

By: Naishtat

H.B. No. 1492

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the regulation of social workers; providing a criminal
3 penalty.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 505.001, Occupations Code, is amended to
6 read as follows:

7 Sec. 505.001. SHORT TITLE. This chapter may be cited as the
8 ~~[Professional]~~ Social Work Practice Act.

9 SECTION 2. Section 505.002, Occupations Code, is amended by
10 amending Subdivision (3) and adding Subdivisions (4-a) and (4-b) to
11 read as follows:

12 (3) "Council on Social Work Education" means the
13 national organization that is primarily responsible for the
14 accreditation of schools of social work in the United States or its
15 successor approved by the board.

16 (4-a) "Licensed baccalaureate social worker" means a
17 person who holds a baccalaureate social worker license issued by
18 the board under this chapter.

19 (4-b) "Licensed clinical social worker" means a person
20 who holds a clinical social worker license issued by the board under
21 this chapter.

22 SECTION 3. Subchapter A, Chapter 505, Occupations Code, is
23 amended by adding Section 505.0025 to read as follows:

24 Sec. 505.0025. PRACTICE OF SOCIAL WORK. (a) The practice

1 of social work is the application of social work theory, knowledge,
2 methods, ethics, and the professional use of self to restore or
3 enhance social, psychosocial, or biopsychosocial functioning of
4 individuals, couples, families, groups, organizations, or
5 communities.

6 (b) The practice of social work may include the provision of
7 individual, conjoint, family, and group psychotherapy using the
8 Diagnostic and Statistical Manual of Mental Disorders, the
9 International Classification of Diseases, and other diagnostic
10 classification systems in assessment, diagnosis, treatment, and
11 other activities by a person licensed under this chapter.

12 SECTION 4. Section 505.003, Occupations Code, is amended to
13 read as follows:

14 Sec. 505.003. APPLICATIONS AND EXEMPTIONS. (a) This
15 chapter does not apply to:

16 (1) an activity conducted or a service performed by a
17 person who is licensed, certified, or registered in a profession
18 other than social work, including a physician, attorney, registered
19 nurse, licensed vocational nurse, psychologist, occupational
20 therapist, licensed marriage and family therapist, licensed
21 chemical dependency counselor, or licensed professional counselor,
22 if:

23 (A) the activity or service is conducted or
24 performed within the scope of the person's license, certificate, or
25 registration; ~~and~~

26 (B) the person does not use a title listed in
27 Section 505.351; and

1 (C) the person does not:

2 (i) represent the service as social work;

3 (ii) represent that the person is a social
4 worker; or

5 (iii) use a title that implies that the
6 person is licensed in social work;

7 (2) a service performed by a person as a volunteer or
8 staff member if the person does not:

9 (A) represent the service as [~~professional~~]
10 social work;

11 (B) represent the person as a social worker; [~~or~~]

12 (C) use a title that implies that the person is
13 licensed in [~~professional~~] social work; or

14 (D) engage in the practice of social work;

15 (3) an activity conducted by a social work student,
16 intern, or trainee in connection with an institution of higher
17 education accredited by the Council on Social Work Education;

18 (4) [~~an activity that is a part of a course of study~~
19 ~~for a baccalaureate or master's degree in social work if the person~~
20 ~~does not use a title that implies that the person is licensed in~~
21 ~~professional social work;~~

22 [~~5~~] a service performed by a person who does not
23 reside in this state if:

24 (A) the service is performed for fewer than 30
25 days in a calendar year; and

26 (B) the person is authorized to perform the
27 service under the laws of the state or country in which the person

1 resides; or

2 (5) [~~(6)~~] an activity conducted or a service performed
3 by a pastoral care counselor who is acting within the person's
4 ministerial capabilities and who does not use a title that implies
5 that the counselor is licensed in [~~professional~~] social work,
6 including:

7 (A) a Christian Science practitioner who is
8 recognized by the Church of Christ Scientist as registered and
9 published in the Christian Science Journal; and

10 (B) any other recognized religious
11 practitioner [~~, or~~

12 ~~[(7) a person who does not:~~

13 ~~[(A) directly or indirectly represent to the~~
14 ~~public that the person is licensed under this chapter; or~~

15 ~~[(B) use a name, title, or designation indicating~~
16 ~~that the person is licensed under this chapter].~~

17 (b) This chapter does not require a public agency or private
18 employer, including a nonprofit corporation, to employ a person
19 licensed under this chapter [~~licensed master social worker,~~
20 ~~licensed social worker, or social work associate].~~

21 SECTION 5. Section 505.101(a), Occupations Code, is amended
22 to read as follows:

23 (a) The Texas State Board of Social Worker Examiners
24 consists of nine members appointed by the governor with the advice
25 and consent of the senate as follows:

26 (1) two [~~three~~] members who are licensed master social
27 workers [~~, at least two of whom are recognized as advanced clinical~~

1 ~~practitioners];~~

2 (2) two members who are licensed baccalaureate social
3 workers;

4 (3) two members who are licensed clinical social
5 workers [~~one member who is a social work associate~~]; and

6 (4) three members who represent the public.

7 SECTION 6. Section 505.201, Occupations Code, is amended by
8 adding Subsections (e) and (f) to read as follows:

9 (e) For each type of license issued under this chapter, the
10 board shall establish:

11 (1) the minimum eligibility requirements;

12 (2) educational requirements;

13 (3) professional experience criteria;

14 (4) supervision requirements;

15 (5) independent practice criteria; and

16 (6) scope of practice parameters.

