



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

SB-349 California Ethical Treatment for Persons with Substance Use Disorder Act. (2021-2022)

SHARE THIS:  

Date Published: 04/18/2022 09:00 PM

Senate Bill No. 349

CHAPTER 15

An act to add Chapter 14 (commencing with Section 11857) to Part 2 of Division 10.5 of the Health and Safety Code, relating to substance abuse.

[Approved by Governor April 13, 2022. Filed with Secretary of State April 13, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 349, Umberg. California Ethical Treatment for Persons with Substance Use Disorder Act.

Existing law provides for the licensure and regulation of adult alcoholism or drug abuse recovery or treatment facilities by the State Department of Health Care Services and authorizes the department to enforce those provisions. Existing law also requires the department to implement a program certification procedure for alcohol and other drug treatment recovery services. Existing law generally prohibits specified persons, programs, or entities, such as an alcoholism or drug abuse treatment facility or a person employed by, or working for, an alcohol or other drug program, from giving or receiving anything of value for the referral of a person who is seeking alcoholism or drug abuse recovery and treatment services, and authorizes the department to investigate allegations of violations of those provisions, and to assess various penalties upon a person, program, or entity that is found in violation of those provisions. Existing law requires all programs licensed or certified by the department pursuant to those provisions to disclose any ownership or control of, or financial interest in, a recovery residence, as defined.

This bill would create the California Ethical Treatment for Persons with Substance Use Disorder Act to provide protection for substance use disorder treatment clients and their families. The bill would declare the intent for its provisions to be construed in favor of maximizing protections for clients, families, and their communities. The bill would impose requirements and proscribe unlawful acts relating to marketing and advertising with respect to treatment providers, as defined by the bill. The bill would require a treatment provider doing business in the state to adopt a client bill of rights for persons receiving treatment for substance use disorder, as specified, and to make the bill of rights available to all clients and prospective clients.

The bill would require a treatment provider to maintain records of referrals to or from a recovery residence, as specified. Specified acts made unlawful by the bill would be subject to a civil fine of up to \$20,000 per violation. The bill would authorize the Attorney General, a district attorney, a county counsel, a city attorney, or any injured person or entity to bring a claim for declaratory relief or to recover a civil penalty, as specified. The bill also would authorize the department to investigate allegations of violations of the bill and to take subsequent action, including assessing penalties and suspending or revoking a provider's license or certification.

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) California remains in the grip of an epidemic of substance use disorders.

(b) The state is fortunate to have many quality substance use disorder treatment programs. These programs and their staff perform tireless and lifesaving work, much of it entirely outside the limelight, and much of it thankless, on an illness that is still far too stigmatized. These are not the programs giving rise to this act.

(c) It is the intent of the Legislature in enacting this act to deny advantage to programs and personnel that engage in or support predatory, unsafe, and unethical practices. These practices create barriers to desperately needed treatment, and cause incalculable needless harm to desperate families and the communities they live in. Enacting legislation that sets forth, and provides for the enforcement of, uniform ethical standards for treatment programs benefits all residents of California by improving the availability of high-quality, ethical treatment, and by protecting families and individuals in crisis from misleading information and other unethical practices.

SEC. 2. Chapter 14 (commencing with Section 11857) is added to Part 2 of Division 10.5 of the Health and Safety Code, to read:

CHAPTER 14. Ethical Treatment for Persons with Substance Use Disorder

11857. (a) This chapter shall be known, and may be cited, as the California Ethical Treatment for Persons with Substance Use Disorder Act.

(b) The purpose of this chapter is to provide protection for substance use disorder treatment clients and their families. This chapter shall be construed in favor of maximizing protections for clients and families, and the communities in which they live.

11857.1. The following definitions apply for purposes of this chapter:

(a) "Certified treatment program" means a program certified pursuant to Chapter 7 (commencing with Section 11830) of Part 2.

(b) "Licensed treatment facility" means a facility that is, or is required to be, licensed to provide substance use disorder treatment services, including a residential alcoholism or drug abuse recovery or treatment facility licensed under Chapter 7.5 (commencing with Section 11834.01) of Part 2.

(c) "Treatment provider" means a licensed treatment facility or a certified treatment program.

11857.2. (a) Every treatment provider operating in the state shall adopt, and make available to all clients and prospective clients, a client bill of rights that ensures that persons receiving treatment for a substance use disorder have the right to all of the following:

(1) To be treated for the life-threatening, chronic disease of substance use disorder with honesty, respect, and dignity, including privacy in treatment and in care of personal needs.

(2) To be informed by the treatment provider of all the aspects of treatment recommended to the client, including the option of no treatment, risks of treatment, and expected result or results.

(3) To be treated by treatment providers with qualified staff.

(4) To receive evidence-based treatment.

(5) To be treated simultaneously for co-occurring behavioral health conditions, when medically appropriate and the treatment provider is authorized to treat co-occurring conditions.

(6) To receive an individualized, outcome-driven treatment plan.

