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HEALTH AND SAFETY CODE - HSC

DIVISION 10.5. ALCOHOL AND DRUG PROGRAMS [11750 - 11975] (*Heading of Division 10.5 amended by Stats. 2013, Ch. 22, Sec. 18.)*

PART 2. STATE GOVERNMENT'S ROLE TO ALLEVIATE PROBLEMS RELATED TO THE INAPPROPRIATE USE OF ALCOHOLIC BEVERAGES AND OTHER DRUG USE [11760 - 11872] (*Heading of Part 2 amended by Stats. 2004, Ch. 862, Sec. 43.)*

CHAPTER 10. Narcotic Treatment Programs [11839 - 11839.34] (*Chapter 10 added by Stats. 2004, Ch. 862, Sec. 114.)*

ARTICLE 1. Narcotic Treatment Programs [11839 - 11839.22] (*Article 1 added by Stats. 2004, Ch. 862, Sec. 114.)*

11839. The department, with the approval of the Secretary of California Health and Human Services, may contract with any public or private agency for the performance of any of the functions vested in the department by this chapter. Any department of the state is authorized to enter into a contract described in this section.

(*Amended by Stats. 2012, Ch. 36, Sec. 52. (SB 1014) Effective June 27, 2012. Operative July 1, 2012, by Sec. 83 of Ch. 36.*)

11839.01. (a) (1) Notwithstanding any other law, the department shall amend Chapter 4 (commencing with Section 10000) of Division 4 of Title 9 of the California Code of Regulations to comply with Part 8 of Title 42 of the Code of Federal Regulations, as published in the Federal Register on February 2, 2024 (89 FR 7528).

(2) In the event that Part 8 of Title 42 of the Code of Federal Regulations, as published on February 2, 2024, in the Federal Register (89 FR 7528), renders state narcotic treatment program regulations inconsistent with, but not in violation of, federal narcotic treatment program requirements, the department may amend Chapter 4 (commencing with Section 10000) of Division 4 of Title 9 of the California Code of Regulations to align with the Code of Federal Regulations.

(b) (1) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section, in whole or in part, by means of plan or county letters, information notices, plan or provider bulletins, or other similar instructions, without taking any further regulatory action.

(2) By April 30, 2029, the department shall adopt any regulations necessary to implement this section in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(*Added by Stats. 2024, Ch. 634, Sec. 3. (AB 2115) Effective September 27, 2024.*)

11839.1. The Legislature finds and declares that it is in the best interests of the health and welfare of the people of this state to coordinate narcotic treatment programs to use narcotic replacement therapy and medication-assisted treatments for substance use disorders 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, and to establish and enforce minimum requirements for the operation of all these treatment programs in this state.

(*Amended by Stats. 2017, Ch. 223, Sec. 2. (AB 395) Effective January 1, 2018.*)

11839.2. The following medications are authorized for use in narcotic replacement therapy and medication-assisted treatment by licensed narcotic treatment programs:

(a) Methadone.

(b) Buprenorphine products or combination of products approved by the federal Food and Drug Administration for maintenance or detoxification of opioid dependence.

(c) Any other medication approved by the federal Food and Drug Administration for the purpose of narcotic replacement treatment or medication-assisted treatment of substance use disorders.

(d) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section by means of plan or provider bulletins, or similar instructions. The department shall adopt regulations by no later than January 1, 2021.

(Amended by Stats. 2024, Ch. 634, Sec. 4. (AB 2115) Effective September 27, 2024.)

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 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 the director 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. An exception shall not 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 of narcotic replacement therapy medications authorized for use pursuant to Section 11839.2 shall only be provided when the patient is clearly adhering to the requirements of the program, 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.

(Amended by Stats. 2024, Ch. 634, Sec. 5. (AB 2115) Effective September 27, 2024.)

