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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 7.5. Licensing [11834.01 - 11834.50] (*Chapter 7.5 added by Stats. 1984, Ch. 1667, Sec. 2.)*

ARTICLE 4. Suspension and Revocation [11834.35 - 11834.45] (*Article 4 added by Stats. 1988, Ch. 646, Sec. 5.)*

11834.35. Any employee or agent of the department upon presentation of proper identification, may enter and inspect any building, premises, and records, at a reasonable time, with or without notice, to secure information regarding compliance with, or to prevent a violation of, this chapter or any regulation adopted pursuant to this chapter. Failure of the owner or operator of the building or premises to allow the employee or agent of the department to enter and inspect the building, premises, and records, shall result in the department taking legal action to gain entry by an inspection warrant issued pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure. The cost of any legal action required to gain entry to a licensed facility shall be borne by the owner or operator responsible for preventing the department from entering and inspecting the building, premises, and records.

(*Added by Stats. 1993, Ch. 741, Sec. 19. Effective January 1, 1994.*)

11834.36. (a) The director may suspend or revoke any license issued under this chapter, as well as any other licenses issued under this chapter to operate an adult alcohol or other drug recovery or treatment facility held by the same person or entity, 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 alcohol or other drug 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 alcohol or other drug 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, as well as any other licenses issued under this chapter to operate an adult alcohol or other drug recovery or treatment facility held by the same person or entity, prior to any hearing when, in the opinion of the director, the action is necessary to protect residents of the alcohol or other drug 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.

(c) The department may terminate review of an application for licensure under this chapter from any person or entity that previously had a license issued under this chapter suspended or revoked for a period of five years from the date of the final decision and order.

(Amended by Stats. 2024, Ch. 847, Sec. 60. (AB 2995) Effective January 1, 2025.)

11834.37. (a) Proceedings for the suspension, revocation, or denial of a license under this chapter shall be conducted in accordance with the provisions of 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 by those provisions. In the event of conflict between this chapter and the Government Code, the Government Code shall prevail.

(b) In all proceedings conducted in accordance with this section, the standard of proof to be applied shall be by the preponderance of the evidence.

(c) The department shall commence and process licensure revocations under this chapter in a timely and expeditious manner. The Office of Administrative Hearings shall give priority calendar preference to licensure revocation hearings pursuant to this chapter, particularly revocations where the health and safety of the residents are in question.

(Amended by Stats. 1995, Ch. 938, Sec. 64.8. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938.)

11834.38. Any license suspended pursuant to this chapter may be reinstated pursuant to Section 11522 of the Government Code.

(Added by renumbering Section 11834.37 by Stats. 1993, Ch. 741, Sec. 21. Effective January 1, 1994.)

11834.39. (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 of these grounds.

(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 on any ground provided by law.

(Added by renumbering Section 11834.38 by Stats. 1993, Ch. 741, Sec. 22. Effective January 1, 1994.)

11834.40. A license shall terminate by operation of law, prior to its expiration date, when any of the following conditions occur:

(a) The licensee sells or otherwise transfers the facility or the property of the facility as identified on the license, unless the transfer of ownership applies to the transfer of stock when the facility is owned by and licensed as a corporation, and when the transfer of stock does not constitute a majority change in ownership.

(b) The licensee surrenders the license to the department.

(c) The licensee moves the facility identified on the license from one location to another. The department shall develop regulations to provide for an expedited application and licensing process for a newly located facility.

(d) The licensee is a sole proprietor and the licensee dies.

(e) The licensee actually or constructively abandons the licensed facility. Constructive abandonment includes insolvency, eviction, or seizure of assets or equipment resulting in the failure to provide recovery, treatment, or detoxification services to residents.

(Added by Stats. 1993, Ch. 741, Sec. 23. Effective January 1, 1994.)

11834.45. The civil and administrative remedies available to the department pursuant to this chapter are not exclusive, and may be sought and employed in any combination deemed advisable by the department to enforce this chapter.

(Added by renumbering Section 11834.33 by Stats. 1993, Ch. 741, Sec. 17. Effective January 1, 1994.)