

PETITION FOR RULEMAKING

Pursuant to Government Code § 11340.6

Proposed Clarifications to Title 9, CCR – DUI Program Enforcement and Financial Assessment Safeguards

Submitted to:

California Department of Health Care Services

Authority:

California Government Code § 11340.6

Submitted by:

Kayla Collins

Private Citizen, State of California

March 2, 2026

I. REQUEST

Pursuant to Government Code § 11340.6, the undersigned respectfully petitions the Department to consider amendments to Title 9, Division 4, Chapter 3 of the California Code of Regulations governing DUI programs.

This petition seeks narrowly tailored clarifications addressing:

1. Enforcement predicates prior to completion withholding for nonpayment;
2. Documentation standards supporting instructional integrity;
3. Temporal scope and retroactive application of compliant financial assessments under § 9878.

The requested amendments are procedural and clarifying in nature. They do not alter substantive program requirements, fee schedules, or statutory obligations.

II. REGULATORY CONTEXT

Title 9 establishes requirements governing DUI program enrollment, fee assessment, and completion. Section 9878 requires programs to assess a participant's ability to pay and prohibits requiring payment exceeding assessed ability.

Completion provisions authorize programs to issue or withhold certificates based on regulatory compliance.

However, current regulations do not expressly:

- Condition completion withholding on documented compliance with § 9878 assessment procedures;
- Define documentation sufficiency standards prior to enforcement action;
- Clarify the temporal scope of ability-to-pay determinations;
- Require retroactive correction where compliant assessment was not timely conducted;
- Require documentation of instructional integrity variables affecting completion timelines.

The absence of explicit procedural conditions permits varying interpretations across programs.

III. STRUCTURAL CLARIFICATION NEED

A. Enforcement Predicate Clarification

Title 9 requires financial assessment but does not explicitly condition enforcement authority (including completion withholding for nonpayment) on documented assessment compliance.

Clarification would ensure that:

- A compliant financial assessment under § 9878 is documented prior to enforcement;
- Participants receive written fee determinations and notification;
- Reassessment or appeal opportunities are documented;
- Enforcement is suspended where required documentation is materially deficient.

Such clarification would strengthen uniform statewide application and reduce interpretive variability.

B. Instructional Integrity Documentation

While Title 9 establishes session duration and counselor qualification requirements, it does not expressly require documentation of:

- Instructor presence for full session duration;
- Session start and end times;
- Significant program-caused delays;

- Program-caused rescheduling events affecting completion timelines.

Codifying minimal instructional verification documentation would enhance audit defensibility without altering program structure.

C. Temporal Scope and Retroactive Application

Section 9878 requires ability-to-pay assessment and prohibits requiring payment exceeding assessed ability.

However, the regulation does not clearly define:

- When assessment must occur relative to enrollment;
- Whether failure to conduct timely compliant assessment requires retroactive alignment;
- Whether reduced fee determinations must apply to the full period of documented eligibility;
- Whether reductions may be applied prospectively only where eligibility existed prior to approval.

Ability-to-pay determinations are inherently temporal. Where documentation establishes that a participant met reduced-fee eligibility criteria during prior months of enrollment, and compliant assessment was not timely conducted, regulatory clarity regarding retroactive alignment would promote consistency.

Clarification would ensure that financial liability reflects documented eligibility periods and reduce inconsistency across counties.

IV. AUDIT AND FISCAL CONSIDERATIONS

Clarifying enforcement predicates and temporal scope would:

- Improve statewide uniformity;
- Reduce audit vulnerability arising from documentation ambiguity;
- Decrease potential refund disputes tied to late or noncompliant assessments;
- Strengthen fiscal defensibility during DHCS and county review;
- Provide clearer guidance to licensed programs.

The proposed amendments are procedural clarifications designed to enhance regulatory clarity, not to expand substantive obligations.

V. PROPOSED REGULATORY LANGUAGE

Add new section to Title 9, Division 4, Chapter 3:

§ XXXX. Enforcement Predicates and Financial Assessment Timing

(a) Financial Assessment Documentation

A program shall not withhold completion for nonpayment unless the participant record contains:

1. Documented evidence of a financial assessment conducted in compliance with § 9878;
2. A written fee determination;
3. Documentation of participant notification;
4. Documentation of reassessment or appeal opportunity where applicable.

Where required documentation is materially deficient, enforcement action related to nonpayment shall be suspended until corrected.

(b) Instructional Verification

Programs shall maintain documentation of:

1. Instructor presence for the full regulatory session duration;
2. Session start and end times;
3. Delays exceeding fifteen (15) minutes attributable to program operations;
4. Program-caused rescheduling events.

Program-caused instructional disruption shall not extend participant completion timelines without written justification and documented notice.

(c) Temporal Scope and Retroactive Alignment

Where documentation establishes that a participant met reduced-fee eligibility criteria during prior months of enrollment and a compliant financial assessment was not timely conducted, the reduced fee shall apply to the documented eligibility period.

Failure to conduct timely assessment shall not result in financial liability inconsistent with documented ability to pay.

(d) Enforcement Condition

Completion withholding authority for nonpayment shall be conditioned upon compliance with subsections (a) through (c).

VI. NECESSITY

Clarification is necessary to ensure uniform statewide application and to prevent inconsistent interpretation of § 9878 across licensed programs.

The proposed amendment is narrowly tailored to clarify documentation, timing, and enforcement sequencing without altering substantive program requirements, statutory authority, or fee schedules.

VII. REQUEST FOR ACTION

Pursuant to Government Code § 11340.6, petitioner respectfully requests that the Department:

1. Initiate rulemaking proceedings to evaluate the proposed clarifications; or
2. Provide a written response stating the reasons for denial.

Respectfully submitted,

Kayla Collins
Private Citizen, State of California
March 2, 2026