, fees for
25 inspections not prohibited by Section 11834.23, local bond
26 assessments, and other fees, charges, and assessments to which
27 other single-family dwellings are likewise subject. Neither the
28 State Fire Marshal nor any local public entity shall charge any fee
29 for enforcing fire inspection regulations pursuant to state law or
30 regulation or local ordinance, with respect to alcoholism or drug
31 abuse recovery or treatment facilities which or adult recovery
32 maintenance facilities that serve six or fewer persons.

33 SEC. 12. Section 11834.23 of the Health and Safety Code is
34 amended to read:

35 11834.23. (a) Whether or not unrelated persons are living
36 together, an alcoholism or drug abuse recovery or treatment facility
37 or an adult recovery maintenance facility that serves six or fewer
38 persons shall be considered a residential use of property for the
39 purposes of this article. In addition, the residents and operators of
40 the facility shall be considered a family for the purposes of any

1 law or zoning ordinance that relates to the residential use of
2 property pursuant to this article.

3 (b) For the purpose of all local ordinances, an alcoholism or
4 drug abuse recovery or treatment facility *or an adult recovery*
5 *maintenance facility* that serves six or fewer persons shall not be
6 included within the definition of a boarding house, rooming house,
7 institution or home for the care of minors, the aged, or persons
8 with mental health disorders, foster care home, guest home, rest
9 home, community residence, or other similar term that implies that
10 the alcoholism or drug abuse recovery or treatment home *or the*
11 *adult recovery maintenance facility* is a business run for profit or
12 differs in any other way from a single-family residence.

13 (c) This section shall not be construed to forbid a city, county,
14 or other local public entity from placing restrictions on building
15 heights, setback, lot dimensions, or placement of signs of an
16 alcoholism or drug abuse recovery or treatment facility *or an adult*
17 *recovery maintenance facility* that serves six or fewer persons as
18 long as the restrictions are identical to those applied to other
19 single-family residences.

20 (d) This section shall not be construed to forbid the application
21 to an alcoholism or drug abuse recovery or treatment facility *or*
22 *an adult recovery maintenance facility* of any local ordinance that
23 deals with health and safety, building standards, environmental
24 impact standards, or any other matter within the jurisdiction of a
25 local public entity. However, the ordinance shall not distinguish
26 alcoholism or drug abuse recovery or treatment facilities *or adult*
27 *recovery maintenance facilities* that serve six or fewer persons
28 from other single-family dwellings or distinguish residents of
29 alcoholism or drug abuse recovery or treatment facilities *or adult*
30 *recovery maintenance facilities* from persons who reside in other
31 single-family dwellings.

32 (e) No conditional use permit, zoning variance, or other zoning
33 clearance shall be required of an alcoholism or drug abuse recovery
34 or treatment facility *or an adult recovery maintenance facility* that
35 serves six or fewer persons that is not required of a single-family
36 residence in the same zone.

37 (f) Use of a single-family dwelling for purposes of an alcoholism
38 or drug abuse recovery facility *or an adult recovery maintenance*
39 *facility* serving six or fewer persons shall not constitute a change
40 of occupancy for purposes of Part 1.5 (commencing with Section

1 17910) of Division 13 or local building codes. However, nothing
2 in this section is intended to supersede Section 13143 or 13143.6,
3 to the extent those sections are applicable to alcoholism or drug
4 abuse recovery or treatment facilities *or adult recovery*
5 *maintenance facilities* serving six or fewer residents.

6 SEC. 13. Section 11834.24 of the Health and Safety Code is
7 amended to read:

8 11834.24. No fire inspection clearance or other permit, license,
9 clearance, or similar authorization shall be denied to an alcoholism
10 or drug abuse recovery or treatment facility *or an adult recovery*
11 *maintenance facility* because of a failure to comply with local
12 ordinances from which the facility is exempt under Section
13 11834.23, if the applicant otherwise qualifies for a fire clearance,
14 license, permit, or similar authorization.

15 SEC. 14. Section 11834.25 of the Health and Safety Code is
16 amended to read:

17 11834.25. ~~For~~ (a) For the purposes of any contract, deed, or
18 covenant for the transfer of real property executed on or after
19 January 1, 1979, an alcoholism or drug abuse recovery or treatment
20 facility ~~which~~ *that* serves six or fewer persons shall be considered
21 a residential use of property and a use of property by a single
22 family, notwithstanding any disclaimers to the contrary.

