

AMENDED IN SENATE AUGUST 15, 2011

AMENDED IN SENATE JUNE 29, 2011

AMENDED IN SENATE JUNE 15, 2011

AMENDED IN ASSEMBLY APRIL 13, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 972

**Introduced by Assembly Members Butler and Beall
(Coauthor: Assembly Member Mitchell)**

February 18, 2011

An act to amend, repeal, and add Section 11834.02 of, and to add *and repeal* Section ~~11833.05~~ 11834.04 to, the Health and Safety Code, relating to alcoholism or drug abuse treatment.

LEGISLATIVE COUNSEL'S DIGEST

AB 972, as amended, Butler. Substance abuse: treatment facilities.

Existing law provides for the licensure, certification, and regulation of alcoholism or drug abuse recovery or treatment facilities serving adults, administered by the State Department of Alcohol and Drug Programs. These facilities are defined to mean any premises, place, or building that provides 24-hour residential nonmedical services to adults who are recovering from problems related to alcohol, drug, or alcohol and drug misuse or abuse, and who need alcohol, drug, or alcohol and drug recovery treatment or detoxification services.

This bill would, until January 1, 2017, revise the definition of an alcoholism or drug abuse recovery or treatment facility to include a facility that provides a prescribed medical program exclusively to

residents of the facility and that is accredited by a nationally recognized accrediting organization.

Existing law requires the department to charge a fee to license alcohol or drug abuse recovery or treatment facilities. Existing law establishes the Residential and Outpatient Program Licensing Fund, consisting of specified fees, fines, and penalties. Under existing law, money in the fund, upon appropriation by the Legislature, is available to support the department’s licensing and certification activities.

~~This bill would require the department to charge an alcohol or drug abuse recovery or treatment facility a reasonable fee for the initial license and for extension of the license, calculated every 2 years, as prescribed. This bill would prohibit the department from levying a fee for licensure of nonprofit organizations or local governmental entities for these purposes. The bill would require legislative approval of new fees. This bill would also authorize the department to charge a specified fee for licensure or certification of a facility that provides a prescribed medical program exclusively to residents of the facility and that is accredited by a nationally recognized accrediting organization.~~

This bill would require the licensure and certification fee for facilities that provide the prescribed medical program to be, for the first year of implementation, no more than \$50 per client based on the number of clients the facility served the prior year.

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 11833.05 is added to the Health and~~
- 2 ~~Safety Code, to read:~~
- 3 ~~11833.05. Notwithstanding Section 11833.02, for all programs,~~
- 4 ~~facilities, or services licensed pursuant to Chapter 7.5 (commencing~~
- 5 ~~with Section 11834.01), the following shall apply:~~
- 6 ~~(a) The department shall calculate and establish a fee for initial~~
- 7 ~~licensure and for extension of the period of licensure. The~~
- 8 ~~nonrefundable licensing fee shall be calculated every two years in~~
- 9 ~~an amount sufficient to cover the department’s cost in~~
- 10 ~~administering the licensure under this chapter for facilities other~~
- 11 ~~than nonprofit and local government entities. No fee shall be levied~~
- 12 ~~for licensure of nonprofit or local government entities. No fee shall~~
- 13 ~~exceed the reasonable cost to the state incident to issuing the~~

1 license, performing investigations, inspections, and audits,
2 enforcing orders, and administrative enforcement and adjudication
3 thereof.

4 (b) The department shall submit any proposed new fees or fee
5 changes to the Legislature for approval no later than April 1 of
6 each year as part of the spring finance letter process. No new fees
7 or fee changes shall be implemented without legislative approval.

8 (e) Unless funds are specifically appropriated from the General
9 Fund in the annual Budget Act or other legislation to support the
10 division, the Licensing and Certification Division, no later than
11 the beginning of the 2010–11 fiscal year, shall be supported entirely
12 by federal funds and special funds.

13 (d) Additionally, for licensure or certification of a facility that
14 provides a program of limited medical services as authorized in
15 subdivision (e) of Section 11834.02, the department may charge
16 a per bed fee based on, and not to exceed, the patient slot fee for
17 a narcotic treatment program licensed by the department.

18 ~~SEC. 2.~~

19 *SECTION 1.* Section 11834.02 of the Health and Safety Code
20 is amended to read:

21 11834.02. (a) As used in this chapter, “alcoholism or drug
22 abuse recovery or treatment facility” or “facility” means any
23 premises, place, or building that provides 24-hour residential
24 nonmedical services to adults who are recovering from problems
25 related to alcohol, drug, or alcohol and drug misuse or abuse, and
26 who need alcohol, drug, or alcohol and drug recovery treatment
27 or detoxification services, and may include a facility that provides
28 a medical program exclusively to residents of the facility pursuant
29 to subdivision (e) and that is accredited by a nationally recognized
30 accrediting organization.

