

## DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS

**Amend Section 10518 and 10529,  
Repeal Sections 10532 and 10533, and  
Adopt Sections 10700 and 10701,  
Title 9, California Code of Regulations**

### LICENSURE AND CERTIFICATION FEES

#### Initial Statement of Reasons

#### **BACKGROUND:**

The Department of Alcohol and Drug Programs (ADP) is authorized to license residential alcoholism or drug abuse recovery or treatment facilities (residential facilities) pursuant to Chapter 7.5 of the Health and Safety Code (HSC) (commencing with Section 11834.01), as implemented by Chapter 5 (commencing with Section 10500), Title 9 of the California Code of Regulations (CCR). ADP is authorized to certify both residential facilities and outpatient alcohol and other drug programs (outpatient programs) pursuant to Chapter 7 (commencing with Section 11830) of the HSC.

Prior to the enactment of Chapter 177 (Senate Bill 84), Statutes of 2007, ADP charged biennial licensure fees only to for-profit residential facilities. Facilities operating under the auspices of a nonprofit organization or a governmental entity were exempt from paying licensure fees, and ADP did not charge fees for certification of either residential facilities or outpatient programs. HSC Section 11833.02, added by Chapter 177, requires ADP to charge fees for licensure and certification of all residential facilities and for certification of outpatient programs, regardless of the form of organization or ownership. Additionally HSC 11833.04 requires ADP to adopt regulations implementing fees for licensure and certification on an emergency basis. However HSC 11833.04 authorized ADP to implement assessment and collection of licensure and certification fees through all county letters until emergency regulations could be adopted. Accordingly, ADP initially implemented licensure and certification fees implementing HSC 11833.02 by ADP Bulletin 07-11, dated October 11, 2007.

On February 18, 2009, ADP complied with the requirements of Government Code (GC) Section 11346.1(a)(2), by mailing out a 5-Day Notice of Emergency Rulemaking, that informed the public that ADP intended to adopt emergency regulations and that comments could be submitted to the Office of Administrative Law for five (5) days prior to adoption of the emergency regulations. ADP included a copy of that 5-day notice in the emergency rulemaking file.

This regulatory action amends Sections 10518 and 10529, repeals Sections 10532 and 10533, and adopts Sections 10700 and 10701, Title 9, CCR, to allow ADP to collect licensure and certification fees for residential facilities and certification fees for outpatient programs. This regulatory action does not establish new policy; rather it merely codifies in regulation existing policy as implemented in 2007 through ADP Bulletin 07-11.

## **STATEMENT OF NECESSITY**

This rulemaking action is needed to implement, interpret, and make specific HSC Sections 11833.01, 11833.02, 11833.03, 11833.04, 11834.03, 11831.2, and 11831.5, as enacted by Chapter 177. This rulemaking action is needed to codify in Title 9, CCR, policy originally implemented in ADP Bulletin 07-11, authorizing ADP to collect licensure and certification fees from residential facilities and certification fees from outpatient programs regardless of the form of organization or ownership. This rulemaking action is required by HSC Section 11833.04.

Specific necessity for each requirement in this rulemaking action is shown in the attached annotated text of the emergency regulations, which is hereby incorporated by reference. The attached Addendum to the Initial Statement of Reasons explains how ADP developed the licensure and certification fees shown in Section 10701(a). It is also incorporated by reference.

## **FISCAL IMPACT STATEMENTS**

### Anticipated costs or savings to federal funding to the state:

None, because no federal funding is involved and this regulatory action merely codifies existing policy into regulation.

### Anticipated costs or savings to state agencies:

None, because this regulatory action merely codifies existing policy into regulation.

### Anticipated costs or savings to county or local government:

None, because this regulatory action merely codifies existing policy into regulation.

### Anticipated fiscal or economic impact on business:

None, because this regulatory action merely codifies existing policy into regulation. Any costs result from the statutory changes to the HSC enacted by Chapter 177 rather than from this regulatory action.

ADP has made an initial determination that this regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. Because this regulatory action merely codifies existing policy, this regulatory action will not affect the ability of California businesses to compete with businesses in other states. This regulatory action will not affect the creation or elimination of jobs, the creation of new businesses, the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California.

Anticipated fiscal or economic impact on small businesses:

This regulatory action will impact small businesses, since most outpatient programs and residential alcoholism or drug abuse recovery or treatment facilities are small businesses. However this regulatory action will not result in any negative impact or cost to small businesses because it merely codifies existing policy in regulation.

Impact on representative private persons or businesses:

ADP is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulatory action.

Mandate on local agencies and school districts:

None. ADP has determined that this rulemaking action will not impose any new mandates on school districts or other local governmental agencies which must be reimbursed by the State pursuant to Government Code Sections 17500 through 17630.

Other non-discretionary costs or savings imposed upon local agencies or school districts:

None.

Impact on housing costs:

ADP does not anticipate that this regulatory action will impact housing costs in any way.

**CONSIDERATION OF ALTERNATIVES:**

Pursuant to GC Section 11346.5(a)(13), ADP must determine that no alternative would be more effective in carrying out the purpose for which this emergency rulemaking action was taken. ADP must also determine that no alternative would be as effective as and less burdensome to affected private persons than the emergency rulemaking action. ADP did not consider any alternative to emergency licensure and certification fee regulations because HSC Section 11833.02 requires ADP to charge fees for licensure and certification of all residential facilities and for certification of outpatient programs, regardless of the form of organization or ownership, and HSC Section 11833.04 requires ADP to adopt licensure and certification fee regulations on an emergency basis. However prior to adoption of permanent regulations, ADP will consider any alternatives presented during the public comment periods.