23 (b) For the purposes of any contract, deed, or covenant for the
24 transfer of real property executed on or after January 1, 2017, an
25 *adult recovery maintenance facility that serves six or fewer persons*
26 *shall be considered a residential use of property and a use of*
27 *property by a single family, notwithstanding any disclaimers to*
28 *the contrary.*

29 SEC. 15. Section 11834.26 of the Health and Safety Code is
30 amended to read:

31 11834.26. (a) ~~The licensee~~ *An alcoholism or drug abuse*
32 *recovery or treatment facility* shall provide at least one of the
33 following nonmedical services:

- 34 (1) Recovery services.
- 35 (2) Treatment services.
- 36 (3) Detoxification services.

37 (b) The department shall adopt regulations requiring records
38 and procedures that are appropriate for each of the services
39 specified in subdivision (a). The records and procedures may
40 include all of the following:

- 1 (1) Admission criteria.
- 2 (2) Intake process.
- 3 (3) Assessments.
- 4 (4) Recovery, treatment, or detoxification planning.
- 5 (5) Referral.
- 6 (6) Documentation of provision of recovery, ~~treatment~~ *treatment*,
- 7 or detoxification services.
- 8 (7) Discharge and continuing care planning.
- 9 (8) Indicators of recovery, treatment, or detoxification outcomes.

10 (c) In the development of regulations implementing this section,
 11 the written record requirements shall be modified or adapted for
 12 social model programs.

13 (d) *This section shall not apply to adult recovery maintenance*
 14 *facilities.*

15 SEC. 16. Section 11834.265 is added to the Health and Safety
 16 Code, to read:

17 11834.265. (a) An adult recovery maintenance facility shall
 18 provide, but not be limited to providing, any of the following
 19 recovery maintenance services:

- 20 (1) Aftercare.
- 21 (2) Referral to community recovery resources.
- 22 (3) Peer-led groups.
- 23 (4) Vocational guidance.
- 24 (5) Referral to offsite alcoholism or other drug treatment
 25 services.
- 26 (6) Documentation on progress made or services received from
 27 referral agencies.

28 (b) The adult recovery maintenance facility may require or
 29 provide, or both, drug and alcohol testing and self-help groups on
 30 or off the premises.

31 (c) The facility shall maintain records in order to document the
 32 services provided.

33 SEC. 17. Section 11834.29 of the Health and Safety Code is
 34 amended to read:

35 11834.29. Any licensee that provides recovery, treatment, ~~or~~
 36 ~~detoxification services,~~ *detoxification, or recovery maintenance*
 37 *services* that is not in compliance with the requirements of this
 38 ~~article,~~ *article* shall have one year from the effective date of the
 39 regulations adopted by the department pursuant to this article and
 40 pursuant to Article 5 (commencing with Section 11834.50) to

1 comply. In the event that the licensee fails to comply, the
2 department shall take action against the licensee pursuant to Article
3 4 (commencing with Section 11834.36).

4 SEC. 18. Section 11834.30 of the Health and Safety Code is
5 amended to read:

6 11834.30. No person, firm, partnership, association,
7 corporation, or local governmental entity shall operate, establish,
8 manage, conduct, or maintain an alcoholism or drug abuse recovery
9 or treatment facility *or an adult recovery maintenance facility* to
10 provide recovery, treatment, ~~or detoxification~~ *detoxification, or*
11 *recovery maintenance* services within this state without first
12 obtaining a current valid license issued pursuant to this chapter.

13 SEC. 19. Section 11834.31 of the Health and Safety Code is
14 amended to read:

15 11834.31. If a facility is alleged to be in violation of Section
16 11834.30, the department shall conduct a site visit to investigate
17 the allegation. If the department's employee or agent finds evidence
18 that the facility is providing alcoholism or drug abuse recovery,
19 treatment, ~~or detoxification~~ *detoxification, or recovery maintenance*
20 services without a license, the employee or agent shall take the
21 following actions:

- 22 (a) Submit the findings of the investigation to the department.
23 (b) Upon departmental authorization, issue a written notice to
24 the facility stating that the facility is operating in violation of
25 Section 11834.30. The notice shall include all of the following:
26 (1) The date by which the facility shall cease providing services.
27 (2) Notice that the department will assess against the facility a
28 civil penalty of two hundred dollars (\$200) per day for every day
29 the facility continues to provide services beyond the date specified
30 in the notice.
31 (3) Notice that the case will be referred for civil proceedings
32 pursuant to Section 11834.32 in the event the facility continues to
33 provide services beyond the date specified in the notice.
34 (c) Inform the facility of the licensing requirements of this
35 chapter.