31 (b) As used in this chapter, “adults” includes, but is not limited
32 to, all of the following:

- 33 (1) Mothers over 18 years of age and their children.
34 (2) Emancipated minors, which may include, but are not limited
35 to, mothers under 18 years of age and their children.

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

39 (d) Notwithstanding subdivision (a), an alcoholism or drug
40 abuse recovery or treatment facility may serve adolescents upon

1 the issuance of a waiver granted by the department pursuant to
2 regulations adopted under subdivision (c) of Section 11834.50.

3 (e) An alcoholism or drug abuse recovery or treatment facility
4 may provide medical services by a physician, exclusively to
5 residents of the facility for the purpose of assisting in detoxification
6 and treatment. The medical services provided under this
7 subdivision shall be limited to the following:

8 (1) Medical evaluation, psychiatric counseling, and prescription
9 of medications for assistance with detoxification.

10 (2) Additional psychiatric evaluation and counseling, if
11 necessary.

12 (3) Prescribing and monitoring of medications, including public
13 health inoculations.

14 (4) Obtaining medical histories and routine examinations for
15 general oversight of the medical condition of residents within the
16 facility.

17 (5) Routine, noninvasive testing, including drawing blood
18 samples for laboratory examination and testing offsite.

19 (f) Nothing contained in this section shall be construed to permit
20 the state or a local governmental entity to require the provision of
21 medical services within a facility as a condition of licensure,
22 funding, or other regulatory supervision.

23 (g) This section shall remain in effect only until January 1, 2017,
24 and as of that date is repealed, unless a later enacted statute, that
25 is enacted before January 1, 2017, deletes or extends that date.

26 ~~SEC. 3.~~

27 *SEC. 2.* Section 11834.02 is added to the Health and Safety
28 Code, to read:

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

36 (b) As used in this chapter, “adults” includes, but is not limited
37 to, all of the following:

38 (1) Mothers over 18 years of age and their children.

39 (2) Emancipated minors, which may include, but are not limited
40 to, mothers under 18 years of age and their children.

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

4 (d) Notwithstanding subdivision (a), an alcoholism or drug
5 abuse recovery or treatment facility may serve adolescents upon
6 the issuance of a waiver granted by the department pursuant to
7 regulations adopted under subdivision (c) of Section 11834.50.

8 (e) This section shall become operative on January 1, 2017.

9 *SEC. 3. Section 11834.04 is added to the Health and Safety*
10 *Code, to read:*

11 *11834.04. (a) In implementing subdivision (e) of Section*
12 *11834.02, all of the following shall apply:*

13 *(1) The department shall impose a licensure and certification*
14 *fee pursuant to Section 11833.02 on a facility providing medical*
15 *services pursuant to subdivision (e) of Section 11834.02.*
16 *Notwithstanding Section 11833.02, for the first year of*
17 *implementation, the fee shall be not more than fifty dollars (\$50)*
18 *per client based on the number of clients the facility served the*
19 *prior year.*

20 *(2) (A) Notwithstanding the Administrative Procedure Act*
21 *(Chapter 3.5 (commencing with Section 11340) of Part 1 of*
22 *Division 3 of Title 2 of the Government Code), the department*
23 *shall, on or before June 30, 2012, implement this section and*
24 *subdivision (e) of Section 11834.02 by all-facility letters or similar*
25 *instructions. Thereafter, the department shall adopt emergency*
26 *regulations implementing this section on or before December 31,*
27 *2012, by adopting the specific accreditation standards established*
28 *by the Joint Commission on Accreditation of Healthcare*
29 *Organizations (JCAHO) and the Commission on Accreditation of*
30 *Rehabilitation Facilities (CARF), and any additional accrediting*
31 *organizations that the department may choose to rely upon. The*
32 *department may readopt any emergency regulation authorized by*
33 *this section.*

34 *(3) The initial adoption of emergency regulations and readoption*
35 *of emergency regulations authorized by this subdivision shall be*
36 *deemed an emergency and necessary for the immediate*
37 *preservation of the public peace, health, safety, or general welfare.*
38 *Initial emergency regulations and the one readoption of emergency*
39 *regulations authorized by this section shall be exempt from review*
40 *and approval by the Office of Administrative Law. The initial*

1 *emergency regulations and readoption of emergency regulations*
2 *authorized by this section shall be submitted to the Office of*
3 *Administrative Law for filing with the Secretary of State and each*
4 *shall remain in effect for no more than 180 days, by which time*
5 *final regulations may be adopted.*

6 *(b) This section shall remain in effect only until January 1, 2017,*
7 *and as of that date is repealed, unless a later enacted statute, that*
8 *is enacted before January 1, 2017, deletes or extends that date.*