

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

SB 43 (Umberg)
Version: April 21, 2025
Hearing Date: April 29, 2025
Fiscal: Yes
Urgency: No
AWM

SUBJECT

Substance use disorder: certified programs and licensed facilities

DIGEST

This bill implements a regulatory regime for the oversight of referral agencies that refer individuals to licensed or certified addiction treatment facilities and programs, to be overseen by the Department of Justice (DOJ).

EXECUTIVE SUMMARY

Current law requires facilities and programs that treat adults for alcohol or other substance addictions to be licensed or certified by the Department of Health Care Services (DHCS). By giving the DHCS oversight into these entities, the state can better ensure that person struggling with addiction receive the treatment they need in safe and secure environments.

Current law does not, however, regulate entities that refer individuals to addiction facilities and programs. According to the author, sponsor, and supporters of the bill, there is now a cottage industry of shady referral agencies that profit off of unethical referrals, which can include referrals to facilities or programs in which the referral agency has a financial interest; referrals based on the amount that the facility or program will pay per customer; or referrals where the individual is not given complete information about where they will be treated.

This bill is intended to close that gap by implementing a regulatory regime that (1) requires referral agencies to obtain a certification of compliance from the DOJ, and (2) restricts when and how referral agencies may operate. The bill allows the DOJ to enforce violations administratively and permits the Attorney General, other public prosecutors, and individuals harmed by a violation to file a civil action against a referral agency for certain violations

This bill is sponsored by the California Consortium of Addiction Programs and Professionals and is supported by Addiction Recovery Communities of California, Anaheim Lighthouse, the California Alliance for State Advocacy, the California Behavioral Health Association, the California Hospital Association, California Recovery Center, Central Valley Recovery Services, Community Social Model Advocates, Inc., First Responder Wellness, Orange County Recovery Collaboration, the Steinberg Institute, Sun Street Centers, The Purpose of Recovery, and Young People in Recovery. This bill is opposed by Advocates for Responsible Treatment and Jarrod's Law.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes the State Department of Health Care Services (DCHS), which oversees a range of programs and projects relating to public health, including specified public-health-related licensure programs. (Health & Saf. Code, § 100100.)
- 2) States that the Legislature recognizes that any efforts to address the problems related to inappropriate alcohol use and other drug are greatly hindered by:
 - a) The stigmatization of persons who have alcohol and other drug problems.
 - b) Denial by the individual and the community, especially among members of the professional community, sometimes referred to as gatekeepers, regarding the nature and scope of alcohol and other drug problems.
 - c) Services that, if uncoordinated, often are conflicting, inappropriate, ineffective, duplicative, and wasteful of limited public and private resources.
 - d) Actions and attitudes that encourage consumption of alcoholic beverages in California, which consumption leads to alcohol problems.
 - e) Actions and attitudes that encourage illicit drug use. (Health & Saf. Code, § 11760.1.)
- 3) States that:
 - a) The Legislature recognizes that substance abuse disorder should be viewed and treated as a health problem, as well as a public safety problem. The substance abuse problem has significant public impact and must, in addition to public safety, be given community, education, social, and health attention if prevention and amelioration are to be achieved. These approaches should be coordinated into a single multiagency and multifaceted program for alcohol and drug prevention and treatment in the counties of the state.
 - b) It is the intent of the Legislature that community alcohol and other drug services shall be organized through locally administered and locally controlled community alcohol and other drug programs. The community alcohol and other drug programs shall operate under the principle that services are designed to be equally accessible to all persons, including persons who, because of differences in language, cultural differences in

language, cultural traditions, or physical disabilities, confront barriers to knowing about or using the alcohol and other drug services that are offered. (Health & Saf. Code, § 11760.5.)

