

AMENDED IN ASSEMBLY MAY 24, 2021

AMENDED IN ASSEMBLY APRIL 22, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1158

Introduced by Assembly Member Petrie-Norris

February 18, 2021

An act to amend Section 11834.10 of, and to add Section 11853.5 to, the Health and Safety Code, and to amend Section 10087 of, and to add Chapter 13 (commencing with Section 679.76) to Part 1 of Division 1 of, of the Insurance Code, relating to alcoholism or drug abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 1158, as amended, Petrie-Norris. Alcoholism or drug abuse recovery or treatment facilities: recovery residence: insurance coverage.

Existing law requires the State Department of Health Care Services to license and regulate alcoholism or drug abuse recovery or treatment facilities serving adults. Existing law restricts a licensee from operating an alcoholism or drug abuse recovery or treatment facility beyond the conditions and limitations specified on the license. Existing law also defines a “recovery residence” as a residential dwelling that provides primary housing for individuals who seek a cooperative living arrangement that supports personal recovery from a substance use disorder and that does not require licensure pursuant to those provisions or does not provide licensable services.

This bill would require a licensee operating an alcoholism or drug abuse recovery or treatment facility to maintain specified insurance coverages, including, among others, commercial general liability insurance and employer’s liability insurance. The bill would require

~~any contract between a government entity and government entity that contracts with an alcoholism or drug abuse recovery or treatment facility, or between a government entity and a recovery residence, to include, among other requirements, a requirement that require the contractor maintain those specified insurance coverages and a requirement that the contractor submit a report with specified information to the government entity, and to any insurers providing insurance coverage to the contractor, within 7 days of a death or incident requiring hospitalization occurring at the recovery residence or alcoholism or drug abuse recovery or treatment facility. coverages.~~ The bill would make these provisions applicable to contracts entered into, renewed, or amended on and after January 1, 2022.

Existing law creates the Department of Insurance, headed by the Insurance Commissioner, and prescribes the department's powers and duties, including various duties to regulate the business of insurance in this state.

~~This bill would authorize an insurer providing insurance coverage to an alcoholism or drug abuse recovery or treatment facility, or to a recovery residence, to consider, as part of the insurer's loss control program, whether the facility or residence has complied with specified provisions, including whether the facility or residence has complied with the insurance coverage provisions described above and whether the facility or residence has submitted specified reports to the insurer and the commissioner.~~

Existing law prohibits a policy of residential property insurance from being issued or delivered unless the named insured is offered coverage for loss or damage caused by an earthquake, and specifies the minimum coverage that is required to be offered. Existing law defines a "policy of residential property insurance" for the purposes of these provisions to include a policy insuring, among other property, residential structures and their contents.

This bill would specify that a "policy of residential property insurance" does not include a policy that provides, or is construed to provide, any coverage or indemnity for the payment of any fine, penalty, or restitution in any criminal, civil, or administrative action or proceeding, or any coverage or indemnity for the payment of any loss or liability, arising from the operation of either a recovery residence or an alcoholism or drug abuse recovery or treatment facility. The bill would make this provision applicable to policies issued, renewed, or amended on and after January 1, 2022.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11834.10 of the Health and Safety Code
2 is amended to read:
3 11834.10. (a) A licensee shall not operate an alcoholism or
4 drug abuse recovery or treatment facility beyond the conditions
5 and limitations specified on the license.
6 (b) Licensed services offered or provided by a licensed
7 alcoholism or drug abuse recovery or treatment facility, including,
8 but not limited to, incidental medical services as defined in Section
9 11834.026, shall be specified on the license and provided
10 exclusively:
11 (1) Within the licensed facility.
12 (2) Within any facilities identified on a single license by street
13 address.
14 (c) Only residents of the licensed alcoholism or drug abuse
15 recovery or treatment facility shall receive licensed services.
16 (d) A licensee shall, at all times, maintain all of the following
17 insurance coverages, which shall include as an additional insured
18 any government entity with which the licensee has a contract, and
19 which shall be obtained from an admitted insurer:
20 (1) Commercial general liability insurance that includes
21 coverage for premises liability, products and completed operations,
22 contractual liability, personal injury and advertising liability, abuse,
23 molestation, sexual actions, and assault and battery, with minimum
24 coverage amounts for bodily injury or property damage of not less
25 than one million dollars (\$1,000,000) per occurrence.
26 (2) Commercial or business automobile liability insurance
27 covering all owned vehicles, hired or leased vehicles, nonowned
28 vehicles, and borrowed and permissive uses, with minimum
29 coverage amounts for bodily injury or property damage of not less
30 than one million dollars (\$1,000,000) per occurrence.
31 (3) Workers' compensation insurance, as required by law.
32 Notwithstanding subdivision (b) of Section 3700 of the Labor
33 Code, self-insurance does not satisfy this requirement.

