
CONSENT

Bill No: SB 541
Author: Bates (R), et al.
Amended: 3/18/21
Vote: 21

SENATE HEALTH COMMITTEE: 10-0, 3/17/21
AYES: Pan, Eggman, Gonzalez, Grove, Hurtado, Leyva, Limón, Roth, Rubio,
Wiener
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Substance use disorder treatment facilities and programs: disclosure
of license and certification status

SOURCE: Author

DIGEST: This bill requires an entity licensed or certified by the Department of Health Care Services to provide substance use disorder treatment services to disclose information about its license or certification, including the number and expiration date, in specified circumstances.

ANALYSIS:

Existing law:

- 1) Requires the Department of Health Care Services (DHCS) to license alcoholism or drug abuse recovery or treatment facilities (RTFs) that provide residential non-medical services to adults who are recovering from problems related to alcohol, drug, or alcohol and drug misuse or abuse, and who need alcohol, drug, or alcohol and drug recovery, treatment, or detoxification services. [HSC §11834.01, et seq.]
- 2) Grants DHCS the authority to implement a program certification procedure for alcohol and other drug treatment recovery services and to develop standards and

regulations for the alcohol and other drug treatment recovery services describing the minimal level of service quality required of the service providers to qualify for and obtain state certification. [HSC §11830.1]

- 3) Requires a DHCS licensed RTF or certified program to disclose to DHCS ownership or control of, or financial interest in, a recovery residence, or any contractual relationship with an entity that regularly provides professional services or substance use disorder (SUD) treatment or recovery services to clients of licensed RTFs or certified programs, if the entity is not part of the certified program or licensed RTF. [HSC §11833.05]
- 4) Defines a “recovery residence” as a residential dwelling that provides primary housing for individuals who seek a cooperative living arrangement that supports personal recovery from an SUD and that does not require licensure by DHCS or does not provide licensable services, as specified, including residential dwellings commonly referred to as “sober living homes,” “sober living environments,” or “unlicensed alcohol and drug free residences.” [HSC §11833.05]

This bill:

- 1) Requires a DHCS licensed RTF and certified program to disclose a license or certification number and the expiration date of the license or certification in all of the following circumstances:
 - a) To any person who inquires about the license or certification in writing, verbally, electronically, or by any other method of communication between the person and the RTF or program;
 - b) Posted on the website of the RTF or program, as specified, in a clear and conspicuous manner; and,
 - c) Included in any print, audio, or electronic advertising or marketing of the facility or program, as specified, in a clear and conspicuous manner.
- 2) Permits a licensed RTF or certified program to include a link to its Internet website that contains its license or certification number and expiration date, and language stating that it is either licensed or certified by DHCS, as specified.

Background

- 1) Over the years, the media has reported on troubles within the general addiction treatment industry, both in California and in the nation. Some highly publicized

news articles (“How Some Southern California drug rehab centers exploit addiction,” *Orange County Register*, May 21, 2017; “A Choice for Recovering Addicts: Relapse or Homelessness,” *New York Times*, May 30, 2015; “California’s Rehab System is in Crisis ...” *CityWatch Los Angeles*, June 23, 2016; and “Special Report: Two states with an ocean view, and an ethical cloud,” *Addiction Professional*, March 18, 2013) highlighted the issue of “patient brokering,” whereby unscrupulous individuals (sometimes called “interventionists” or “body brokers”) lure clients seeking SUD treatment services, buy insurance policies for the clients or offer to pay their deductibles, and “sell” them to facility operators that do not provide any type of treatment services or regular, all the while billing insurance plans. Some of the individuals involved in this practice have been quoted in news articles as acknowledging that the practice may be wrong; however, they also claim that the practice is so ubiquitous in California and the nation that they would have no clients at all if they did not engage. As a result, some facility operators keep interventionists on retainer, often for \$5,000 to \$10,000 a month, regardless of how many clients an interventionist refers to them in order to remain in business. After clients’ insurance coverage is exhausted, unscrupulous facility operators have been allegedly dumping those clients in the streets where they continue their addictions. In many news articles, the issue is mostly attributed to facilities that do not require state licensure or oversight, known as sober living homes or recovery residences.

- 2) *Cracking down on unscrupulous activities in California.* In November 2016, the California Department of Insurance (CDI) issued a press release about an investigation that resulted in the arrest of the operators of some Southern California sober living homes), operated as Community Recovery of Los Angeles (CRLA). The operators were arrested on several felony counts of grand theft and identity theft for allegedly conspiring to defraud clients and insurers out of more than \$176 million. Affected insurers paid nearly \$44 million before discovering the suspected fraud and stopping payments to CRLA, which was accused of luring people with treatment marketing schemes and stealing patient identities to buy health insurance policies for people without their knowledge, as well as committing such acts as submitting claims for services not provided, falsely representing CRLA as a licensed RTF while not being licensed as such, and filing fraudulent health insurance policy applications. A document posted on DHCS’s website indicated at the time that CRLA operated both recovery residences, which were claiming to be licensed, and DHCS-certified outpatient programs. In March 2018, the *Orange County Register* subsequently reported that one of the operators of CRLA plead guilty to 46 felony counts involving the insurance billing scheme and received 11 years in state prison following a

plea to 28 counts of money laundering, seven counts of grand theft, six counts of identity theft, and five counts of insurance fraud.