- 4) Defines the following relevant terms:
 - a) “Alcohol or other drug program” is a business entity with a physical location in California that provides one or more of the following services to clients: (1) treatment services; (2) recovery services; (3) detoxification services; or (4) medications for addiction treatment. (Health & Saf. Code, § 11832.2.)
 - b) “Alcohol or other drug recovery or treatment facility” is a premises, place, or building that provides residential nonmedical services to adults who are recovering from problems related to alcohol, drug, or alcohol and drug misuse or addiction, and who need alcohol, drug, or alcohol and drug recovery treatment or detoxification services. (Health & Saf. Code, § 11834.02.)
- 5) Requires an alcohol or drug program to be certified by the DHCS, unless the program is otherwise licensed or is a school or carceral facility, as specified. A certification lasts for two years. (Health & Saf. Code, div. 10.5, pt. 2, ch. 7.1, §§ 11832 et seq.)
- 6) Requires an adult alcohol or other drug recovery facility to be licensed by the DHCS, which shall adopt the American Society of Addiction Medicine treatment criteria, or an equivalent evidence-based standard, as the minimum standard of care for licensees. A license lasts for two years. (Health & Saf. Code, div. 10.5, pt. 2, ch. 7.5, §§ 11834.01 et seq.)
- 7) Requires a program certified pursuant to 5) or a facility licensed pursuant to 6) to disclose its certification or license number and expiration date in the following circumstances:
 - a) To any person who inquires about the certification or license number, through any medium of communication between the person and the program or facility.
 - b) By posting its certification or license number on its website in a clear and conspicuous manner, as specified.
 - c) By including in any print, audio, or electronic advertising or marketing of the program or facility in a clear or conspicuous manner; the program or facility may comply by including a specified link to the DHCS’s website. (Health & Saf. Code, § 11831.12.)
- 8) Requires a program certified pursuant to 5) or a facility licensed pursuant to 6) to disclose to the DHCS if any of its agents, partners, directors, officers, or owners, including a sole proprietor and member, has either of the following:

- a) Ownership or control of, or financial interest in, a recovery residence, as defined.
 - b) Any contractual relationship with an entity that regularly provides professional services or substance use disorder treatment or recovery services to clients of programs certified or facilities licensed by the DHCS, if the entity is not part of the program certified or facility licensed. (Health & Saf. Code, § 11833.05(a).)
- 9) Permits the DHCS to suspend or revoke the certification or license of an entity that fails to disclose the information required in 8). (Health & Saf. Code, § 11833.05(c).)
- 10) Requires the DHCS to take action against an unlicensed facility that is disclosed as a recovery residence pursuant to 8), by conducting an investigation and determining whether to assess a civil penalty of \$2,000 per day for every day the facility continues to provide services without a license. (Health & Saf. Code, §§ 11833.05(d), 11834.31.)

This bill:

- 1) Establishes Title 1.6G within Part 4 of Division 3 of the Civil Code (Title 1.6G), which regulates addiction treatment referral agencies.
- 2) Defines the following terms for purposes of Title 1.6G:
 - a) "Department" means the DOJ.
 - b) "Member program" means an alcohol or other drug program certified by, or an alcohol or other drug treatment facility licensed by, the DHCS and that has entered into a written agreement for group advertising and referral services with a referral agency or any entity that holds itself out as a group advertiser, referral agency, or registry for addiction treatment services.
 - c) "Referral agency" means a private, for-profit, or nonprofit agency that is engaged in the business of referring persons for remuneration to a program or facility described in 2).
- 3) Prohibits a person, association, or corporation from establishing, conducting, or maintaining a referral agency, or from referring a person for remuneration to a member program without first obtaining a certificate of compliance from the DOJ.
- 4) Provides that an application for a certificate of compliance required by 3) shall be accompanied by a fee, which shall not exceed the reasonable regulatory cost of administering the certificate of compliance program.
- 5) Provides that a referral agency may not have a direct or indirect financial interest in a member program doing business with the referral agency.