17 (f) The board shall establish procedures for recognition of
18 independent practice.

19 SECTION 7. Section 505.205(a), Occupations Code, is amended
20 to read as follows:

21 (a) The board shall prepare and publish at its discretion a
22 roster that contains the name and address of each person licensed
23 under this chapter [~~licensed master social worker, licensed social~~
24 ~~worker, and social work associate as stated in the board's~~
25 ~~records~~].

26 SECTION 8. Section 505.206, Occupations Code, is amended to
27 read as follows:

1 Sec. 505.206. ROSTER OF [~~PRIVATE AND~~] INDEPENDENT SOCIAL
2 WORKERS. The board shall publish a roster of persons recognized
3 under Section 505.307 as qualified for the [~~private and~~]
4 independent practice of social work.

5 SECTION 9. Section 505.254(a), Occupations Code, is amended
6 to read as follows:

7 (a) The board shall adopt rules concerning the
8 investigation of a complaint filed with the department and referred
9 to the board. The rules adopted under this subsection must:

10 (1) distinguish among categories of complaints;

11 (2) ensure that a complaint is not dismissed without
12 appropriate consideration;

13 (3) require that the board be advised of a complaint
14 that is dismissed and that a letter be sent to the person who filed
15 the complaint explaining the action taken on the dismissed
16 complaint;

17 (4) ensure that the person who filed the complaint has
18 an opportunity to explain the allegations made in the complaint;
19 [~~and~~]

20 (5) prescribe guidelines concerning the categories of
21 complaints that require the use of a private investigator and the
22 procedures for the board to obtain the services of a private
23 investigator; and

24 (6) prescribe the time after an act or omission during
25 which a person may file a complaint with the board regarding the act
26 or omission in order for the board to consider the complaint.

27 SECTION 10. Section 505.2545(h), Occupations Code, is

1 amended to read as follows:

2 (h) All information and materials subpoenaed or compiled by
3 the board in connection with a complaint and investigation are
4 confidential and not subject to disclosure under Chapter 552,
5 Government Code, and not subject to disclosure, discovery,
6 subpoena, or other means of legal compulsion for their release to
7 anyone other than the board or its employees or agents involved in
8 discipline of the holder of a license or order of recognition,
9 except that this information may be disclosed to:

10 (1) persons involved with the board in a disciplinary
11 action against the holder of a license or order of recognition;

12 (2) ~~[professional]~~ social work licensing or
13 disciplinary boards in other jurisdictions;

14 (3) peer assistance programs approved by the board
15 under Chapter 467, Health and Safety Code;

16 (4) law enforcement agencies; and

17 (5) persons engaged in bona fide research, if all
18 individual-identifying information has been deleted.

19 SECTION 11. Sections 505.301(a) and (b), Occupations Code,
20 are amended to read as follows:

21 (a) The board may establish within the scope of social work
22 practice and this chapter ~~[a]~~ specialty areas ~~[area]~~ of social work
23 for license holders under this chapter who are licensed ~~[master~~
24 ~~social workers]~~ in good standing if establishment of the specialty
25 areas ~~[area]~~:

26 (1) is necessary to promote the public interest; and

27 (2) assists the public in identifying qualified

1 persons in a social work practice specialty [~~the profession who~~
2 ~~perform specialty social work~~].

3 (b) The board may not authorize a specialty area within the
4 practice of social work unless the board sets the minimum
5 qualifications for [~~the private practice of social work except for~~
6 ~~a licensed master social worker who satisfies the minimum number of~~
7 ~~years of active~~] social work practice with appropriate supervision
8 and examination, as determined by the board.

9 SECTION 12. Sections 505.303(b) and (c), Occupations Code,
10 are amended to read as follows:

11 (b) A person may not use the title "Licensed Clinical Social
12 Worker" [~~"Advanced Clinical Practitioner"~~] or the initials "LCSW"
13 [~~"A.C.P."~~] unless the person is recognized as qualified for the
14 independent practice of clinical social work.

15 (c) For purposes of Article 21.52, Insurance Code:

16 (1) a person recognized as qualified for the
17 independent practice of clinical social work may use the title
18 "Licensed Clinical Social Worker" [~~"Advanced Clinical~~
19 ~~Practitioner"~~] or another [~~other~~] title approved by the board; and

20 (2) a board-approved title under this subsection has
21 the same meaning and effect as the title "Licensed Clinical Social
22 Worker." [~~"Advanced Clinical Practitioner."~~]

23 SECTION 13. Sections 505.305, 505.306, 505.307, and
24 505.351, Occupations Code, are amended to read as follows:

25 Sec. 505.305. RECOGNITION OF SPECIALTY; ISSUANCE OF
26 ORDER. (a) The board shall recognize a [~~licensed master~~] social
27 worker as qualified for the practice of a specialty area of social

1 work if the [~~licensed master~~] social worker satisfies the
2 recognition requirements established by the board and the board
3 determines that the person is worthy of the public trust in
4 performing services within the scope of the specialty area.

5 (b) The board shall issue an order of recognition of
6 specialty to a [~~licensed master~~] social worker who is recognized as
7 qualified for the practice of a specialty area of social work. The
8 order of recognition of specialty evidences the state's recognition
9 of the [~~licensed master~~] social worker as a specialty social work
10 practitioner under the [~~professional~~] identification or title
11 designated by the board.

12 Sec. 505.306. PROHIBITED USE OF SPECIALTY AREA
13 IDENTIFICATION OR TITLE. If the board establishes a specialty area
14 of social work, a [~~licensed master~~] social worker may not use the
15 specialty area [~~professional~~] identification or title designated
16 by the board unless the person is recognized as qualified for the
17 practice of the specialty area under this chapter.

