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**SB-1228 Alcoholism or drug abuse recovery and treatment services: referrals.** (2017-2018)

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**Senate Bill No. 1228**

**CHAPTER 792**

An act to add Sections 11831.6 and 11831.7 to the Health and Safety Code, relating to public health.

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

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1228, Lara. Alcoholism or drug abuse recovery and treatment services: referrals.

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. Existing law restricts a licensee from operating an alcoholism or drug abuse recovery or treatment facility beyond the conditions and limitations specified on the license.

This bill would prohibit specified persons, programs, or entities, including, among others, a licensed alcoholism or drug abuse recovery and treatment facility, or an employee of that facility, from giving or receiving remuneration or anything of value for the referral of a person who is seeking alcoholism or drug abuse recovery and treatment services. The bill would authorize the department to investigate and impose specified sanctions for violations of this prohibition, or regulations adopted to implement this prohibition, including, among others, assessing a penalty or revoking a license. The bill would authorize the department to implement these provisions by provider bulletins, written guidelines, or similar instructions from the department until regulations are adopted.

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

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

**SECTION 1.** The Legislature finds and declares all of the following:

- (a) The opioid epidemic is a nationwide scourge that claimed approximately 1,925 lives in California in 2016, and drug and opioid overdoses are currently in the top 20 causes of death statewide.
- (b) The need for quality recovery services has grown, driven by the opioid crisis and changes in federal law that requires insurance coverage of substance use disorders. Yet, only one in five people who need treatment for opioid use disorders currently receives treatment, according to the United States Surgeon General.
- (c) Desperation is fueling a surge in patient brokering or patient trafficking, where unscrupulous services refer people with substance use disorders to programs that are inappropriate for their needs in order to gain access to insurance payments.
- (d) All people in recovery from substance use disorders are entitled to safety and security throughout their recovery.

(e) California has an interest in ending patient brokering and trafficking and increasing the availability of quality recovery services to encourage recovery and stability for all patients.

**SEC. 2.** Section 11831.6 is added to the Health and Safety Code, to read:

**11831.6.** (a) The following persons, programs, or entities shall not give or receive remuneration or anything of value for the referral of a person who is seeking alcoholism or drug abuse recovery and treatment services:

- (1) An alcoholism or drug abuse recovery and treatment facility licensed under this part.
- (2) An owner, partner, officer, or director, or shareholder who holds an interest of at least 10 percent in an alcoholism or drug abuse recovery and treatment facility licensed under this part.
- (3) A person employed by, or working for, an alcoholism or drug abuse recovery and treatment facility licensed under this part, including, but not limited to, registered and certified counselors and licensed professionals providing counseling services.
- (4) An alcohol or other drug program certified by the department in accordance with the alcohol or other drug certification standards established pursuant to Section 11830.1.
- (5) An owner, partner, officer, or director, or shareholder who holds an interest of at least 10 percent in an alcohol or other drug program certified by the department in accordance with the alcohol or other drug certification standards established pursuant to Section 11830.1.
- (6) A person employed by, or working for, an alcohol or other drug program certified by the department in accordance with the alcohol or other drug certification standards established pursuant to Section 11830.1, including, but not limited to, registered and certified counselors and licensed professionals providing counseling services.

(b) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may, if it deems appropriate, implement, interpret, or make specific this section by means of provider bulletins, written guidelines, or similar instructions from the department, until regulations are adopted.

**SEC. 3.** Section 11831.7 is added to the Health and Safety Code, to read:

**11831.7.** (a) The department may investigate allegations of violations of Section 11831.6. The department may, upon finding a violation of Section 11831.6 or any regulation adopted pursuant to that section, do any of the following:

- (1) Assess a penalty upon an alcoholism or drug abuse recovery and treatment facility licensed under this part.
- (2) Suspend or revoke the license of an alcoholism or drug abuse recovery and treatment facility licensed under Chapter 7.5 (commencing with Section 11834.01), or deny an application for licensure, extension of the licensing period, or modification to a license. Article 4 (commencing with Section 11834.35) of Chapter 7.5 shall apply to any action taken pursuant to this paragraph.
- (3) Assess a penalty upon an alcohol or other drug program certified by the department in accordance with the alcohol or other drug certification standards established pursuant to Section 11830.1.
- (4) Suspend or revoke the certification of an alcohol or other drug program certified by the department in accordance with the alcohol or other drug certification standards established pursuant to Section 11830.1.
- (5) Suspend or revoke the registration or certification of a counselor for a violation of Section 11831.6.

(b) The department may investigate allegations against a licensed professional providing counseling services at an alcoholism or drug abuse recovery and treatment program licensed, certified, or funded under this part, and recommend disciplinary actions, including, but not limited to, termination of employment at a program and suspension and revocation of licensure by the respective licensing board.

(c) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may, if it deems appropriate, implement, interpret, or make specific this section by means of provider bulletins, written guidelines, or similar instructions from the department, until regulations are adopted.