(7) To remain in treatment for as long as the treatment provider is authorized to treat the client.

(8) To receive support, education, and treatment for their families and loved ones, if the treatment provider is authorized to provide these services.

(9) To receive care in a treatment setting that is safe and ethical.

(10) To be free from mental and physical abuse, exploitation, coercion, and physical restraint.

(11) To be informed of these rights once enrolled to receive treatment, as evidenced by written acknowledgment or by documentation by staff in the clinical record that a written copy of these rights were given.

(12) To be informed by the treatment provider of the law regarding complaints, including, but not limited to, to be informed of the address and telephone number of the department.

(13) To receive ethical care that covers and ensures full compliance with the requirements set forth in Chapter 5 (commencing with Section 10500) of Division 4 of Title 9 of the California Code of Regulations and the alcohol and other drug program certification standards adopted in accordance with Section 11830.1, if applicable.

(b) This section does not require a treatment provider to provide treatment or services for which they will not be reimbursed.

11857.3. (a) Any marketing or advertising materials published or disseminated by a treatment provider shall provide accurate and complete information, in plain language that is easy to understand, and shall include both of the following:

(1) Information about the types and methods of services provided or used, and information about where they are provided, using the categories of treatment identified in subdivision (a) of Section 11834.26 and the levels of care established pursuant to subdivision (a) of Section 11834.015.

(2) The treatment provider's name and brand.

(b) Any licensed treatment facility or certified treatment program that is required to disclose specified information pursuant to subdivision (a) of Section 11833.05 shall provide this information about its program to prospective clients.

(c) It is unlawful for a treatment provider to make a false or misleading statement, or provide false or misleading information, about the nature, identity, or location of substance use disorder treatment services in advertising materials, on a call line, on an internet website, or in any other marketing materials.

(d) It is unlawful for a treatment provider to make a false or misleading statement about their status as an in-network or out-of-network provider.

(e) It is unlawful for any person or entity to provide, or direct any other person or entity to provide, false or misleading information about the identity of, or contact information for, any treatment provider.

(f) It is unlawful for any person or entity to include false or misleading information about the internet address of any treatment provider's website, or to surreptitiously direct or redirect the reader to another website.

(g) It is unlawful for any person or entity to suggest or imply that a relationship with a treatment provider exists, unless the treatment provider has provided express, written consent to indicate that relationship.

(h) It is unlawful for any person or entity to make a false or misleading statement about substance use disorder treatment services.

(i) A violation of this section constitutes a deceptive act or practice under the Unfair Competition Law (Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code), regardless of whether any consumer was actually misled or deceived.

11857.4. (a) Every treatment provider shall maintain records of referrals made to or from recovery residences, including, if available, information about where the client referred by a treatment provider ultimately elected to go.

(b) For purposes of this section, "recovery residence" has the same meaning as in Section 11833.05.

(c) For purposes of this section, "referral" means when a person or entity provides a client by any means the name, address, or other identifying information for a recovery residence.

11857.5. (a) (1) A treatment provider shall not request, receive, or retain payment for substance use disorder treatments provided to a client as a result of conduct declared unlawful under this chapter.

(2) A person or entity who violates this chapter shall be subject to a civil penalty of not more than twenty thousand dollars (\$20,000) for each violation.

(3) Any person or entity who suffers any injury or damages, including, but not limited to, paying for treatment or services that were performed in violation of this chapter, as a result of the use or employment by a treatment provider or other person of any method, act, or practice declared unlawful under this chapter may bring a claim against the treatment provider who committed the violation and against any other person or entity who aided, abetted, or took part in the violation. In any action brought under this paragraph, the court shall, in addition to any other appropriate legal or equitable relief, award three times the damages

sustained by any injured person. In any action under this paragraph, the court shall also award reasonable attorney's fees and costs to a prevailing plaintiff.

(4) (A) The Attorney General, a district attorney, a county counsel, a city attorney, or any person who has suffered any injury or damages, including, but not limited to, paying for treatment or services that were performed in violation of this chapter, may bring a claim that an act or practice violates this chapter and seek one or more of the following:

(i) Declaratory relief to enjoin a person or entity who has violated or is violating this chapter.

(ii) A civil penalty of not more than twenty thousand dollars (\$20,000) for each violation of this chapter.

(B) If a claim under clause (i) or (ii) is successful, in whole or in part, the court shall award reasonable attorney's fees and costs to the plaintiff or prosecutor.

(5) The department may investigate an allegation of a violation of this chapter. Upon finding a violation, the department may take any action under Sections 11831.7, 11834.34, and 11834.36 with respect to the offending provider, including, but not limited to, suspension or revocation of a license or certification. If the department imposes a civil penalty, the civil penalty shall not be more than twenty thousand dollars (\$20,000) for each violation of this chapter.

(b) (1) The department shall promulgate regulations to implement the applicable provisions of this chapter.

(2) Notwithstanding paragraph (1) and 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 chapter by means of provider bulletins, written guidelines, or similar instructions, until regulations are adopted.