18 Sec. 505.307. [~~PRIVATE AND~~] INDEPENDENT PRACTICE
19 RECOGNITION; MINIMUM QUALIFICATIONS. (a) The board may [~~shall~~]
20 establish procedures for recognizing a [~~licensed master~~] social
21 worker qualified for the [~~private and~~] independent practice of
22 social work.

23 (b) A [~~licensed master~~] social worker may not be recognized
24 as qualified for the [~~private and~~] independent practice of social
25 work unless the person satisfies the requirements of social work
26 education, experience, and supervision [~~minimum number of years of~~
27 ~~acceptable social work experience~~] as determined by the board.

1 ~~[(c) A licensed social worker or social work associate is~~
2 ~~not eligible for recognition as qualified for the private and~~
3 ~~independent practice of social work.]~~

4 Sec. 505.351. LICENSE REQUIRED. (a) A person may not use
5 or cause to be used the title "social worker," "licensed
6 baccalaureate social worker," "licensed master social worker,"
7 "licensed clinical social worker," or "licensed social worker," ~~[or~~
8 ~~"social work associate,"]~~ or any combination, variation, or
9 abbreviation of those titles, as a professional or business
10 identification, representation, asset, or means of obtaining a
11 benefit unless the person holds an appropriate license issued under
12 this chapter.

13 (b) A person may not use a title that implies that the person
14 holds a license in ~~[professional]~~ social work unless the person
15 holds an appropriate license issued under this chapter.

16 (c) A person who engages in or attempts to engage in conduct
17 described by this section is considered to be engaged in the
18 practice of ~~[professional]~~ social work.

19 SECTION 14. Section 505.353(b), Occupations Code, is
20 amended to read as follows:

21 (b) An applicant may take the licensing examination
22 conducted by the board under Section 505.354 for:

23 (1) a master social worker license if the applicant
24 possesses a doctoral or master's degree in social work from a
25 graduate program accredited by the Council on Social Work
26 Education;

27 (2) a baccalaureate social worker license if the

1 applicant possesses a baccalaureate degree in social work from an
2 educational program accredited by the Council on Social Work
3 Education; or

4 (3) a clinical social worker license if the applicant
5 possesses a doctoral or master's degree in social work from an
6 accredited graduate program approved by the board and meets the
7 qualifications for clinical social work practice as determined by
8 the board under this chapter [~~a social work associate license if the~~
9 ~~applicant.~~

10 [~~(A) possesses a baccalaureate degree in the~~
11 ~~behavioral or social sciences or a related field other than social~~
12 ~~work from an accredited educational institution; and~~

13 [~~(B) satisfactorily completes a reasonable~~
14 ~~specified number of years of actual and active social work~~
15 ~~experience approved by the board].~~

16 SECTION 15. Sections 505.358(a) and (b), Occupations Code,
17 are amended to read as follows:

18 (a) A person may apply for a provisional license as a social
19 worker [~~or social work associate~~] by paying the appropriate fee and
20 filing an application with the board. The board may issue a
21 provisional license to a person who meets the requirements of this
22 section.

23 (b) An applicant for a provisional license must:

24 (1) be licensed or certified in good standing as a
25 social worker [~~or social work associate, as appropriate,~~] in
26 another state that has licensing or certification requirements
27 determined by the board to be substantially equivalent to the

1 requirements of this chapter;

2 (2) have passed a national or other examination
3 recognized by the board relating to the practice of social work;
4 and

5 (3) be sponsored by a person licensed under this
6 chapter with whom the provisional license holder may practice
7 social work.

8 SECTION 16. Section 505.360, Occupations Code, is amended
9 by amending Subsections (b) and (c) and adding Subsection (e) to
10 read as follows:

11 (b) A licensed master social worker shall use the
12 identification "licensed master social worker" or the initials
13 "LMSW." [~~"L.M.S.W."~~]

14 (c) A licensed baccalaureate social worker shall use the
15 identification "licensed baccalaureate social worker" or the
16 initials "LBSW." [~~"L.S.W."~~]

17 (e) A licensed clinical social worker shall use the
18 identification "licensed clinical social worker" or the initials
19 "LCSW."

20 SECTION 17. Section 505.404(a), Occupations Code, is
21 amended to read as follows:

22 (a) The board by rule shall:

23 (1) establish mandatory continuing education
24 requirements for license holders under this chapter [~~licensed~~
25 ~~master social workers, licensed social workers, and social work~~
26 ~~associates~~]; and

27 (2) establish a minimum number of hours of continuing

1 education required to renew a license or an order of recognition of
2 specialty.

3 SECTION 18. Section 505.502, Occupations Code, is amended
4 to read as follows:

5 Sec. 505.502. PROHIBITED CONDUCT BY BUSINESS OR
6 PROFESSIONAL ENTITY. (a) Except as provided by Subsection (b), a
7 business or professional entity may not:

8 (1) represent itself or another to the public as being
9 engaged in the practice of social work or as offering social work
10 services under an assumed, trade, business, professional,
11 partnership, or corporate name or title;

12 (2) directly or indirectly use or cause to be used the
13 term "social work," "social work services," "social work, inc.,"
14 "~~professional~~ social workers," "licensed social workers,"
15 "licensed baccalaureate social workers," "licensed master social
16 workers," "licensed clinical social workers," "LMSW," "LSW,"
17 "LBSW," or "LCSW," [~~"social work associate," "L.M.S.W.," "L.S.W.,"~~
18 ~~or "S.W.A."~~] or any combination, abbreviation, or variation of
19 those terms; or

20 (3) directly or indirectly use or cause to be used a
21 term listed in Subdivision (2) in combination with any other word,
22 letter, initial, sign, legend, or symbol on, in, or directly or
23 indirectly as a part of:

24 (A) any sign, directory, contract, pamphlet,
25 stationery, advertisement, or other document;

26 (B) a signature; or

27 (C) a trade, assumed, corporate, or other

1 business or professional name.