11839.4. The department shall impose a civil penalty of one hundred dollars (\$100) per day for a program that fails to timely submit a corrective action plan, or to timely implement any corrective action when it has been found to not be in compliance with applicable laws and regulations as required in Section 11839.3.

(Added by Stats. 2004, Ch. 862, Sec. 114. Effective January 1, 2005.)

11839.5. In addition to the duties authorized by other provisions, the department shall be responsible for licensing narcotic treatment programs to use narcotic replacement therapy and medication-assisted treatment in the treatment of addicted persons whose addiction was acquired or supported by the use of alcohol or a narcotic drug or drugs, not in compliance with a physician and surgeon's legal prescription. No narcotic treatment program shall be authorized to use narcotic replacement therapy and medication-assisted treatment without first obtaining a license as a narcotic treatment program as provided in this chapter. The department may license narcotic treatment programs on an inpatient or outpatient basis, or both. The department may also grant a state narcotic treatment license.

(Amended by Stats. 2017, Ch. 223, Sec. 5. (AB 395) Effective January 1, 2018.)

11839.6. (a) The department shall establish a program for the operation and regulation of office-based narcotic treatment programs. An office-based narcotic treatment program established pursuant to this section shall meet either of the following conditions:

(1) Hold a primary narcotic treatment program license.

(2) Be affiliated and associated with a primary licensed narcotic treatment program. An office-based narcotic treatment program meeting the requirement of this paragraph shall not be required to have a license separate from the primary licensed narcotic treatment program with which it is affiliated and associated.

(b) For purposes of this section, "office-based narcotic treatment program" means a program in which interested and knowledgeable physicians and surgeons provide addiction treatment services, and in which community pharmacies or medication units supply necessary medication both to these physicians and surgeons for distribution to patients and through direct administration and specified dispensing services.

(c) Notwithstanding any other law or regulation, including Section 10020 of Title 9 of the California Code of Regulations, an office-based narcotic treatment program in a remote site that is affiliated and associated with a licensed narcotic treatment program may be approved by the department, if all of the following conditions are met:

(1) A physician may provide office-based addiction services only if each office-based patient is registered as a patient in the licensed narcotic treatment program and both the licensed narcotic treatment program and the office-based narcotic treatment program ensure that all services required under Chapter 4 (commencing with Section 10000) of Division 4 of Title 9 of the California Code of Regulations for the management of narcotic addiction are provided to all patients treated in the remote site.

(2) A physician in an office-based narcotic treatment program may provide treatment for an appropriate number of patients under the appropriate United States Drug Enforcement Administration registration. The primary licensed narcotic treatment program shall be limited to its total licensed capacity as established by the department, including the patients of physicians in the office-based narcotic treatment program.

(3) The physicians in the office-based narcotic treatment program shall dispense or administer pharmacologic treatments for narcotic addiction or a substance use disorder that have been approved by the federal Food and Drug Administration for the purpose of narcotic replacement therapy or medication-assisted treatment of substance use disorders.

(4) Office-based narcotic treatment programs, in conjunction with primary licensed narcotic treatment programs, shall develop protocols to prevent the diversion of medication. The department may develop regulations to prevent the diversion of medication.

(d) For purposes of this section, "remote site" means a site that is geographically or physically isolated from any licensed narcotic treatment program. Therefore, the requirements in this subdivision regarding a remote site do not apply to an office-based narcotic treatment program that holds a primary narcotic treatment program license.

(e) In considering an office-based narcotic treatment program application, the department shall independently weigh the treatment needs and concerns of the county, city, or areas to be served by the program.

(f) Nothing in this section is intended to expand the scope of the practice of pharmacy.

(Amended by Stats. 2017, Ch. 223, Sec. 6. (AB 395) Effective January 1, 2018.)

11839.6.1. (a) No sooner than July 1, 2022, the department shall establish a program for the operation and regulation of mobile narcotic treatment programs. A mobile narcotic treatment program established pursuant to this section shall do all of the following:

(1) Operate under the license of a primary narcotic treatment program with which it is affiliated and associated.