- 6) Requires a separate certificate of compliance for each referral agency that is maintained on separate, noncontiguous premises.
- 7) Provides that a certificate of compliance issued by the DOJ is not transferrable.
- 8) Provides that a certificate of compliance application must be submitted to the DOJ when any of the following circumstances occurs:
 - a) Change in ownership of the referral agency.
 - b) Change of name of the referral agency.
 - c) Change of location of the referral agency.
- 9) Sets forth the required information that must be submitted on an application for a referral agency certification, on forms to be furnished by the Department of Justice, including:
 - a) The name of the applicant and, if an individual, whether the applicant has attained 18 years of age.
 - b) The name and location of the referral agency.
 - c) The business or occupation engaged in by each applicant, and by each partner, officer, and director, for at least two years immediately preceding the filing of the application.
 - d) A statement from each partner, officer, and director setting forth whether they have previously engaged in the operation of a referral agency; whether they have been involved in, or the subject of, a refusal or revocation of a referral agency certificate of compliance; and whether they have been convicted of a crime other than a minor traffic offense.
 - e) If the applicant is a corporation, the name and principal business address of each officer and director of the corporation, and for nonpublic corporations, the name and address of each stockholder owning 10 percent or more of the stock, and the name and business address of any corporation member who has responsibility in the operation of the referral agency.
 - f) If the applicant is a partnership, the name and principal address of each partner.
 - g) Evidence of the right to occupy the premises where the referral agency is located.
 - h) A copy of the partnership agreement or the articles of incorporation, if applicable.
 - i) A copy of the current organization chart.
 - j) A schedule of fees to be charged and collected by the referral agency and a statement of the method by which each fee is to be computed or determined.
 - k) A declaration that the holder of the certificate of compliance will not have any financial interest in any facility doing business with the referral agency.
 - l) Evidence satisfactory to the DOJ that the applicant demonstrates reputable and responsible character and the capacity to comply with applicable requirements.

- 10) Requires a holder of a certificate of compliance desiring to voluntarily surrender their certificate of compliance for cancelation or temporary suspension to notify the DOJ in writing as soon as possible and, in all cases, a minimum of 30 days before the effective date of the cancelation or temporary suspension.
- 11) Provides that a certificate of compliance placed in temporary suspension pursuant to 9) may be reinstated by the DOJ within 12 months of the date of the voluntary suspension upon request of an application and evidence of compliance with certificate of compliance requirements.
- 12) Provides that, upon verification of compliance and approval of the DOJ, the DOJ shall issue the certificate of compliance to the applicant; if the applicant is not in compliance with Title 1.6G, the DOJ shall notify the applicant in writing.
- 13) Permits an applicant whose application was denied pursuant to 11), within 20 days of receiving the notice of denial, to present their written petition for a hearing to the DOJ; the hearing shall proceed pursuant to the Administrative Procedures Act's (APA) provisions for administrative adjudications, as specified.
- 14) Requires a holder of a certificate of compliance to conspicuously post, in a prominent location accessible to public view, the original certificate of compliance, and to post a link on its website to direct the public to an electronic copy of the certificate.
- 15) Requires the DOJ to be notified by the holder of a certificate of compliance of the following events, within 10 days of the event:
 - a) A change in stockholders owning 10 percent or more of the nonpublic corporate stock; the writing must include the name and principal mailing address of the new stockholder.
 - b) A change in the referral agency manager; the writing must include the name of the new referral agency manager.
 - c) A change of the mailing holder's address; the writing shall include the new mailing address.
 - d) A change in the corporate holder's principal officer, chairperson, president, or general manager; the writing shall include the name and principal address of the new officer, chairperson, president, or general manager.
- 16) Provides that it is unlawful for a referral agency holding a certificate of compliance to participate in or operate a group advertising and referral service for addiction treatment services unless all of the following conditions are met:
 - a) Patient referrals made by the referral agency are the result of patient-initiated responses to service advertising.
 - b) The referral agency advertises, if at all, in conformity with Section 651 of the Business and Professions Code, which prohibits false advertising.

- c) The referral agency does not employ a solicitor.
 - d) The referral agency does not impose a fee on its member programs that is dependent on the number of referrals or amount of professional fees paid by the referral agency or member program.
 - e) Member programs charge no more than their usual and customary fees to any patient referred.
 - f) The referral agency files with the DOJ a copy of the standard form contract that regulates its relationship with member programs. The contract shall be kept confidential and is not open to public inspection.
 - g) If more than 50 percent of its referrals are made to 50 or fewer member programs, the referral agency discloses that fact in all public communications, including, but not limited to, communication by means of television, radio, motion picture, newspaper, book, internet, or list or directory.
- 17) Authorizes the DOJ to adopt regulations as necessary to enforce and administer 16).
- 18) Provides that the DOJ or five or more individual or member programs may petition the superior court of any county for the issuance of an injunction restraining conduct that constitutes a violation of 16).
- 19) Permits the DOJ to administratively enforce violations by a referral agency as follows:
- a) The DOJ may suspend or revoke a certificate of compliance for a violation of any provision of Title 1.6G or any regulation adopted pursuant to Title 1.6G. These proceedings shall be conducted in accordance with the APA.
 - b) The DOJ may assess a civil penalty of not more than \$20,000 as a result of any violation of Title 1.6G.
- 20) Provides that a person, association, or corporation referring persons without a certificate of compliance, or in any other violation of Title 1.6G, shall be liable for a civil penalty in the amount of the remuneration illegally received, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General in any court of competent jurisdiction.
- 21) Permits a district attorney, a county counsel, a city attorney, or any person who has suffered any injury or damages, including, but not limited to, being surreptitiously redirected to inappropriate treatment, being trafficked to a treatment program, or loss of revenue due to the operations of a referral agency that does not have a certificate of compliance in violation of Title 1.6G to bring a claim that an act or practice violates Title 1.6G and seek one or more than the following:
- a) Declaratory relief to enjoin a person or entity who has violated or is violating Title 1.6G.
 - b) A civil penalty of not more than \$20,000 for each violation of Title 1.6G.