2 (b) A business or professional entity may engage in conduct
3 described by Subsection (a) if:

4 (1) the entity is actively engaged in the practice of
5 social work; and

6 (2) the social work services that constitute the
7 entity's practice are:

8 (A) personally performed by a social worker who
9 is practicing in accordance with this chapter; or

10 (B) performed under the supervision of a licensed
11 baccalaureate social worker, ~~or~~ licensed master social worker, or
12 licensed clinical social worker.

13 SECTION 19. Subchapter J, Chapter 505, Occupations Code, is
14 amended by adding Section 505.507 to read as follows:

15 Sec. 505.507. CRIMINAL PENALTY. (a) A person commits an
16 offense if the person knowingly acts as a social worker without
17 holding a license required under this chapter.

18 (b) An offense under Subsection (a) is a Class B
19 misdemeanor.

20 SECTION 20. Section 9(1), Article 42.12, Code of Criminal
21 Procedure, is amended to read as follows:

22 (1) If a person is a sex offender, a supervision officer may
23 release information in a presentence or postsentence report
24 concerning the social and criminal history of the person to a person
25 who:

26 (1) is licensed or certified in this state to provide
27 mental health or medical services, including a:

- 1 (A) physician;
- 2 (B) psychiatrist;
- 3 (C) psychologist;
- 4 (D) licensed professional counselor;
- 5 (E) licensed marriage and family therapist; or
- 6 (F) [~~certified~~] social worker; and

7 (2) provides mental health or medical services for the
8 rehabilitation of the person.

9 SECTION 21. Section 202.002(a), Family Code, is amended to
10 read as follows:

11 (a) A friend of the court may coordinate nonjudicial efforts
12 to improve compliance with a court order relating to child support
13 or possession of or access to a child by use of:

- 14 (1) telephone communication;
- 15 (2) written communication;
- 16 (3) one or more volunteer advocates under Chapter 107;
- 17 (4) informal pretrial consultation;
- 18 (5) one or more of the alternate dispute resolution
19 methods under Chapter 154, Civil Practice and Remedies Code;
- 20 (6) a licensed [~~certified~~] social worker;
- 21 (7) a family mediator; and
- 22 (8) employment agencies, retraining programs, and any

23 similar resources to ensure that both parents can meet their
24 financial obligations to the child.

25 SECTION 22. Section 493.009(e), Government Code, is amended
26 to read as follows:

27 (e) The department shall employ or contract with qualified

1 professionals to implement the program for persons required to
2 participate in the program under Section 14, Article 42.12, Code of
3 Criminal Procedure. For purposes of this subsection, a "qualified
4 professional" is a person who:

5 (1) is a certified alcohol and drug abuse counselor;

6 (2) is a licensed [~~certified~~] social worker [~~or~~
7 ~~advanced clinical practitioner and~~] who has at least two years of
8 experience in chemical dependency counseling; or

9 (3) is a licensed professional counselor, physician,
10 or psychologist and who has at least two years of experience in
11 chemical dependency counseling.

12 SECTION 23. Section 501.0931(f), Government Code, is
13 amended to read as follows:

14 (f) The institutional division shall employ or contract
15 with qualified professionals to implement the program. For
16 purposes of this subsection, a "qualified professional" is a person
17 who:

18 (1) is a certified alcohol and drug abuse counselor;

19 (2) is a licensed [~~certified~~] social worker [~~or~~
20 ~~advanced clinical practitioner and~~] who has at least two years of
21 experience in chemical dependency counseling; or

22 (3) is a licensed professional counselor, physician,
23 or psychologist and who has at least two years of experience in
24 chemical dependency counseling.

25 SECTION 24. Section 61.0285(a), Health and Safety Code, is
26 amended to read as follows:

27 (a) In addition to basic health care services provided under

1 Section 61.028, a county may, in accordance with department rules
2 adopted under Section 61.006, provide other medically necessary
3 services or supplies that the county determines to be
4 cost-effective, including:

- 5 (1) ambulatory surgical center services;
- 6 (2) diabetic and colostomy medical supplies and
7 equipment;
- 8 (3) durable medical equipment;
- 9 (4) home and community health care services;
- 10 (5) social work services [~~provided by licensed master
11 medical social workers--advanced clinical practitioners~~];
- 12 (6) psychological counseling services;
- 13 (7) services provided by physician assistants, nurse
14 practitioners, certified nurse midwives, clinical nurse
15 specialists, and certified registered nurse anesthetists;
- 16 (8) dental care;
- 17 (9) vision care, including eyeglasses;
- 18 (10) services provided by federally qualified health
19 centers, as defined by 42 U.S.C. Section 1396d(1)(2)(B);
- 20 (11) emergency medical services; and
- 21 (12) any other appropriate health care service
22 identified by board rule that may be determined to be
23 cost-effective.