(2) Provide opioid addiction treatment in a motor vehicle.

(3) Comply with any applicable federal requirements.

(4) Receive approval from the department prior to operating a mobile narcotic treatment program.

(b) The department shall do all of the following:

(1) Establish the requirements for approval of a mobile narcotic treatment program.

(2) Oversee and enforce the requirements developed pursuant to this section.

(c) (1) The primary narcotic treatment program shall be subject to action under Section 11839.9 for any violation by its mobile narcotic treatment program of any requirements imposed under this section or any regulations promulgated under this article.

(2) The department may terminate the operation of a mobile narcotic treatment program for failing to comply with this section.

(d) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section through the use of all-county letters, provider bulletins, or similar instructions, without taking any further regulatory action.

(e) The following definitions apply for purposes of this section:

(1) "Mobile narcotic treatment program" means a narcotic treatment program operating from a motor vehicle that serves as a mobile component and is operating under a primary narcotic treatment program, and engages in treatment of opioid addiction, including maintenance or detoxification treatment, at a location or locations remote from the primary narcotic treatment program, but within California.

(2) "Motor vehicle" means a vehicle propelled under its own motive power and lawfully used on public streets, roads, or highways with more than three wheels in contact with the ground. This term does not include a trailer.

(Added by Stats. 2022, Ch. 47, Sec. 11. (SB 184) Effective June 30, 2022.)

11839.7. (a) (1) Each narcotic treatment program authorized to use narcotic replacement therapy in this state, except narcotic treatment research programs approved by the Research Advisory Panel, shall be licensed by the department.

(2) Each narcotic treatment program, other than a program owned and operated by the state, county, city, or city and county, shall, upon application for licensure and for renewal of a license, pay an annual license fee to the department. July 1 shall be the annual

license renewal date.

(3) The department shall set the licensing fee at a level sufficient to cover all departmental costs associated with licensing incurred by the department, but the fee shall not, except as specified in this section, increase at a rate greater than the Consumer Price Index. The fees shall include the department's share of pro rata charges for the expenses of state government. The fee may be paid quarterly in arrears as determined by the department. Fees paid quarterly in arrears shall be due and payable on the last day of each quarter except for the fourth quarter for which payment shall be due and payable no later than May 31. A failure of a program to pay renewal license fees by the due date shall give rise to a civil penalty of one hundred dollars (\$100) a day for each day after the due date. Second and subsequent inspection visits to narcotic treatment programs that are operating in noncompliance with the applicable laws and regulations shall be charged a rate of one-half the program's annual license fee or one thousand dollars (\$1,000), whichever is less, for each visit.

(4) Licensing shall be contingent upon determination by the department that the program is in compliance with applicable laws and regulations and upon payment of the licensing fee. A license shall not be transferable.

(5) (A) As used in this chapter, "quarter" means July, August, and September; October, November, and December; January, February, and March; and April, May, and June.

(B) As used in this chapter, "license" means a basic permit to operate a narcotic treatment program. The license shall be issued exclusively by the department and operated in accordance with a patient capacity that shall be specified, approved, and monitored solely by the department.

(b) Each narcotic treatment program, other than a program owned and operated by the state, county, city, or city and county, shall be charged an application fee that shall be at a level sufficient to cover all departmental costs incurred by the department in processing either an application for a new program license, or an application for an existing program that has moved to a new location.

(c) Any licensee that increases fees to the patient, in response to increases in licensure fees required by the department, shall first provide written disclosure to the patient of that amount of the patient fee increase that is attributable to the increase in the licensure fee. This provision shall not be construed to limit patient fee increases imposed by the licensee upon any other basis.

(Amended by Stats. 2013, Ch. 22, Sec. 51. (AB 75) Effective June 27, 2013. Operative July 1, 2013, by Sec. 110 of Ch. 22.)