36 SEC. 20. Section 11834.32 of the Health and Safety Code is
37 amended to read:

38 11834.32. (a) The director may bring an action to enjoin the
39 violation of Section 11834.30 in the superior court in and for the
40 county in which the violation occurred. Any proceeding under this

1 section shall conform to the requirements of Chapter 3
2 (commencing with Section 525) of Title 7 of Part 2 of the Code
3 of Civil Procedure, except that the director shall not be required
4 to allege facts necessary to show or tending to show lack of
5 adequate remedy at law or irreparable damage or loss.

6 (b) With respect to any and all actions brought pursuant to this
7 section alleging actual violation of Section 11834.30, the court
8 shall, if it finds the allegations to be true, issue its order enjoining
9 the alcoholism or drug abuse recovery or treatment facility *or the*
10 *adult recovery maintenance facility* from continuance of the
11 violation.

12 SEC. 21. Section 11834.36 of the Health and Safety Code is
13 amended to read:

14 11834.36. (a) The director may suspend or revoke any license
15 issued under this chapter, or deny an application for licensure,
16 extension of the licensing period, or modification to a license, upon
17 any of the following grounds and in the manner provided in this
18 chapter:

19 (1) Violation by the licensee of any provision of this chapter or
20 regulations adopted pursuant to this chapter.

21 (2) Repeated violation by the licensee of any of the provisions
22 of this chapter or regulations adopted pursuant to this chapter.

23 (3) Aiding, abetting, or permitting the violation of, or any
24 repeated violation of, any of the provisions described in paragraph
25 (1) or (2).

26 (4) Conduct in the operation of an alcoholism or drug abuse
27 recovery or treatment facility *or an adult recovery maintenance*
28 *facility* that is inimical to the health, morals, welfare, or safety of
29 either an individual in, or receiving services from, the facility or
30 to the people of the State of California.

31 (5) Misrepresentation of any material fact in obtaining the
32 alcoholism or drug abuse recovery or treatment facility ~~license,~~
33 *license or the adult recovery maintenance facility license,*
34 including, but not limited to, providing false information or
35 documentation to the department.

36 (6) The licensee's refusal to allow the department entry into the
37 facility to determine compliance with the requirements of this
38 chapter or regulations adopted pursuant to this chapter.

39 (7) Violation by the licensee of Section 11834.026 or the
40 regulations adopted pursuant to that section.

1 (8) Failure to pay any civil penalties assessed by the department.

2 (b) The director may temporarily suspend any license prior to
3 any hearing when, in the opinion of the director, the action is
4 necessary to protect residents of the alcoholism or drug abuse
5 recovery or treatment facility *or the adult recovery maintenance*
6 *facility* from physical or mental abuse, abandonment, or any other
7 substantial threat to health or safety. The director shall notify the
8 licensee of the temporary suspension and the effective date of the
9 temporary suspension and at the same time shall serve the provider
10 with an accusation. Upon receipt of a notice of defense to the
11 accusation by the licensee, the director shall, within 15 days, set
12 the matter for hearing, and the hearing shall be held as soon as
13 possible. The temporary suspension shall remain in effect until the
14 time the hearing is completed and the director has made a final
15 determination on the merits. However, the temporary suspension
16 shall be deemed vacated if the director fails to make a final
17 determination on the merits within 30 days after the department
18 receives the proposed decision from the Office of Administrative
19 Hearings.

20 SEC. 22. Section 11834.50 of the Health and Safety Code is
21 amended to read:

22 11834.50. The department shall adopt regulations to implement
23 this chapter in accordance with the purposes required by Section
24 11835. These regulations shall be adopted only after consultation
25 with appropriate groups affected by the proposed regulations. The
26 regulations shall include, but not be limited to, all of the following:

27 (a) Provision for a formal appeal process for the denial,
28 suspension, or revocation of a license.

29 (b) Establishment of requirements for compliance, procedures
30 for issuance of deficiency-~~notices~~ *notices*, and civil penalties for
31 noncompliance.

32 (c) Provision for the issuance of a waiver for an alcoholism or
33 drug abuse recovery or treatment facility to serve not more than
34 three adolescents, or 10 percent of the total licensed capacity,
35 whichever is less, age 14 years and older, when a need exists and
36 services specific to adolescents are otherwise unavailable. The
37 regulations shall specify the procedures and criteria for granting
38 the waiver. The procedures shall include, but not be limited to,
39 criminal record reviews and fingerprinting.

- 1 (d) Establishment of the elements and minimum requirements
2 for recovery, treatment, ~~and detoxification~~ *detoxification, and*
3 *recovery maintenance* services.
- 4 (e) Provision for an expedited process for reviewing an
5 application for licensure when a license is terminated pursuant to
6 subdivision (c) of Section 11834.40.

O