- c) Reasonable attorney's fees and costs to the prevailing plaintiff, if the claim is successful in whole or in part.
- 22) Provides that civil penalties collected pursuant to 19) and 21) shall be used to administer Title 1.6G.
- 23) Excludes, from the requirements of 1)-22), a local public agency performing referral services without cost to recipients of adult alcoholism or drug abuse recovery or treatment services when otherwise authorized by law.

COMMENTS

1. Author's comment

According to the author:

SB 43 ensures true accountability and transparency in this network of treatment providers by requiring financial disclosures, licensing for referral agencies, and establishing clear operational standards. By closing regulatory gaps and preventing exploitative practices, SB 43 will protect vulnerable individuals seeking treatment and improve the integrity of recovery services. Firstly, this bill takes a proactive step forward in dismantling body brokering and similar practices by requiring all programs and facilities that are certified and licensed to submit to the Department of Health Care Services a report of all money transfers between the program or facility recovery residences during the previous fiscal year. Secondly, this bill requires that addiction treatment programs and group advertising entities follow the same rules currently required for chiropractors, marriage family therapists, and dentists. These businesses can only advertise as individual business entities or with a group advertiser registered with their respective professional boards. In these systems, consumers are protected from false advertisers that siphon people off to the highest bidder, and connections to incompetent and unethical marketing representatives. SB 43 will ensure that any person or entity referring individuals to treatment programs for compensation is licensed through DHCS and that licensed referral agencies do not have financial ties to the treatment centers they recommend.

2. This bill implements a certification and regulation regime for referral agencies, overseen by the DOJ

A referral agency is a private, for-profit, or nonprofit entity that refers individuals, in exchange for remuneration, to licensed and certified addiction treatment facilities and programs. To address the problem of unscrupulous referral agencies discussed by the author in Part 1, above, this bill implements a regulatory regime that (1) requires referral agencies to obtain a certification of compliance from the DOJ, and (2) restricts

when and how referral agencies may operate. The bill allows the DOJ to enforce violations administratively and permits the Attorney General, other public prosecutors, and individuals harmed by a violation to file a civil action against a referral agency for certain violations. The bill exempts from its requirements a local public agency providing referral services without cost to the recipients under other existing laws.

a. Certificate of compliance requirement

This bill requires a referral agency to obtain a certificate of compliance from the DOJ as a condition of operating in this state. The bill provides the information that must be submitted as part of a certification application and the criteria that the DOJ must consider in determining whether to issue a certificate. Some of the requirements targeted at preventing bad actors from obtaining certification are:

- Requiring each partner, officer, and director of the referral agency to state whether they have been involved in, or the subject of, a refusal or revocation of a referral agency certificate in the past, and whether they have been convicted of a crime other than a minor traffic offense.
- Requiring the referral agency to disclose information relating to its stockholders owning 10 percent or more of its stock or, if the business is a partnership, relating to its partners.
- A schedule of fees that the referral agency charges and collects.
- A declaration that the holder of the certificate will not have any financial interest in any member program doing business with the referral agency.