11839.8. The director may deny the application for initial issuance of a license if the applicant or any partner, officer, director, 10 percent or greater shareholder, or person proposed to be employed by the applicant under the authority of subdivision (c) of Section 2401 of the Business and Professions Code:

(a) Fails to meet the qualifications for licensure established by the department pursuant to this article. However, the director may waive any established qualification for licensure of a narcotic treatment program if he or she determines that it is reasonably necessary in the interests of the public health and welfare.

(b) Was previously the holder of a license issued under this article, and the license was revoked and never reissued or was suspended and not reinstated, or the holder failed to adhere to applicable laws and regulations regarding narcotic treatment programs while the license was in effect.

(c) Misrepresented any material fact in the application.

(d) Committed any act involving fraud, dishonesty, or deceit, with the intent to substantially benefit himself or herself or another or substantially injure another, and the act is substantially related to the qualification, functions, or duties of, or relating to, a narcotic treatment program license.

(e) Was convicted of any crime substantially related to the qualifications, functions, or duties of, or relating to, a narcotic treatment program license.

(f) The director, in considering whether to deny licensure under subdivision (d) or (e), shall determine whether the applicant is rehabilitated after considering all of the following criteria:

(1) The nature and severity of the act or crime.

(2) The time that has elapsed since the commission of the act or crime.

(3) The commission by the applicant of other acts or crimes constituting grounds for denial of the license under this section.

(4) The extent to which the applicant has complied with terms of restitution, probation, parole, or any other sanction or order lawfully imposed against the applicant.

(5) Other evidence of rehabilitation submitted by the applicant.

(g) With respect to any other license issued to an applicant to provide narcotic treatment services, violated any provision of this article or regulations adopted under this article that relate to the health and safety of patients, the local community, or the general public. Violations include, but are not limited to, violations of laws and regulations applicable to take-home doses of methadone, urinalysis requirements, and security against redistribution of replacement narcotic drugs. In these cases, the department shall deny the application for an initial license unless the department determines that all other licensed narcotic treatment programs maintained by the applicant have corrected all deficiencies and maintained compliance for a minimum of six months.

(Added by Stats. 2004, Ch. 862, Sec. 114. Effective January 1, 2005.)

11839.9. (a) The director shall suspend or revoke any license issued under this article, or deny an application to renew a license or to modify the terms and conditions of a license, upon any violation by the licensee of this article or regulations adopted under this article that presents an imminent danger of death or severe harm to any participant of the program or a member of the general public.

(b) The director may suspend or revoke any license issued under this article, or deny an application to renew a license or to modify the terms and conditions of a license, upon any of the following grounds and in the manner provided in this article:

(1) Violation by the licensee of any laws or regulations of the Substance Abuse and Mental Health Services Administration or the United States Department of Justice, Drug Enforcement Administration, that are applicable to narcotic treatment programs.

(2) Any violation that relates to the operation or maintenance of the program that has an immediate relationship to the physical health, mental health, or safety of the program participants or general public.

(3) Aiding, abetting, or permitting the violation of, or any repeated violation of, any of the provisions set forth in subdivision (a) or in paragraph (1) or (2).

(4) Conduct in the operation of a narcotic treatment program that is inimical to the health, welfare, or safety of an individual in, or receiving services from, the program, the local community, or the people of the State of California.

(5) The conviction of the licensee or any partner, officer, director, 10 percent or greater shareholder, or person employed under the authority of subdivision (c) of Section 2401 of the Business and Professions Code at any time during licensure, of a crime substantially related to the qualifications, functions, or duties of, or relating to, a narcotic treatment program licensee.

(6) The commission by the licensee or any partner, officer, director, 10 percent or greater shareholder, or person employed under the authority of subdivision (c) of Section 2401 of the Business and Professions Code at any time during licensure, of any act involving fraud, dishonesty, or deceit, with the intent to substantially benefit himself or herself or another, or substantially to injure another, and that act is substantially related to the qualifications, functions, or duties of, or relating to, a narcotic treatment program licensee.