(4) Employer's liability insurance, with minimum coverage amounts for bodily injury or disease of not less than one hundred thousand dollars (\$100,000) per occurrence.

(5) Professional liability and errors and omissions insurance that includes an endorsement for contractual liability, with minimum coverage amounts of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate. If applicable, the contract shall include an endorsement for defense and indemnification of any government entity with which the licensee has contracted.

(e) The department may adopt regulations to implement this section in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(f) Notwithstanding the rulemaking provisions of the Administrative Procedure Act, the department may implement, interpret, or make specific this section by means of provider bulletins, written guidelines, or similar instructions.

~~SEC. 2. Section 11853.5 is added to the Health and Safety Code, to read:~~

~~11853.5. (a) Any government entity that contracts with a privately owned recovery residence or alcoholism or drug abuse recovery or treatment facility shall require that the contract include all of the following requirements:~~

~~(1) That the contractor comply with the following standards, as applicable:~~

~~(A) (i) (I) That a recovery residence shall fully comply with all of the standards set forth in the most recent version of the NARR Standards developed by the National Alliance for Recovery Residences.~~

~~(H) Notwithstanding subclause (I), if Assembly Bill 1098 of the 2021-22 Regular Session is enacted on or before January 1, 2022, and requires the development of guidelines and standards for recovery residences, that, commencing January 1, 2023, a recovery residence shall, in lieu of complying with subclause (I), fully comply with the guidelines and standards developed pursuant to that act.~~

~~(ii) That a recovery residence shall provide insurers of the recovery residence and the Insurance Commissioner with an initial~~

1 compliance report within 60 days of the contract being executed
2 and provide biennial compliance updates thereafter.

3 (B) That an alcoholism or drug abuse recovery or treatment
4 facility shall fully comply with all applicable statutes and
5 regulations governing operation of the facility.

6 (2) That the contractor shall, at all times, maintain all of the
7 following insurance coverages, which shall include the government
8 entity as an additional insured and shall be obtained from an
9 admitted insurer:

10 (A)

11 Commercial general liability insurance that includes coverage
12 for premises liability, products and completed operations,
13 contractual liability, personal injury and advertising liability, abuse,
14 molestation, sexual actions, and assault and battery, with minimum
15 coverage amounts for bodily injury or property damage of not less
16 than one million dollars (\$1,000,000) per occurrence.

17 (B)

18 Commercial or business automobile liability insurance covering
19 all owned vehicles, hired or leased vehicles, nonowned vehicles,
20 and borrowed and permissive uses, with minimum coverage
21 amounts for bodily injury or property damage of not less than one
22 million dollars (\$1,000,000) per occurrence.

23 (C)

24 Workers' compensation insurance, as required by law.
25 Notwithstanding subdivision (b) of Section 3700 of the Labor
26 Code, self-insurance does not satisfy this requirement.

27 (D)

28 Employer's liability insurance, with minimum coverage
29 amounts for bodily injury or disease of not less than one hundred
30 thousand dollars (\$100,000) per occurrence.

31 (E)

32 Professional liability and errors and omissions insurance that
33 includes an endorsement for contractual liability, with minimum
34 coverage amounts of one million dollars (\$1,000,000) per
35 occurrence and two million dollars (\$2,000,000) aggregate. The
36 contract shall include an endorsement for defense and
37 indemnification of the government entity with which the licensee
38 has contracted.

39 (3) (A) That the contractor report to the government entity, and
40 any insurers providing insurance coverage to the contractor, within

1 seven days of any deaths or incidents requiring hospitalization that
2 occur at the recovery residence or alcoholism or drug abuse
3 recovery or treatment facility.