24 SECTION 25. Section 142.001(27), Health and Safety Code, is
25 amended to read as follows:

26 (27) "Social worker" means an individual licensed as a
27 social worker under Chapter 505, Occupations [~~50, Human Resources~~]

1 Code.

2 SECTION 26. Section 467.001(5), Health and Safety Code, is
3 amended to read as follows:

4 (5) "Professional" means an individual who:

5 (A) may incorporate under The Texas Professional
6 Corporation Act (Article 1528e, Vernon's Texas Civil Statutes); or

7 (B) is licensed, registered, certified, or
8 otherwise authorized by the state to practice as a licensed
9 vocational nurse, [~~certified~~] social worker, occupational
10 therapist, speech-language pathologist, audiologist, or licensed
11 dietitian.

12 SECTION 27. Section 571.003(15), Health and Safety Code, is
13 amended to read as follows:

14 (15) "Non-physician mental health professional"
15 means:

16 (A) a psychologist licensed to practice in this
17 state and designated as a health-service provider;

18 (B) a registered nurse with a master's or
19 doctoral degree in psychiatric nursing;

20 (C) a licensed clinical social worker [~~with a~~
21 ~~master's or doctoral degree and advanced clinical practitioner~~
22 ~~recognition~~];

23 (D) a licensed professional counselor licensed
24 to practice in this state; or

25 (E) a licensed marriage and family therapist
26 licensed to practice in this state.

27 SECTION 28. Section 2(B), Chapter 397, Acts of the 54th

1 Legislature, Regular Session, 1955 (Article 3.70-2, Vernon's Texas
2 Insurance Code), is amended to read as follows:

3 (B) No policy of accident and sickness insurance shall make
4 benefits contingent upon treatment or examination by a particular
5 practitioner or by particular practitioners of the healing arts
6 hereinafter designated unless such policy contains a provision
7 designating the practitioner or practitioners who will be
8 recognized by the insurer and those who will not be recognized by
9 the insurer. Such provision may be located in the "Exceptions" or
10 "Exceptions and Reductions" provisions, or elsewhere in the policy,
11 or by endorsement attached to the policy, at the insurer's option.
12 In designating the practitioners who will and will not be
13 recognized, such provision shall use the following terms: Doctor
14 of Medicine, Doctor of Osteopathy, Doctor of Dentistry, Doctor of
15 Chiropractic, Doctor of Optometry, Doctor of Podiatry, Licensed
16 Audiologist, Licensed Speech-language Pathologist, Doctor in
17 Psychology, Licensed Clinical [~~Master~~] Social Worker
18 [~~Worker--Advanced Clinical Practitioner~~], Licensed Dietitian,
19 Licensed Professional Counselor, Licensed Marriage and Family
20 Therapist, Licensed Chemical Dependency Counselor, Licensed
21 Hearing Instrument Fitter and Dispenser, Advanced Practice Nurse,
22 Physician Assistant, Licensed Occupational Therapist, Licensed
23 Physical Therapist, Licensed Acupuncturist, Licensed Psychological
24 Associate, and Licensed Surgical Assistant.

25 For purposes of this Act, such designations shall have the
26 following meanings:

27 Doctor of Medicine: One licensed by the Texas State Board of

1 Medical Examiners on the basis of the degree "Doctor of Medicine";

2 Doctor of Osteopathy: One licensed by the Texas State Board
3 of Medical Examiners on the basis of the degree of "Doctor of
4 Osteopathy";

5 Doctor of Dentistry: One licensed by the State Board of
6 Dental Examiners;

7 Doctor of Chiropractic: One licensed by the Texas Board of
8 Chiropractic Examiners;

9 Doctor of Optometry: One licensed by the Texas Optometry
10 Board;

11 Doctor of Podiatry: One licensed by the Texas State Board of
12 Podiatric Medical Examiners;

13 Licensed Audiologist: One with a master's or doctorate degree
14 in audiology from an accredited college or university and who is
15 licensed as an audiologist by the State Board of Examiners for
16 Speech-Language Pathology and Audiology;

17 Licensed Speech-language Pathologist: One with a master's or
18 doctorate degree in speech pathology or speech-language pathology
19 from an accredited college or university and who is licensed as a
20 speech-language pathologist by the State Board of Examiners for
21 Speech-Language Pathology and Audiology;

22 Doctor in Psychology: One licensed by the Texas State Board
23 of Examiners of Psychologists and certified as a Health Service
24 Provider;

25 Licensed Clinical [~~Master~~] Social Worker [~~Worker--Advanced~~
26 ~~Clinical Practitioner~~]: One licensed by the Texas State Board of
27 Social Worker Examiners as a Licensed Clinical [~~Master~~] Social

1 Worker [~~with the order of recognition of Advanced Clinical~~
2 ~~Practitioner~~];

3 Licensed Dietitian: One licensed by the Texas State Board of
4 Examiners of Dietitians;

5 Licensed Professional Counselor: One licensed by the Texas
6 State Board of Examiners of Professional Counselors;

7 Licensed Marriage and Family Therapist: One licensed by the
8 Texas State Board of Examiners of Marriage and Family Therapists;

9 Licensed Chemical Dependency Counselor: One licensed by the
10 Texas Commission on Alcohol and Drug Abuse;

11 Licensed Hearing Instrument Fitter and Dispenser: One
12 licensed by the State Committee of Examiners in the Fitting and
13 Dispensing of Hearing Instruments;

14 Advanced Practice Nurse: One licensed by the Board of Nurse
15 Examiners as a registered nurse and recognized by that board as an
16 advanced practice nurse;