(7) Diversion of narcotic drugs. A program's failure to maintain a narcotic drug reconciliation system that accounts for all incoming and outgoing narcotic drugs, as required by departmental or federal regulations, shall create a rebuttable presumption that narcotic drugs are being diverted.

(8) Misrepresentation of any material fact in obtaining the narcotic treatment program license.

(9) Failure to comply with a department order to cease admitting patients or to cease providing patients with take-home dosages of narcotic replacement drugs.

(10) Failure to pay any civil penalty assessed pursuant to paragraph (3) of subdivision (a) of Section 11839.16 where the penalty has become final, unless payment arrangements acceptable to the department have been made.

(11) The suspension or exclusion of the licensee or any partner, officer, director, 10 percent or greater shareholder, or person employed under the authority of subdivision (c) of Section 2401 of the Business and Professions Code from the Medicare, medicaid, or Medi-Cal programs.

(c) Prior to issuing an order pursuant to this section, the director shall ensure continuity of patient care by the program's guarantor or through the transfer of patients to other licensed programs. The director may issue any needed license or amend any other license in an effort to ensure that patient care is not impacted adversely by an order issued pursuant to this section.

(Amended by Stats. 2013, Ch. 22, Sec. 52. (AB 75) Effective June 27, 2013. Operative July 1, 2013, by Sec. 110 of Ch. 22.)

11839.10. (a) The department shall cease review of an application for a license if either of the following occur:

(1) An application for a license indicates, or the department determines during the application inspection process, that the applicant was issued a license under this article and the prior license was revoked within the preceding two years. The department shall cease any further review of the application until two years have elapsed from the date of the revocation.

(2) An application for a license indicates, or the department determines during the application inspection process, that the applicant was denied a license or had a license suspended under this article within the preceding year. The department shall cease any further review of the application until one year has elapsed from the date of the denial or suspension.

(b) The department may cease review of an application for license renewal if either of the following occur:

(1) The applicant has not paid the required license fee.

(2) The county in which the licensee is located certifies to the department's satisfaction that there is no need for the narcotic treatment program because of a substantial decline in medically qualified narcotic treatment patients in the licensee's catchment area, or clearly demonstrates that other applicants for licensure can provide more efficient, cost-effective, and sufficient narcotic treatment services in the catchment area, or that the license should not be renewed due to one of the grounds that are enumerated in Section 11839.9.

(c) Upon cessation of review, the license shall be permitted to expire by its own terms. However, if the licensee subsequently submits the items, the absence of which led to the cessation of review, the department may reinstate the license.

(d) Cessation of review shall not constitute a denial of the application for purposes of Sections 11839.8 and 11839.9.

(Added by Stats. 2004, Ch. 862, Sec. 114. Effective January 1, 2005.)

11839.11. A narcotic treatment program license shall automatically terminate if the Substance Abuse and Mental Health Services Administration withdraws or revokes its approval of the program, or if the United States Department of Justice, Drug Enforcement Administration, revokes the program's registration.

(Added by Stats. 2004, Ch. 862, Sec. 114. Effective January 1, 2005.)

11839.12. Except as provided in Section 11839.16, proceedings for the suspension, revocation, or denial of a license or cessation of review of a renewal license under this article, except where there has been a failure to pay required fees, under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and the department shall have all the powers granted thereby. In the event of conflict between this article and the Administrative Procedure Act, the Administrative Procedure Act shall prevail.

(Added by Stats. 2004, Ch. 862, Sec. 114. Effective January 1, 2005.)

11839.13. (a) The withdrawal of an application for a license after it has been filed with the department shall not, unless the department consents in writing to the withdrawal, deprive the department of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any ground provided by law.