The bill provides that a referral agency whose application is rejected can appeal the rejection pursuant to the existing administrative adjudication procedures under the APA. The bill also requires that a referral agency prominently post its certificate of compliance at its premises and through a link on its website.

b. Advertising restrictions

This bill prohibits a referral agency with a certificate of compliance from participating in, or operating, a group advertising referral service for addiction treatment services unless certain conditions are met. The requirements include:

- Referrals must be the result of patient-initiated responses to service advertising.
- The referral agency does not impose a fee on its member programs that is dependent on the number of referrals or the amount of professional fees paid by the patient to the referral agency or member program.
- Member programs charge no more than their usual and customary fees to any patient referred.
- If more than 50 percent of the referrals are made to 50 or fewer member programs, the referral agency must disclose that fact in all public communications, including, but not limited to, television, radio, motion picture, newspaper, internet, or list or directory communications.

These restrictions are modeled after existing group referral restrictions for other health-related entities, including chiropractors¹ and dentists;² this bill's restrictions are less severe, however, insofar as the bill does not make it a misdemeanor for a referral agency to violate its requirements. The bill's supporters argue that these provisions are necessary to prevent dishonest referral agencies from referring people in need of treatment based on factors unrelated to the person's health, such as making referrals to the highest-bidding member program.

c. Enforcement

This bill allows the Attorney General to enforce its requirements administratively against holders of certificates by suspending or revoking the certification, and by assessing a civil penalty of up to \$20,000. The revocation or suspension proceedings must be conducted in accordance with the Administrative Procedures Act.

Additionally, this bill allows a district attorney, a county counsel, a city attorney, or person who was harmed by a violation to file a civil action against the violator seeking declaratory relief, a civil penalty of up to \$20,000 per violation, and prevailing party attorney's fees and costs. The bill defines harm resulting from a violation broadly, providing that a person who was wrongfully referred, or an entity that lost revenue as a result of a referral agency operating without a certificate, have been harmed within the meaning of this bill.

3. Limitation on the public's right of access

Access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state.³ In 2004, the right of public access was enshrined in the California Constitution with the passage of Proposition 59 (Nov. 3, 2004, statewide general election),⁴ which amended the California Constitution to specifically protect the right of the public to access and obtain government records: "The people have the right of access to information concerning the conduct of the people's business, and therefore . . . the writings of public officials and agencies shall be open to public scrutiny."⁵ In 2014, voters approved Proposition 42 (Jun. 3, 2014, statewide direct primary election)⁶ to further increase public access to government records by requiring local agencies to comply with the CPRA.⁷

¹ Bus. & Prof. Code, § 650.3.

² Bus. & Prof. Code, § 650.2.

³ Gov. Cod § 7921.000.

⁴ Prop. 59 was placed on the ballot by a unanimous vote of both houses of the Legislature. (SCA 1 (Burton, Ch. 1, Stats. 2004).)

⁵ Cal. Const., art. I, sec. 3 (b)(1).

⁶ Prop. 42 was placed on the ballot by a unanimous vote of both houses of the Legislature. (SCA 3 (Leno, Ch. 123, Stats. 2013).)

⁷ Cal. Const., art. I, sec. 3 (b)(7).

This bill creates a narrow exception to the public's right to access documents held by the DOJ. The bill requires a referral agency to submit to the DOJ a copy of its standard form contract as a condition of participating in, or operating, a group referral service; the bill provides that the contract shall be kept confidential and not open for public inspection. This provision is intended to ensure that referral agencies' proprietary business information is not disclosed or available to competitors.

SUPPORT

Addiction Recovery Communities of California
Anaheim Lighthouse
California Alliance for State Advocacy
California Behavioral Health Association
California Hospital Association
California Recovery Center
Central Valley Recovery Services
Community Social Model Advocates, Inc.
First Responder Wellness
Orange County Recovery Collaboration
Steinberg Institute
Sun Street Centers
The Purpose of Recovery
Young People in Recovery

OPPOSITION

Advocates for Responsible Treatment
Jarrod's Law

RELATED LEGISLATION

Pending legislation: None known.

Prior legislation:

AB 2574 (Valencia, Ch. 410, Stats. 2024) required licensed adult alcoholism and drug abuse recovery or treatment facilities to disclose to DHCS if any of its agents, partners, directors, officers, or owners have a financial interest in a recovery residence and whether it has contractual relationships with entities that provide recovery services to clients of certified programs or licensed facilities if the entity is not part of a certified program or licensed facility.

SB 992 (Hernandez, Ch. 784, Stats. 2018) added the requirement for licensed adult alcoholism and drug abuse recovery or treatment facilities to disclose to DHCS their interests in recovery residences and other contractual relationships with related entities.