17 Physician Assistant: One licensed by the Texas State Board of
18 Physician Assistant Examiners;

19 Licensed Occupational Therapist: One licensed by the Texas
20 Board of Occupational Therapy Examiners;

21 Licensed Physical Therapist: One licensed by the Texas Board
22 of Physical Therapy Examiners;

23 Licensed Acupuncturist: One licensed by the Texas State Board
24 of Medical Examiners as an acupuncturist;

25 Licensed Psychological Associate: One licensed by the Texas
26 State Board of Examiners of Psychologists and practicing under the
27 supervision of a licensed psychologist; and

1 Licensed Surgical Assistant: One licensed by the Texas State
2 Board of Medical Examiners as a surgical assistant.

3 SECTION 29. Section 1, Article 21.52, Insurance Code, as
4 amended by Chapters 812 and 1014, Acts of the 77th Legislature,
5 Regular Session, 2001, is reenacted and amended to read as follows:

6 Sec. 1. DEFINITIONS. As used in this article:

7 (a) "health insurance policy" means any individual,
8 group, blanket, or franchise insurance policy, insurance
9 agreement, or group hospital service contract, providing benefits
10 for medical or surgical expenses incurred as a result of an accident
11 or sickness;

12 (b) "doctor of podiatric medicine" includes D.P.M.,
13 podiatrist, doctor of surgical chiropody, D.S.C. and chiropodist;

14 (c) "doctor of optometry" includes optometrist,
15 doctor of optometry, and O.D.;

16 (d) "doctor of chiropractic" means a person who is
17 licensed by the Texas Board of Chiropractic Examiners to practice
18 chiropractic;

19 (e) "licensed dentist" means a person who is licensed
20 to practice dentistry by the State Board of Dental Examiners;

21 (f) "licensed audiologist" means a person who has
22 received a master's or doctorate degree in audiology from an
23 accredited college or university and is licensed as an audiologist
24 by the State Board of Examiners for Speech-Language Pathology and
25 Audiology;

26 (g) "licensed speech-language pathologist" means a
27 person who has received a master's or doctorate degree in

1 speech-language pathology from an accredited college or university
2 and is licensed as a speech-language pathologist by the State Board
3 of Examiners for Speech-Language Pathology and Audiology;

4 (h) "licensed clinical [~~master~~] social worker"
5 [~~worker--advanced clinical practitioner~~] means a person who is
6 licensed by the Texas State Board of Social Worker Examiners as a
7 licensed clinical [~~master~~] social worker [~~with the order of~~
8 ~~recognition of advanced clinical practitioner~~];

9 (i) "licensed dietitian" means a person who is
10 licensed by the Texas State Board of Examiners of Dietitians;

11 (j) "licensed professional counselor" means a person
12 who is licensed by the Texas State Board of Examiners of
13 Professional Counselors;

14 (k) "psychologist" means a person licensed to practice
15 psychology by the Texas State Board of Examiners of Psychologists;

16 (l) "licensed marriage and family therapist" means a
17 person who is licensed by the Texas State Board of Examiners of
18 Marriage and Family Therapists;

19 (m) "licensed chemical dependency counselor" means a
20 person who is licensed by the Texas Commission on Alcohol and Drug
21 Abuse;

22 (n) "licensed hearing instrument fitter and
23 dispenser" means a person who is licensed by the State Committee of
24 Examiners in the Fitting and Dispensing of Hearing Instruments;

25 (o) "licensed psychological associate" means a person
26 who is licensed by the Texas State Board of Examiners of
27 Psychologists and who practices under the supervision of a licensed

1 psychologist;

2 (p) "occupational therapist" means a person who is
3 licensed to practice occupational therapy by the Texas Board of
4 Occupational Therapy Examiners;

5 (q) "physical therapist" means a person who practices
6 physical therapy and is licensed by the Texas Board of Physical
7 Therapy Examiners;

8 (r) "advanced practice nurse" means a person licensed
9 by the Board of Nurse Examiners and recognized by that board as an
10 advanced practice nurse;

11 (s) "licensed acupuncturist" means a person licensed
12 to practice acupuncture by the Texas State Board of Medical
13 Examiners;

14 (t) "physician assistant" means a person licensed by
15 the Texas State Board of Physician Assistant Examiners;

16 (u) "nurse first assistant" has the meaning assigned
17 by Section 301.1525, Occupations Code; and

18 (v) "Surgical assistant" means a person licensed by
19 the Texas State Board of Medical Examiners as a surgical assistant.

20 SECTION 30. Section 3(a), Article 21.52, Insurance Code, as
21 amended by Chapters 812 and 1014, Acts of the 77th Legislature,
22 Regular Session, 2001, is reenacted and amended to read as follows:

23 (a) Any person who is issued, who is a party to, or who is a
24 beneficiary under any health insurance policy delivered, renewed,
25 or issued for delivery in this state by any insurance company,
26 association, or organization to which this article applies may
27 select:

1 (1) a licensed doctor of podiatric medicine, a
2 licensed dentist, or a doctor of chiropractic to perform the
3 medical or surgical services or procedures scheduled in the policy
4 which fall within the scope of the license of that practitioner;

5 (2) a licensed doctor of optometry to perform the
6 services or procedures scheduled in the policy which fall within
7 the scope of the license of that doctor of optometry;

8 (3) an occupational therapist to provide the services
9 scheduled in the policy which fall within the scope of the license
10 of that occupational therapist;

11 (4) a physical therapist to provide the services
12 scheduled in the policy which fall within the scope of the license
13 of that physical therapist;

14 (5) a licensed audiologist to measure hearing for the
15 purpose of determining the presence or extent of a hearing loss and
16 to provide aural rehabilitation services to a person with a hearing
17 loss if those services or procedures are scheduled in the policy;