(b) The suspension, expiration, or forfeiture by operation of law of a license issued by the department, or its suspension, forfeiture, or cancellation by order of the department or by order of a court of law, or its surrender without the written consent of the department, shall not deprive the department of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee upon any ground provided by law.

(Added by Stats. 2004, Ch. 862, Sec. 114. Effective January 1, 2005.)

11839.14. For purposes of this article, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Section 1203.4 or 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this article, the record of conviction, or a certified copy thereof, shall be conclusive evidence of the conviction.

(Added by Stats. 2004, Ch. 862, Sec. 114. Effective January 1, 2005.)

11839.15. The director may bring an action to enjoin the violation of Section 11839.7, or the violation of a departmental order issued pursuant to Section 11839.16, in the superior court in and for the county in which the violation occurred. Any proceeding under this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure. The rebuttable presumption set forth in paragraph (7) of subdivision (b) of Section 11839.9 shall be applicable. If the

court finds the allegations to be true, it shall issue its order enjoining the narcotic treatment program from continuance of the violation.

(Added by Stats. 2004, Ch. 862, Sec. 114. Effective January 1, 2005.)

11839.16. (a) (1) The director shall, in addition to any other remedy, issue an order that prohibits a narcotic treatment program from admitting new patients or from providing patients with take-home dosages of a narcotic drug if the director determines, pursuant to the compliance inspection procedures set out in paragraph (2) of subdivision (a) of Section 11839.3, that a program has done any of the following:

(A) Failed to provide adequate security measures over its narcotic drug supply as agreed in the program's approved protocol.

(B) Failed to maintain a narcotic drug reconciliation system that accounts for all incoming and outgoing narcotic drugs.

(C) Diverted narcotic drugs.

(D) Repeatedly violated one or more departmental or federal regulations governing narcotic treatment programs, which violations may subject, or may have subjected, a patient to a health or life-endangering situation.

(E) Repeatedly violated one or more departmental or federal regulations governing the provisions of take-home medication.

(F) Operated above combined licensed capacity for maintenance and detoxification programs at a single location.

(2) (A) The order becomes effective when the department serves the program with a copy of the order. The order shall state the deficiencies forming the basis for the order and shall state the corrective action required for the department to vacate the order. The order, as it pertains to subparagraph (F) only, shall automatically be vacated when the department receives the program's written notification that licensed capacity has been achieved. If the order is issued pursuant to subparagraph (A), (B), (C), (D), or (E), the department shall vacate the order when the program submits a corrective action plan that reasonably addresses the deficiency or substantially conforms to the required action set out in the order.

(B) The department shall notify the program that the corrective action plan is accepted or rejected within 10 working days after receipt of the plan. If the department rejects the corrective action plan, it shall detail its reason in writing. The department order is vacated when the department either accepts a corrective action plan and ensures substantial conformity with the required action set out in the order or fails to reject a plan within 10 working days after receipt of the plan.

(3) In addition to any other remedies, a failure of the program to comply with the order of the department under this subdivision shall give rise to a civil penalty of five hundred dollars (\$500) a day for each day that the order is violated.

(4) All civil penalties collected by the department under paragraph (3) shall be deposited in the Narcotic Treatment Program Licensing Trust Fund, and shall be used to offset the department's costs associated with collecting the civil penalties, or associated with any civil, administrative, or criminal action against the program when appropriated for this purpose.

(b) (1) The director may, in addition to any other remedy, issue an order temporarily suspending a narcotic treatment program license prior to any administrative hearing for the reasons stated in subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a) when the department determines pursuant to the compliance inspection procedures set out in paragraph (2) of subdivision (a) of Section 11839.3, that the action is necessary to protect patients of the program from any substantial threat to their health or safety, or to protect the health or safety of the local community or the people of the State of California. Prior to issuing the order, the director shall ensure continuity of patient care by the program's guarantor or through the transfer of patients to other licensed programs. The director may issue any needed license or amend any other license in his or her effort to assure that patient care is not impacted adversely by the suspension order.

