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SB-1165 Substance abuse and mental health services: advertisement and marketing. (2021-2022)

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Senate Bill No. 1165

CHAPTER 172

An act to amend Section 11831.9 of the Health and Safety Code, and to amend Section 4097 of the Welfare and Institutions Code, relating to substance abuse and mental health services.

[Approved by Governor August 22, 2022. Filed with Secretary of State August 22, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1165, Bates. Substance abuse and mental health services: advertisement and marketing.

Existing law prohibits an operator of a licensed alcoholism or drug abuse recovery or treatment facility, as specified, a certified alcohol or other drug program, or a licensed psychiatric or mental health facility, as specified, from engaging in various fraudulent marketing practices, including making or providing false or misleading statements or information, respectively, about the operator's products, goods, services, or geographic locations in its marketing, advertising materials, or media or on internet websites, as specified.

This bill would also prohibit these operators from making or providing false or misleading statements or information, respectively, about medical treatments or services offered in their marketing, advertising material, media, or social media presence or on internet websites, 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 11831.9 of the Health and Safety Code is amended 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) Make a false or misleading statement or provide false or misleading information about medical treatments or medical services offered in its marketing, advertising materials, or media, or on its internet website, on a third-party internet website, or in its social media presence.

(3) 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.

(4) 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. Section 4097 of the Welfare and Institutions Code is amended to read:

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) Make a false or misleading statement or provide false or misleading information about medical treatments or medical services offered in its marketing, advertising materials, or media, or on its internet website, on a third-party internet website, or in its social media presence.

(3) 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.

(4) 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.