18 (6) a licensed speech-language pathologist to
19 evaluate speech and language and to provide habilitative and
20 rehabilitative services to restore speech or language loss or to
21 correct a speech or language impairment if those services or
22 procedures are scheduled in the policy;

23 (7) a licensed clinical [~~master~~] social worker
24 [~~worker--advanced-clinical-practitioner~~] to provide the services
25 that fall within the scope of the license of such [~~certified~~]
26 practitioner and which are specified as services within the terms
27 of the policy of insurance, including the provision of direct,

1 diagnostic, preventive, or clinical services to individuals,
2 families, and groups whose functioning is threatened or affected by
3 social or psychological stress or health impairment, if those
4 services or procedures are scheduled in the policy;

5 (8) a licensed dietitian including a provisional
6 licensed dietitian under a licensed dietitian's supervision to
7 provide the services that fall within the scope of the license of
8 that dietitian if those services are scheduled in the policy;

9 (9) a licensed professional counselor to provide the
10 services that fall within the scope of the license of that
11 professional if those services are scheduled in the policy;

12 (10) a licensed marriage and family therapist to
13 provide the services that fall within the scope of the license of
14 that professional if those services are scheduled in the policy;

15 (11) a psychologist to perform the services or
16 procedures scheduled in the policy that fall within the scope of the
17 license of that psychologist;

18 (12) a licensed chemical dependency counselor to
19 perform the services or procedures scheduled in the policy that
20 fall within the scope of the license of that practitioner;

21 (13) a licensed acupuncturist to perform the services
22 or procedures scheduled in the policy that fall within the scope of
23 the license of that practitioner;

24 (14) an advanced practice nurse to provide the
25 services scheduled in the policy that fall within the scope of the
26 license of that practitioner;

27 (15) a physician assistant to provide the services

1 scheduled in the policy that fall within the scope of the license of
2 that practitioner;

3 (16) a licensed hearing instrument fitter and
4 dispenser to provide the services or procedures scheduled in the
5 policy that fall within the scope of the license of that
6 practitioner;

7 (17) a licensed psychological associate to provide the
8 services that fall within the scope of the license of that
9 professional if those services are scheduled in the policy;

10 (18) a licensed surgical assistant to provide the
11 services or procedures scheduled in the policy that fall within the
12 scope of the license of that practitioner; or

13 (19) a nurse first assistant to provide the services
14 scheduled in the policy that:

15 (A) fall within the scope of the license of that
16 practitioner; and

17 (B) are requested by the physician whom the nurse
18 is assisting.

19 SECTION 31. Sections 3(b) and (c), Article 21.52, Insurance
20 Code, are amended to read as follows:

21 (b) The services of a [~~licensed master social~~
22 ~~worker--advanced clinical practitioner,~~] licensed professional
23 counselor[7] or licensed marriage and family therapist that are
24 included in this Act may require a professional recommendation by a
25 doctor of medicine or doctor of osteopathy unless the health
26 insurance policy terms do not require such a recommendation.

27 (c) The payment or reimbursement by the insurance company,

1 association, or organization for services or procedures in
2 accordance with the payment schedule or the payment provisions in
3 the policy shall not be denied because the same were performed by a
4 licensed doctor of podiatric medicine, a licensed doctor of
5 optometry, a licensed doctor of chiropractic, a licensed dentist,
6 an occupational therapist, a physical therapist, a licensed
7 audiologist, a licensed speech-language pathologist, a licensed
8 clinical [~~master~~] social worker [~~worker--advanced--clinical~~
9 ~~practitioner~~], a licensed dietitian, a licensed professional
10 counselor, a licensed marriage and family therapist, a
11 psychologist, a licensed psychological associate, a licensed
12 chemical dependency counselor, an advanced practice nurse, a nurse
13 first assistant, a physician assistant, a licensed acupuncturist,
14 or a licensed hearing instrument fitter and dispenser.

15 SECTION 32. Section 3(d), Article 21.52, Insurance Code, as
16 amended by Chapters 812 and 1014, Acts of the 77th Legislature,
17 Regular Session, 2001, is amended to read as follows:

18 (d) There shall not be any classification, differentiation,
19 or other discrimination in the payment schedule or the payment
20 provisions in a health insurance policy, nor in the amount or manner
21 of payment or reimbursement thereunder, between scheduled services
22 or procedures when performed by a doctor of podiatric medicine, a
23 doctor of optometry, a doctor of chiropractic, a licensed dentist,
24 an occupational therapist, a physical therapist, a licensed
25 audiologist, a licensed speech-language pathologist, a licensed
26 clinical [~~master~~] social worker [~~worker--advanced--clinical~~
27 ~~practitioner~~], a licensed dietitian, a licensed professional

1 counselor, a licensed marriage and family therapist, a
2 psychologist, a licensed psychological associate, a licensed
3 chemical dependency counselor, an advanced practice nurse to
4 provide the services scheduled in the policy, a nurse first
5 assistant to provide the services scheduled in the policy and
6 requested by the physician whom the nurse is assisting, a physician
7 assistant to provide the services scheduled in the policy, a
8 licensed acupuncturist, or a licensed hearing instrument fitter and
9 dispenser which fall within the scope of that practitioner's
10 license or certification and the same services or procedures when
11 performed by any other practitioner of the healing arts whose
12 services or procedures are covered by the policy. However, a health
13 insurance policy may provide for a different amount of payment or
14 reimbursement for scheduled services or procedures when performed
15 by an advanced practice nurse, a nurse first assistant, licensed
16 surgical assistant, or physician assistant provided the
17 reimbursement methodology used to calculate the payment for the
18 service or procedure is the same methodology used to calculate the
19 payment when the service or procedure is provided by a physician.