4 (B) If the reporting entity is a recovery residence, the report
5 shall include all of the following information:

6 (i) A description of the event or incident, including the time,
7 location, and nature of the event or incident.

8 (ii) A list of immediate actions that were taken, including
9 persons contacted.

10 (iii) A description of the followup action that is planned,
11 including, but not limited to, steps taken to prevent a future death
12 or hospitalization.

13 (C) If the reporting entity is an alcoholism or drug abuse
14 recovery or treatment facility, the report shall include all of the
15 information required to be reported by Section 10561 of Title 9 of
16 the California Code of Regulations.

17 (b) For the purposes of this section, the following terms have
18 the following meanings:

19 (1) “Alcoholism or drug abuse recovery or treatment facility”
20 has the same meaning as in Section 11834.02.

21 (2) “Government entity” means the state and any political
22 subdivision of the state, including counties, joint powers
23 authorities, and any other unit of local government.

24 (3) “Recovery residence” has the same meaning as in Section
25 11833.05.

26 (e) Compliance reports and notifications made to an insurer
27 pursuant to this section do not create any additional authority,
28 liability, or responsibility on the part of the insurer.

29 (d) This section shall apply to contracts entered into, renewed,
30 or amended on and after January 1, 2022.

31 SEC. 3. Chapter 13 (commencing with Section 679.76) is added
32 to Part 1 of Division 1 of the Insurance Code, to read:

33
34 CHAPTER 13. CONTRACTS FOR INSURANCE COVERING RECOVERY
35 RESIDENCES OR ALCOHOLISM OR DRUG ABUSE RECOVERY OR
36 TREATMENT FACILITIES
37

38 679.76. (a) To reduce underwriting risk and ensure solvency,
39 an insurer providing insurance coverage to a recovery residence,
40 as defined in Section 11833.05 of the Health and Safety Code,

1 may consider the following elements as part of the insurer's loss
2 control program:

3 (1) ~~Whether the recovery residence fully complies with all of~~
4 ~~the standards set forth in the most recent version of the NARR~~
5 ~~Standards developed by the National Alliance for Recovery~~
6 ~~Residences. The insurer may require that the recovery residence~~
7 ~~provide the insurer, and the commissioner, with an initial~~
8 ~~compliance report within 60 days of obtaining coverage and~~
9 ~~provide biennial compliance updates thereafter.~~

10 (2) ~~Whether the recovery residence fully complies with the~~
11 ~~insurance coverage requirements of paragraph (2) of subdivision~~
12 ~~(a) of Section 11853.5 of the Health and Safety Code.~~

13 (3) ~~Whether a recovery residence makes all reports required by~~
14 ~~paragraph (3) of subdivision (a) of Section 11853.5 of the Health~~
15 ~~and Safety Code and whether the recovery residence~~
16 ~~contemporaneously provides the insurer with a copy of the report.~~

17 (b) ~~To reduce underwriting risk and ensure solvency, any insurer~~
18 ~~providing insurance coverage to an alcoholism or drug abuse~~
19 ~~recovery or treatment facility, as defined in Section 11834.02 of~~
20 ~~the Health and Safety Code, may consider the following elements~~
21 ~~as part of the insurer's loss control program:~~

22 (1) ~~Whether the facility fully complies with all applicable~~
23 ~~regulations.~~

24 (2) ~~Whether the facility fully complies with the insurance~~
25 ~~coverage requirements of paragraph (2) of subdivision (a) of~~
26 ~~Section 11853.5 of the Health and Safety Code.~~

27 (3) ~~Whether the facility makes all reports required by paragraph~~
28 ~~(3) of subdivision (a) of Section 11853.5 of the Health and Safety~~
29 ~~Code, and whether the facility contemporaneously provides the~~
30 ~~insurer with a copy of the report.~~

31 (c) ~~The commissioner shall work closely with the Attorney~~
32 ~~General and State Department of Health Care Services to~~
33 ~~investigate insurance complaints pertaining to recovery residences~~
34 ~~and alcoholism or drug abuse recovery or treatment facilities.~~

