



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



MICHELLE BAASS
DIRECTOR

GAVIN NEWSOM
GOVERNOR

DATE: February 28, 2023

Behavioral Health Information Notice No: 23-007

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: Additional Advertising Requirements for Substance Use Disorder (SUD) Recovery or Treatment Facilities and Mental Health Facilities: Passage of Senate Bill 1165 (SB 1165)

PURPOSE: To provide guidance on additional advertising requirements for SUD recovery or treatment facilities and mental health facilities; implementation of SB 1165 amending [BHIN 22-022](#).

REFERENCE: [Senate Bill 1165, Chapter 172](#) (Health and Safety Code (HSC) Section 11831.9 and 11831.12; Welfare and Institutions Code (W&I) Section 4097)

BACKGROUND:

SB 1165 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 1165 was passed to enhance the advertising requirements for licensed alcoholism or drug abuse (also known as SUD)¹ recovery or treatment

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,

facilities, certified alcohol or other drug programs, psychiatric health facilities, and mental health rehabilitation facilities licensed and certified by the Department of Health Care Services (DHCS).²

SB 1165 amends Section 11831.9 to the HSC, and adds Chapter 4 (commencing with Section 4097) to Part 1 of Division 4 of the W&I to address certain fraudulent marketing practices about medical treatments or medical services. SB 1165 prohibits providers from using false or misleading advertisements for their medical treatments or medical services.

SUMMARY OF SB 1165:

SB 1165 (HSC, Section 11831.9) – Licensed SUD recovery or treatment facilities 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) Make a false or misleading statement or provide false or misleading information about medical treatments or medical services offered in its marketing, advertising materials, or media, or on its internet website, on a third-party internet website, or in its social media presence.
- (3) 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.
- (4) 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.

recovery advocates, and federal guidance regarding the use of non-stigmatizing, person-centered language.

² SB 1165 also applies to Social Rehabilitation Facilities (SRFs) licensed by the California Department of Social Services. DHCS does not address the applicability of SB 1165 to SRFs in this Information Notice.

SB 1165 (W&I, Division 4, Part 1, Chapter 4, Section 4097) – Licensed psychiatric or mental health facilities, which are defined in W&I 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) Make a false or misleading statement or provide false or misleading information about medical treatments or medical services offered in its marketing, advertising materials, or media, or on its internet website, on a third-party internet website, or in its social media presence.
- (3) 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.
- (4) 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 W&I 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.

COMPLIANCE:

DHCS licensed SUD recovery or treatment facilities and certified alcohol and/or other drug programs shall demonstrate compliance with HSC, Section 11831.9. Psychiatric Health Facilities and Mental Health Rehabilitation Centers shall demonstrate compliance with W&I, Division 4, Part 1, Chapter 4, Section 4097. Any licensed SUD recovery or treatment facility and certified alcohol or other drug program that fails to adhere to this information notice shall be cited effective March 15, 2023.

Sincerely,

Original signed by

Janelle Ito-Orille, Chief
Licensing and Certification Division