(2) The director shall notify the licensee of the temporary suspension and the effective date thereof and at the same time shall serve the licensee 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, but not later than 20 days, exclusive of weekends, after receipt of the notice. The temporary suspension shall remain in effect until 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 20 days after the original hearing has been completed. Failure to cease operating after the department issues an order temporarily suspending the license shall constitute an additional ground for license revocation and shall constitute a violation of Section 11839.8. The department shall suspend the program's license if the hearing outcome is adverse to the license. The department shall notify the program of the license suspension within five days of the director's final decision.

(c) A program may, at any time after it is served with an order, petition the superior court to review the department's issuance of an order or rejection of a corrective action plan.

(Added by Stats. 2004, Ch. 862, Sec. 114. Effective January 1, 2005.)

11839.17. (a) In cases where a program is closing and the licensed entity that has agreed to assume temporary operation of the closing program is unable to do so, the department may assume temporary operation of the closing program or designate another licensed entity willing to do so. In cases where the licensed entity that has agreed to assume temporary operation is the subject of a pending licensing action or order issued pursuant to Section 11839.16, the department may issue an order prohibiting the entity from assuming temporary operation and may assume temporary operation of the closing program or designate another licensed entity willing to do so. This section shall not be construed to require the department or any other licensed entity to assume any of the closing programs' financial obligations.

(b) For purposes of this section, "temporary" means no more than 90 days.

(Added by Stats. 2004, Ch. 862, Sec. 114. Effective January 1, 2005.)

11839.18. Any licensee may petition the director for waiver of licensure fees or late payment penalties for the current fiscal year based upon financial hardship. Prior to the granting of relief, the licensee shall demonstrate hardship by production of appropriate financial records. The director may, in his or her discretion, grant all or part of the relief sought, but shall consider the reasonableness of the relief in light of the other expenditures undertaken by the licensee, giving particular scrutiny to the licensee's own profits, earnings, or other compensation, and expenses such as interest, mortgage, or loan payments, as well as noncash expenses such as accruals and depreciation.

(Added by Stats. 2004, Ch. 862, Sec. 114. Effective January 1, 2005.)

11839.19. (a) The department shall not license the establishment of a narcotic treatment program without a written application by the treatment facility that meets evaluative criteria required by the department.

(b) The department shall not require disclosure of the identity of patients or former patients or of any records containing identifying information except as provided in Section 11845.5.

(Added by Stats. 2004, Ch. 862, Sec. 114. Effective January 1, 2005.)

11839.20. (a) It is the intent of the Legislature in licensing narcotic treatment programs to provide a means whereby the patient may be rehabilitated and will no longer need to support a dependency on opiates.

(b) It is the intent of the Legislature that each narcotic treatment program shall have a strong rehabilitative element, including, but not limited to, individual and group therapy, counseling, vocational guidance, and job and education counseling.

(c) The Legislature declares the ultimate goal of all narcotic treatment programs shall be to aid the patient in altering his or her lifestyle and eventually to eliminate the improper use of legal drugs and the use of illicit drugs.

(d) The department shall adopt any regulations necessary to ensure that every program is making a sustained effort to end the drug dependency of the patients.

(Amended by Stats. 2005, Ch. 616, Sec. 3. Effective October 6, 2005.)

11839.21. The State Department of Health Services shall establish criteria for acceptable performance from those laboratories performing urinalysis or other body fluid analysis and shall not permit utilization of laboratories unable to meet an acceptable level of performance. The results of any performance evaluation of any laboratory shall immediately be made available to the local programs upon request. Nothing in this section shall prohibit body fluid analysis to be performed by a licensed narcotic treatment program upon approval of the State Department of Health Services.

(Added by Stats. 2004, Ch. 862, Sec. 114. Effective January 1, 2005.)

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

(Amended by Stats. 2014, Ch. 484, Sec. 2. (SB 973) Effective January 1, 2015.)