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SB-434 Substance abuse and mental health services: advertising and marketing. (2021-2022)

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Senate Bill No. 434

CHAPTER 447

An act to add Section 11831.9 to the Health and Safety Code, and to add Chapter 4 (commencing with Section 4097) to Part 1 of Division 4 of the Welfare and Institutions Code, relating to health and care facilities.

[Approved by Governor October 01, 2021. Filed with Secretary of State October 01, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 434, Bates. Substance abuse and mental health services: advertising and marketing.

Existing law provides for the licensing and regulation of an adult alcoholism or drug abuse recovery or treatment facility, a psychiatric health facility, or a mental health rehabilitation facility by the State Department of Health Care Services. Existing law authorizes the department to impose specified penalties on a facility that is in violation of applicable laws and regulations governing the facility.

Existing law, the California Community Care Facilities Act, provides for the licensing and regulation of a community care facility, including, among others, a social rehabilitation facility, by the State Department of Social Services. A violation of the act may be subject to specified civil penalties, license suspension or revocation, or misdemeanor charges.

This bill would prohibit an operator of a licensed alcoholism or drug abuse recovery or treatment facility, a certified alcohol or other drug program, and a licensed mental health rehabilitation center, psychiatric health facility, or social rehabilitation facility, from engaging in various acts, including making a false or misleading statement about the entity's products, goods, services, or geographical locations. The bill would also prohibit a picture, description, staff information, or the location of an entity from being included on an internet website along with false contact information that surreptitiously directs the reader to a business that does not have a contract with the entity. The bill would authorize the department responsible for the facility's licensure or certification to investigate allegations of a violation of these provisions and, upon finding a violation, to impose the civil sanctions and other penalties available pursuant to existing law, but would not make a violation of these provisions a crime.

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

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

SECTION 1. Section 11831.9 is added to the Health and Safety Code, to read:

11831.9. (a) The Legislature recognizes that consumers with substance use disorders have disabling conditions, and that these consumers and their families are vulnerable and at risk of being easily victimized by fraudulent marketing practices that adversely impact the delivery of health care. To protect the health, safety, and welfare of this vulnerable population, an operator of a

licensed alcoholism or drug abuse recovery or treatment facility, as defined in Section 11834.02, or a certified alcohol or other drug program, shall not do any of the following:

(1) Make a false or misleading statement or provide false or misleading information about the entity's products, goods, services, or geographical locations in its marketing, advertising materials, or media, or on its internet website or on a third-party internet website.

(2) Include on its internet website a picture, description, staff information, or the location of an entity, along with false contact information that surreptitiously directs the reader to a business that does not have a contract with the entity.

(3) Include on its internet website false information or an electronic link that provides false information or surreptitiously directs the reader to another internet website.

(b) The department may investigate an allegation of a violation of this section and, upon finding a violation of this section, or any regulation adopted to enforce this section, may impose one or more of the sanctions described in Section 11831.7 in accordance with regulations adopted pursuant to that section.

SEC. 2. Chapter 4 (commencing with Section 4097) is added to Part 1 of Division 4 of the Welfare and Institutions Code, to read:

CHAPTER 4. Brandon's Law

4097. (a) The Legislature recognizes that some consumers with mental health diagnoses have disabling conditions, and that these consumers and their families are vulnerable and at risk of being easily victimized by fraudulent marketing practices that adversely impact the delivery of health care.

(b) To protect the health, safety, and welfare of this vulnerable population, an operator of a licensed psychiatric or mental health facility, as defined in subdivision (c), shall not do any of the following:

(1) Make a false or misleading statement or provide false or misleading information about the entity's products, goods, services, or geographical locations in its marketing, advertising materials, or media, or on its internet website or on a third-party internet website.

(2) Include on its internet website a picture, description, staff information, or the location of an entity, along with false contact information that surreptitiously directs the reader to a business that does not have a contract with the entity.

(3) Include on its internet website false information or an electronic link that provides false information or surreptitiously directs the reader to another internet website.

(c) A licensed psychiatric or mental health facility subject to this section includes all of the following:

(1) A mental health rehabilitation center, as defined in Section 5675.

(2) A psychiatric health facility, as defined in Section 1250.2 of the Health and Safety Code.

(3) A social rehabilitation facility, as defined in Section 1502 of the Health and Safety Code.

(d) The department responsible for the licensing and regulation of the facility may investigate an allegation of a violation of this section and, upon finding a violation of this section, or any regulation adopted to enforce this section, may impose one or more of the sanctions described in Section 1548 of the Health and Safety Code, and Sections 4080 and 5675.1 of this code, in accordance with regulations adopted pursuant to those sections. A violation of this section shall not constitute a crime.