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DIRECTOR

State of California—Health and Human Services Agency
Department of Health Care Services



GAVIN NEWSOM
GOVERNOR

DATE: May 11, 2022

Behavioral Health Information Notice No: 22-022

TO: California Alliance of Child and Family Services
California Association for Alcohol/Drug Educators
California Association of Alcohol & Drug Program Executives, Inc.
California Association of DUI Treatment Programs
California Association of Social Rehabilitation Agencies
California Consortium of Addiction Programs and Professionals
California Council of Community Behavioral Health Agencies
California Hospital Association
California Opioid Maintenance Providers
California State Association of Counties
Coalition of Alcohol and Drug Associations
County Behavioral Health Directors
County Behavioral Health Directors Association of California
County Drug & Alcohol Administrators

SUBJECT: Advertising Requirements for Substance Use Disorder (SUD)
Recovery or Treatment, and Mental Health Facilities: Passage of
Senate Bill 434 and 541 (SB 434 and SB 541):

PURPOSE: To provide guidance on new advertising requirements for SUD
recovery or treatment facilities and mental health facilities:
implementation of SB 434 and SB 541, which went into effect on
January 1, 2022.

REFERENCE: [Senate Bill 434, Chapter 447](#) and [Senate Bill 541, Chapter 730](#) (Health
and Safety Code Section 11831.9 and 11831.12; Welfare and
Institutions Code Section 4097)

BACKGROUND:

SB 434 and SB 541 recognizes that some individuals with SUD and mental health diagnoses have disabling conditions, and that these individuals 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 further protect the health, safety, and welfare of this vulnerable population, SB 434 and SB 541 were passed to enhance the advertising requirements for licensed alcoholism or drug abuse (also known as

substance use disorder (SUD))¹ recovery or treatment facility, certified alcohol or other drug program, psychiatric health facilities, and mental health rehabilitation facilities licensed and certified by the Department of Health Care Services (DHCS).²

SB 434 adds Section 11831.9 to the Health and Safety Code (HSC), and adds Chapter 4 (commencing with Section 4097) to Part 1 of Division 4 of the Welfare and Institutions Code to address certain fraudulent marketing practices. SB541 prohibits providers from using false or misleading advertisements for their services and adds HSC, Section 11831.12, to require licensed SUD recovery or treatment facility and certified alcohol or other drug programs to provide authentic advertisements including their license and/or certification number and expiration dates.

SUMMARY OF SB 434 and SB 541:

SB 434 (HSC, Section 11831.9) – Licensed SUD recovery or treatment facility and certified alcohol or other drug programs, 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.

In addition, DHCS 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 HSC, Section 11831.7 in accordance with regulations adopted pursuant to that section.

SB 434 (Welfare and Institutions Code, Division 4, Part 1, Chapter 4, Section 4097) – Licensed psychiatric or mental health facilities, which are defined in Welfare and

¹ This BHIN uses "SUD" as preferred clinical terminology, consistent with the current edition of the Diagnostic and Statistical Manual of Mental Disorders, medical societies, professional organizations, recovery advocates, and [federal guidance](#) regarding the use of non-stigmatizing, person-centered language.

² SB 434 also applies to Social Rehabilitation Facilities (SRFs) licensed by the California Department of Social Services. DHCS does not address the applicability of SB 434 to SRFs in this information notice.

Institutions Code, Section 4097(c) to include psychiatric health facilities and mental health rehabilitation centers, 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.

In addition, DHCS 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 Welfare and Institutions Code 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.

SB 541 (HSC, Section 11831.12) – (a) A facility licensed by the department pursuant to Chapter 7.5 (commencing with Section 11834.01) shall disclose its license number and the date that the license is scheduled to expire in all of the following circumstances:

- (1) To any person who inquires about the facility's license in writing, verbally, electronically, or by any other method of communication between the person and the facility.
- (2) By posting on the internet website of the facility in a clear and conspicuous manner the following language and a link to the department's internet website that contains the facility's license number and expiration date: "Licensed by the State Department of Health Care Services."
- (3) Included in any print, audio, or electronic advertising or marketing of the facility in a clear and conspicuous manner. For the purpose of complying with this paragraph, a facility may include the following language and a link to the department's internet website that contains its license number and expiration date, as described in paragraph (2): "Licensed by the State Department of Health Care Services."

(b) A program certified by the department pursuant to this chapter shall disclose its certification number and the date that the certification is scheduled to expire in all of the following circumstances:

- (1) To any person who inquires about the certification of the program or the services provided by the program in writing, verbally, electronically, or by any other method of communication between the person and the program.
- (2) By posting on the internet website of the program or the services provided by the program in a clear and conspicuous manner the following language and a link to the department's internet website that contains its certification number and expiration date: "Certified by the State Department of Health Care Services."
- (3) Included in any print, audio, or electronic advertising or marketing of the program or the services provided by the program in a clear and conspicuous manner. For the purpose of complying with this paragraph, a program may include the following language and a link to the department's internet website that contains its certification number and expiration date, as described in paragraph (2): "Certified by the State Department of Health Care Services."

The facilities that are licensed and certified by the DHCS will need to comply with both (a) and (b).

COMPLIANCE:

The DHCS licensed SUD recovery or treatment facility and certified alcohol or other drug programs shall demonstrate compliance with HSC, Section 11831.9 and Section 11831.12. Psychiatric Health Facilities and Mental Health Rehabilitation Centers shall demonstrate compliance with Welfare and Institutions Code, Division 4, Part 1, Chapter 4, Section 4097. Any licensed SUD recovery or treatment facility and certified alcohol or other drug programs that fails to adhere with this information notice shall be cited effective July 1, 2022.

Sincerely,

Original signed by

Janelle Ito-Orille, Chief
Licensing and Certification Division