

**DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS**

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July 31, 2009

**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****45-Day Public Notice**

NOTICE IS HEREBY GIVEN that the Department of Alcohol and Drug Programs (ADP) will provide a 45-day public comment period, as required by Government Code (GC) Section 11346.4, to make permanent the subject emergency regulatory changes, which took effect on June 29, 2009.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:**

The Department of Alcohol and Drug Programs (ADP) is authorized to license residential alcoholism or drug abuse recovery or treatment 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 alcoholism or drug abuse recovery or treatment facilities and outpatient programs pursuant to HSC Chapter 7 (commencing with Section 11830).

Prior to the enactment of Chapter 177 (Senate Bill 84), Statutes of 2007, ADP charged biennial licensure fees to residential for-profit alcoholism or drug abuse recovery or treatment facilities (residential facilities). Residential 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. 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. HSC 11833.04, added by Chapter 177, requires ADP to adopt emergency regulations implementing fees for licensure and certification. As authorized by HSC 11833.04, ADP implemented assessment and collection of licensure and certification fees through ADP Bulletin 07-11 until emergency regulations could be adopted.

On February 18, 2009, ADP complied with the requirements of GC Section 11346.1(a)(2), by mailing out a 5-Day Notice of Emergency Rulemaking, that informed the public of ADP's



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intention to adopt emergency regulations and provided a public comment period prior to adoption of the emergency regulations. ADP's emergency licensure and certification fee regulations were approved by the Office of Administrative Law, filed with the Secretary of State, and took effect on June 29, 2009. The emergency regulations will remain in effect for 180 days from the date of filing. Prior to the end of that 180-day period, ADP plans to file a certificate of compliance to complete this regulatory action by making the emergency regulations permanent.

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 merely codifies in regulation existing policy implemented in 2007 through ADP Bulletin 07-11.

Specifically:

Section 10518 is amended to clarify that "completed application" means an application including fees for licensure.

Section 10529 is amended to correct a cross-reference and to require the licensee to pay a licensing fee in order to re-apply for licensure if he/she has voluntarily relinquished his/her license.

Section 10532 and Section 10533 are repealed because they no longer comply with HSC Section 11833.02.

Section 10700 is adopted to state that the purpose of new Chapter 5.5 (commencing with Section 10700) shall be to implement a process for implementing licensure and/or certification fees for outpatient and residential alcoholism or drug abuse recovery or treatment facilities.

Section 10701 is adopted to specify the amount of licensure and certification fees for residential facilities and certification fees for outpatient programs.

### **STATUTORY AUTHORITY AND REFERENCE CITATIONS**

The statutory authority for these regulatory changes is HSC Section 11755.

The statutory references for this regulatory action are HSC Sections 11833.01, 11833.02, 11833.03, 11833.04, 11834.03, 11831.2, and 11831.5.

### **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:

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

### **WRITTEN COMMENT PERIOD:**

Any interested person or his authorized representative may submit written comments on the proposed regulatory action during the **45-day written public comment period that begins on the date of this notice and closes at 5 p.m. on September 14, 2009.** Please submit any written comments before that time. ADP cannot accept written comments after the close of the public comment period. Please send written comments directly to Mary Conway, Regulations Coordinator, Department of Alcohol and Drug Programs, 1700 K Street, Sacramento, CA 95814. Comments may also be submitted by e-mail at <http://www.mconway@adp.ca.gov>, or by fax at (916) 327-6947.

### **SCOPE OF TESTIMONY:**

ADP may make additional changes to the text of noticed regulations only if the additional changes are so sufficiently related to the text of the noticed regulation that the public was adequately placed on notice that the additional changes could result from the originally proposed regulatory action. So that ADP may consider your comments, please limit your comments to only the regulatory changes discussed in this notice. Please indicate the number of the section of regulation you would like changed, the specific change requested, and the reason why you would like the section changed. Although ADP may not make any additional changes outside the scope of this notice as part of this regulatory action, ADP will consider any changes outside the scope of this notice in a separate regulatory action.

### **PUBLIC HEARING:**

ADP has not scheduled a public hearing on the proposed regulatory action, because written comments are given the same consideration as oral testimony. However, ADP will schedule a public hearing for submission of oral testimony if requested to do so. If you want to request a public hearing, please submit your written request for hearing to ADP at the e-mail address or street address shown above no later than 15 days prior to the close of the written comment period specified in this notice.

### **CONSIDERATION OF ALTERNATIVES:**

Pursuant to GC Section 11346.5(a)(13), ADP must determine that no reasonable alternative considered by ADP or that has otherwise been identified and brought to the attention of ADP would be more effective in carrying out the purpose for which this regulatory action was taken. ADP must also determine that no alternative would be as effective and less burdensome to affected private persons than the regulatory action taken. ADP will consider any alternatives presented during the public comment period.

### **ADDITIONAL CHANGES:**

ADP will make the full text of any regulation, which is changed or modified from the express terms of this notice, available to any interested persons for at least 15 days prior to the date on which ADP adopts, amends, or repeals the resulting regulation. ADP will mail a copy of any additional changes to any person who submitted written comments during the 45-day

public comment period, provided oral testimony at the public hearing (if one is requested), or requested copies of additional changes. If you do not plan to submit written comments or provide oral testimony regarding the proposed regulatory action, you may request a copy of any additional changes by contacting Mary Conway by phone at (916) 327-4742, or by e-mail at <http://www.mconway@adp.ca.gov>, or by mail at the address shown under the written comment portion of this notice.

**AVAILABILITY OF TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS:**

If you received this notice by mail or e-mail, the full text of the regulatory changes discussed in this notice and written in plain English; an initial statement of reasons explaining the necessity for each regulatory change; and all the information upon which the proposed regulations were based are attached. Those documents are also available on ADP's web site at <http://www.adp.ca.gov>. You may also request a copy by contacting Mary Conway by telephone at (916) 327-4742, by e-mail at <http://www.mconway@adp.ca.gov>, or by mail at the address shown under the written comment portion of this notice.

**PERSON TO CONTACT FOR ADDITIONAL INFORMATION:**

If you have questions about the regulatory changes discussed in this notice, please call ADP's contact for this regulation package, Cathy Sorenson, at (916) 322-4251. The back up contact is Joan Robbins at (916) 324-3084

**FINAL STATEMENT OF REASONS:**

After the close of the 45-day public comment period, ADP will summarize and respond to all public comments in a written final statement of reasons. ADP will post the final statement of reasons on its web site at <http://www.adp.ca.gov>.