35 *SEC. 2. Section 11853.5 is added to the Health and Safety*
36 *Code, to read:*

37 *11853.5. (a) Any government entity that contracts with a*
38 *privately owned recovery residence or alcoholism or drug abuse*
39 *recovery or treatment facility shall require the contractor, at all*
40 *times, to maintain all of the following insurance coverages, which*

1 shall include the government entity as an additional insured and
2 shall be obtained from an admitted insurer:

3 (1) Commercial general liability insurance that includes
4 coverage for premises liability, products and completed operations,
5 contractual liability, personal injury and advertising liability,
6 abuse, molestation, sexual actions, and assault and battery, with
7 minimum coverage amounts for bodily injury or property damage
8 of not less than one million dollars (\$1,000,000) per occurrence.

9 (2) Commercial or business automobile liability insurance
10 covering all owned vehicles, hired or leased vehicles, nonowned
11 vehicles, and borrowed and permissive uses, with minimum
12 coverage amounts for bodily injury or property damage of not less
13 than one million dollars (\$1,000,000) per occurrence.

14 (3) Workers' compensation insurance, as required by law.
15 Notwithstanding subdivision (b) of Section 3700 of the Labor Code,
16 self-insurance does not satisfy this requirement.

17 (4) Employer's liability insurance, with minimum coverage
18 amounts for bodily injury or disease of not less than one hundred
19 thousand dollars (\$100,000) per occurrence.

20 (5) Professional liability and errors and omissions insurance
21 that includes an endorsement for contractual liability, with
22 minimum coverage amounts of one million dollars (\$1,000,000)
23 per occurrence and two million dollars (\$2,000,000) aggregate.
24 The contract shall include an endorsement for defense and
25 indemnification of the government entity with which the licensee
26 has contracted.

27 (b) For the purposes of this section, the following terms have
28 the following meanings:

29 (1) "Alcoholism or drug abuse recovery or treatment facility"
30 has the same meaning as in Section 11834.02.

31 (2) "Government entity" means the state and any political
32 subdivision of the state, including counties, joint powers
33 authorities, and any other unit of local government.

34 (3) "Recovery residence" has the same meaning as in Section
35 11833.05.

36 (c) This section shall apply to contracts entered into, renewed,
37 or amended on and after January 1, 2022.

38 ~~SEC. 4.~~

39 SEC. 3. Section 10087 of the Insurance Code is amended to
40 read:

1 10087. (a) (1) As used in this chapter, “policy of residential
2 property insurance” means a policy insuring individually owned
3 residential structures of not more than four dwelling units,
4 individually owned condominium units, or individually owned
5 mobilehomes, and their contents, located in this state and used
6 exclusively for residential purposes or a tenant’s policy insuring
7 personal contents of a residential unit located in this state.

8 (2) “Policy of residential property insurance,” does not include
9 any of the following:

10 (A) Insurance for real property or its contents used for any
11 commercial, ~~industrial~~ *industrial*, or business purpose, except a
12 structure of not more than four dwelling units rented for individual
13 residential purposes.

14 (B) A policy that does not include any of the perils insured
15 against in a standard fire policy.

16 (C) A policy that provides, or is construed to provide, any
17 coverage or indemnity for the payment of any fine, penalty, or
18 restitution in any criminal, civil, or administrative action or
19 proceeding, or any coverage or indemnity for the payment of any
20 loss or liability, arising from the operation of either a recovery
21 residence, as defined in Section 11833.05 of the Health and Safety
22 Code, or an alcoholism or drug abuse recovery or treatment facility,
23 as defined in Section 11834.02 of the Health and Safety Code.
24 This subparagraph shall apply to policies issued, renewed, or
25 amended on and after January 1, 2022.

26 (b) Proof of mailing of any offer, disclosure, or document
27 required to be delivered by this chapter by first-class mail addressed
28 to a named insured or applicant at the mailing address shown on
29 the policy or application shall create a conclusive presumption that
30 the offer was made or that the disclosure or document was delivered
31 as required. If an offer, disclosure, or document required to be
32 delivered by this chapter is not mailed, but is hand delivered to
33 the insured, the insured’s signed receipt creates a conclusive
34 presumption that the offer was provided or that the disclosure or
35 document was delivered as required.