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AB-3162 Alcoholism or drug abuse treatment facilities. (2017-2018)

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Assembly Bill No. 3162

CHAPTER 775

An act to amend Sections 11834.31 and 11834.34 of, and to repeal and add Sections 11834.09 and 11834.10 of, the Health and Safety Code, relating to alcoholism or drug abuse.

[Approved by Governor September 26, 2018. Filed with Secretary of State September 26, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3162, Friedman. Alcoholism or drug abuse treatment 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. Existing law makes a violation of these provisions punishable by a civil penalty of not less than \$25 or more than \$50 per day for each violation, with additional penalties for repeat violations, as specified.

This bill would make an initial license for a new facility issued by the department to a provider provisional for one year and revocable for good cause, as defined. The bill would require licensed services offered or provided by a licensed alcoholism or drug abuse recovery or treatment facility to be specified on the license and provided exclusively within either the licensed facility or any facility identified on a single license by street address. The bill would increase the penalties for a violation of the licensing and regulatory provisions to not less than \$250 or more than \$500 per day for each violation, except as specified, and increase the additional penalties for repeat violations, as specified. The bill would prohibit a person or entity found to be in violation of the licensing provisions described above from applying for initial licensure for 5 years, as specified. The bill would require the department to adopt regulations to implement specified provisions on or before July 1, 2022, and would authorize the department to issue provider bulletins, written guidelines, or similar instructions, as specified.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11834.09 of the Health and Safety Code is repealed.

SEC. 2. Section 11834.09 is added to the Health and Safety Code, to read:

11834.09. (a) The department may issue a single license to operate an alcoholism or drug abuse recovery or treatment facility upon receipt of a completed written application, fire clearance, and licensing fee subject to the department's review and determination that the applicant can comply with this chapter and regulations adopted pursuant to this chapter.

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

(c) Failure of the applicant to demonstrate the ability to comply with this chapter or the regulations adopted pursuant to this chapter shall result in departmental denial of the application for licensure.

(d) Initial licenses for new facilities shall be provisional for one year. During the term of the provisional license, the department may revoke the license for good cause. For the purposes of this section, "good cause" means failure to operate in compliance with this chapter or the regulations adopted pursuant to this chapter. A licensee may not reapply for an initial license for five years following a revocation of a provisional license.

(e) On or before July 1, 2022, the department shall adopt regulations to implement this section in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

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

SEC. 3. Section 11834.10 of the Health and Safety Code is repealed.

SEC. 4. Section 11834.10 is added to the Health and Safety Code, to read:

11834.10. (a) A licensee shall not operate an alcoholism or drug abuse recovery or treatment facility beyond the conditions and limitations specified on the license.

(b) Licensed services offered or provided by a licensed alcoholism or drug abuse recovery or treatment facility, including, but not limited to, incidental medical services as defined in Section 11834.026, shall be specified on the license and provided exclusively:

- (1) Within the licensed facility; or
- (2) Within any facilities identified on a single license by street address.

(c) Only residents of the licensed alcoholism or drug abuse recovery or treatment facility shall receive licensed services.

(d) The department may adopt regulations to implement this section in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(e) Notwithstanding the rulemaking provisions of the Administrative Procedure Act, the department may implement, interpret, or make specific this section by means of provider bulletins, written guidelines, or similar instructions.

SEC. 5. Section 11834.31 of the Health and Safety Code is amended to read:

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

(a) Submit the findings of the investigation to the department.

(b) Upon departmental authorization, issue a written notice to the facility stating that the facility is operating in violation of Section 11834.30. The notice shall include all of the following:

- (1) The date by which the facility shall cease providing services.
- (2) Notice that the department will assess against the facility a civil penalty of two thousand dollars (\$2,000) per day for every day the facility continues to provide services beyond the date specified in the notice.
- (3) Notice that the case will be referred for civil proceedings pursuant to Section 11834.32 in the event the facility continues to provide services beyond the date specified in the notice.

(c) Inform the facility of the licensing requirements of this chapter.

(d) A person or entity found to be in violation of Section 11834.30 shall be prohibited from applying for initial licensure for a period of five years from the date of the notice specified in subdivision (b).

SEC. 6. Section 11834.34 of the Health and Safety Code is amended to read:

11834.34. (a) In addition to the penalties of suspension or revocation of a license issued under this chapter, the department may also levy a civil penalty for violation of this chapter or the regulations adopted pursuant to this chapter.

(1) The amount of the civil penalty, as determined by the department, shall not be less than two hundred fifty dollars (\$250) or more than five hundred dollars (\$500) per day for each violation, except where the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as determined by the department. In no event shall a civil penalty assessment exceed one thousand dollars (\$1,000) per day.

(2) A licensee that is cited for repeating the same violation within 24 months of the first violation is subject to an immediate civil penalty of five hundred dollars (\$500) and seven hundred fifty dollars (\$750) for each day the violation continues until the deficiency is corrected.

(3) A licensee that has been assessed a civil penalty pursuant to paragraph (2) that repeats the same violation within 24 months of the violation subject to paragraph (2) is subject to an immediate civil penalty of five hundred dollars (\$500) and one thousand dollars (\$1,000) for each day the violation continues until the deficiency is corrected.

(b) Prior to the assessment of any civil penalty, the department shall provide the licensee with notice requiring the licensee to correct the deficiency within the period of time specified in the notice.