In January 2020, CDI, through a joint effort with the Orange County District Attorney's Office, shut down an alleged \$3.2 million health care fraud ring which preyed on those with SUDs in order to bilk insurance companies out of millions. Several individuals were charged with multiple felony counts including insurance fraud and money laundering in connection with the scheme. Insurance Commissioner Ricardo Lara stated that the suspects are accused of finding patients across the country who were seeking help for their SUDs, and flying them to California to enter treatment at Casa Bella International Inc., which was owned and operated by one of the suspects. In order to obtain payment from the insurance company for these clients, the suspects are accused of directing employees to fill out policies for the patients using false information. The suspect who owned the facility is alleged to have paid the other co-conspirators upwards of \$10,000 per patient who stayed enrolled in treatment for more than 30 days.

Most recently, in June 2020, CDI issued another press release announcing the arrests of five more suspects who are alleged to have been conspiring with the suspects arrested earlier in the year. The new defendants face up to 21 years in prison for their alleged involvement in a scheme that resulted in \$60 million in fraudulent billing and \$11.7 million in insurance losses. Authorities allege that all the defendants used mass media marketing campaigns to identify addicted clients from across the country who were seeking treatment. According to CDI, the conspirators and their employees then falsified clients' health care insurance applications to circumvent California residency requirements and closed enrollment periods; employed a money-laundering scheme they devised to conceal their involvement in paying clients' insurance premiums; and trafficked their clients into Southern California treatment facilities.

- 3) *Senate Health Committee informational hearing and subsequent legislation.* On January 31, 2018, the Senate Health Committee held an informational hearing to examine the SUD treatment system with a focus on treatment and services provided in licensed RTFs; insurance coverage; patient referrals; and the state's regulation and oversight of the system, including the inability to impose restrictions on unregulated sober living homes. The hearing provided an overview of issues that had been affecting the state regarding unscrupulous facility operators, and gave an opportunity for state regulators to highlight efforts they have undertaken to combat the exploitation of the SUD system, including CDI's enforcement of unscrupulous sober living home operators that

had been unlawfully providing services. The goal of the hearing was to examine the issues and to seek strategies and policies that would prevent unscrupulous individuals from exploiting the various industries that are supposed to help treat those with SUDs; to recognize federal and state protections for those with disabilities, including their housing rights and options for supportive housing at sober living homes; and to ensure that policies are not enacted, either at the local or state level, that will limit the number of recovery or treatment options for those who need them.

The Legislature passed, and Governor Brown signed, a package of bills that aimed to address the emerging issues in the SUD treatment and recovery realm. SB 1228 (Lara, Chapter 792, Statutes of 2018) prohibits facilities that are licensed or certified by DHCS, and anyone associated with them, from gaining financially for referring a person to treatment, also known as “patient brokering.” SB 992 (Hernandez, Chapter 784, Statutes of 2018) and AB 3162 (Friedman, Chapter 775, Statutes of 2018) made several changes to licensing statute for RTFs, particularly requiring RTFs and other facilities under DHCS’s purview to disclose certain business relationships, including with sober living homes, and requiring all RTF licensed services to be provided within the structures notated on an RTF’s license.

Comments

- 1) *Author’s statement.* According to the author, over the past few years, the Legislature has recognized that consumers with SUDs have disabling conditions and that these consumers and their families are vulnerable. However, there are no provisions in code that require for license and certification information for state-approved facilities to be posted publicly online and freely given to those who ask for it. This bill would require a licensed facility or certified program to disclose its information on licensure, specifically its license number and expiration date, to any individual who inquires about the information. In addition, it requires the program or facility to include its licensing information on their website or electronic communications and all marketing materials. All individuals seeking treatment and their families deserve the right to have this basic type of information about state-approved facilities. This bill would increase transparency in the addiction industry.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT: (Verified 5/4/21)

Orange County Board of Supervisors

OPPOSITION: (Verified 5/4/21)

None received

ARGUMENTS IN SUPPORT: The Orange County Board of Supervisors states that as opioid addiction has soared, unscrupulous rehab operators have rushed in to take advantage of mandatory behavioral health treatment coverage required by the Affordable Care Act. Over the past few years, the Legislature has recognized that consumers with SUDs have disabling conditions and that these consumers and their families are vulnerable. There are facilities currently online that purport to be licensed by the DHCS and the Department of Social Services when both departments have confirmed that these facilities are not. This bill rectifies this loophole by requiring a licensed or certified alcohol or drug program or facility to disclose its license number and expiration date, to any individual who inquires about the information and to be included in all marketing materials. Failure to disclose the information would be investigated.

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5/5/21 15:29:26

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