

DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS

1700 K STREET
SACRAMENTO, CA 95811-4037
TDD (916) 445-1942



December 8, 2009

TO: All Residential Alcoholism or Drug Abuse Recovery or Treatment Facilities and Outpatient Alcohol and Other Drug Programs Licensed or Certified by the Department of Alcohol and Drug Programs

SUBJECT: 5-day Advance Notice of Proposed Readoption of Emergency Licensure and Certification Fee Regulations

This is an advance notice that the Department of Alcohol and Drug Programs (ADP) intends to readopt for up to 90 days the emergency licensure and certification fee regulations that took effect on June 29, 2009 and were made available for public comment for 45 days from July 30 through September 14, 2009.

Please note that this is merely an advance notice of proposed readoption of the same regulations that have been in effect since June 29, 2009, containing policy that has been in effect since 2007. ADP is required to send out this notice pursuant to Government Code (GC) Section 11346.1(a)(2). This notice does not impose any new requirements or require payment of any type of new fee. You are not required to take any action in response to this notice. Additionally, these regulations affect only residential alcoholism or drug abuse recovery or treatment facilities (residential facilities) and outpatient alcohol and other drug programs (outpatient programs) licensed or certified by ADP. No other type of facility or program is affected by these regulations.

The full text of the regulations proposed for readoption and a new finding of emergency are attached. They are also available on ADP's website at: <http://www.adp.ca.gov>. The regulations are exactly the same as those that took effect on June 29, 2009. ADP is readopting these regulations in order to present them to the county alcohol and drug program administrators as required by Health and Safety Code Section 11835.

The proposed readoption will continue the amendment of Sections 10518 and 10529, the repeal of Sections 10532 and 10533, and the adoption of Sections 10700 and 10701, Title 9, California Code of Regulations, to allow ADP to collect licensure and certification fees for all residential facilities and outpatient programs, regardless of the form of organization or ownership, as required by Health and Safety Code Section 11833.02. The regulations do not implement new policy. The policy contained in these regulations was enacted by the Legislature through Senate Bill 84, Chapter 177, statutes of 2007, and it has remained in effect since it was originally implemented through ADP Bulletin 07-11 in October 2007. Because the policy contained in these regulations was enacted by statute, only the Legislature can change it. ADP cannot change it through regulatory means.



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December 8, 2009

Page 2

GC Section 11346.1(a)(2) requires every state agency adopting emergency regulations to provide advance notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. GC Section 11346.1(a)(2) requires the adopting agency to send out the notice at least five working days before it submits the proposed emergency action to the Office of Administrative Law (OAL). GC Section 11349.6 allows interested persons five calendar days from the date that OAL receives the proposed emergency regulations to submit written comments on the proposed emergency regulations. GC Section 11349.6 requires OAL ten calendar days from the date it receives the regulations to review and make a decision on the proposed emergency readoption. If OAL approves the readoption, OAL will file the regulations with the Secretary of State. The readoption will take effect on December 28, 2009 and the regulations will remain in effect on an emergency basis for up to 90 days. Before the end of that 90-day period, ADP will present the regulations for a vote by the county alcohol and drug program administrators, as required by Health and Safety Code Section 11835, and complete the certificate of compliance required to make the emergency changes permanent.

If you previously provided written comments during the original 5-day public comment period or during the 45-day public comment period, ADP has already reviewed and considered those comments and included them in the official rulemaking file for this regulatory action. If you wish to provide additional written comments for consideration by OAL before these regulations are readopted, please submit your comments directly to OAL by e-mail addressed to staff@oal.ca.gov; by letter addressed to the Office of Administrative Law Attention: Reference Attorney, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814; or by fax at (916) 323-6826. Although not required, please send a courtesy copy of your comments to ADP by e-mail at mconway@adp.ca.gov or by fax at (916) 327-7516. Please check the OAL website at <http://www.adp.ca.gov> to determine when you may submit comments. OAL will accept your written comments for consideration for five days from the date OAL receives the emergency regulations for readoption and posts them on the OAL website. When submitting comments for five-day consideration, please limit your comments specifically to the regulatory changes proposed for emergency readoption in this rulemaking. If you have questions about this notice, you may contact Cathy Sorensen by telephone at (916) 322-4251 or by e-mail at csorensen@adp.ca.gov.

Attachments