20 SECTION 33. Section 205.303(a), Occupations Code, is
21 amended to read as follows:

22 (a) The medical board may certify a person as an acudetox
23 specialist under this section if the person:

24 (1) provides to the medical board documentation that
25 the person:

26 (A) is a licensed [~~certified~~] social worker,
27 licensed professional counselor, licensed psychologist, licensed

1 chemical dependency counselor, licensed vocational nurse, or
2 licensed registered nurse; and

3 (B) has successfully completed a training
4 program in acupuncture detoxification that meets guidelines
5 approved by the medical board; and

6 (2) pays a certification fee in an amount set by the
7 medical board.

8 SECTION 34. Section 502.004, Occupations Code, is amended
9 to read as follows:

10 Sec. 502.004. APPLICATION OF CHAPTER. This chapter does
11 not apply to:

12 (1) the activities of a person employed to perform
13 marriage and family therapy by a federal, state, county, or
14 municipal agency or a public or private educational institution, if
15 the activities are within the scope of the person's employment;

16 (2) the activities of a student, intern, or trainee in
17 marriage and family therapy in a recognized course of study in
18 marriage and family therapy at an accredited institution of higher
19 education or other training institution, if:

20 (A) the activities constitute a part of the
21 course of study; and

22 (B) the person is called a "marriage and family
23 therapist intern" or similar title;

24 (3) services provided by a person who is not a resident
25 of this state if:

26 (A) the services are performed for 30 days or
27 less during a calendar year; and

1 (B) the person is authorized to provide the
2 services under the law of the state or country of the person's
3 residence;

4 (4) the activities and services of a person licensed
5 to practice another profession, including a physician, attorney,
6 registered nurse, occupational therapist, psychologist,
7 [~~certified~~] social worker, or licensed professional counselor; or

8 (5) the activities and services of a recognized
9 religious practitioner, including a pastoral counselor or
10 Christian Science practitioner recognized by the Church of Christ
11 Scientist as registered and published in the Christian Science
12 Journal, if the practitioner practices marriage and family therapy
13 in a manner consistent with the laws of this state.

14 SECTION 35. Section 1(7), Chapter 462, Acts of the 68th
15 Legislature, Regular Session, 1983 (Article 4413(51), Vernon's
16 Texas Civil Statutes), is amended to read as follows:

17 (7) "Sex offender treatment provider" means a person,
18 licensed or certified to practice in this state, who provides
19 mental health or medical services for rehabilitation of sex
20 offenders, including a physician, psychiatrist, psychologist,
21 licensed professional counselor, licensed marriage and family
22 therapist, or [~~certified~~] social worker.

23 SECTION 36. Section 4, Article 4512g-1, Revised Statutes,
24 is amended to read as follows:

25 Sec. 4. RELEASE OF INFORMATION BY PERSONS PROVIDING MENTAL
26 HEALTH OR MEDICAL SERVICES. Information concerning the treatment
27 of a sex offender may be released by a person who:

1 (1) is licensed or certified in this state to provide
2 mental health or medical services, including a:

- 3 (A) physician;
4 (B) psychiatrist;
5 (C) psychologist;
6 (D) licensed professional counselor;
7 (E) licensed marriage and family therapist; or
8 (F) [~~certified~~] social worker; and

9 (2) while licensed or certified, provides or provided
10 mental health or medical services for the rehabilitation of sex
11 offenders.

12 SECTION 37. Sections 505.002(1), (7), and (8) and
13 505.360(d), Occupations Code, are repealed.

14 SECTION 38. The changes in law made by this Act in the
15 qualifications of members of the Texas State Board of Social Worker
16 Examiners do not affect the entitlement of a member serving on the
17 board immediately before September 1, 2003, to continue to carry
18 out the board's functions for the remainder of the member's term.
19 The changes in law apply only to a member appointed on or after
20 September 1, 2003. This Act does not prohibit a person who is a
21 member of the board on September 1, 2003, from being reappointed to
22 the board if the person has the qualifications required for a member
23 under Section 505.101, Occupations Code, as amended by this Act.

24 SECTION 39. (a) This Act takes effect September 1, 2003.

25 (b) The changes in law made by this Act relating to the
26 licensing of social work associates do not affect the right of a
27 person to obtain, engage in conduct authorized by, or renew a social

1 work associate license until the date the Texas State Board of
2 Social Worker Examiners issues to the person a baccalaureate social
3 worker license and cancels the person's social work associate
4 license as provided by Subsection (c) of this section, and the
5 former law is continued in effect for that purpose.

6 (c) As soon as practicable on or after September 1, 2004,
7 the Texas State Board of Social Worker Examiners shall:

8 (1) issue a baccalaureate social worker license to
9 each person who holds a social work associate license on September
10 1, 2004; and

11 (2) cancel the person's social work associate license.

12 (d) A baccalaureate social worker license issued under
13 Subsection (c) of this section expires on the date the social work
14 associate license that it replaces expires.

15 (e) Except as provided by Subsection (d) of this section,
16 the holder of a baccalaureate social worker license issued under
17 this section has all the benefits, rights, duties,
18 responsibilities, and obligations of the holder of a baccalaureate
19 social worker license issued under Chapter 505, Occupations Code.

20 (f) The Texas State Board of Social Worker Examiners may not
21 issue a social work associate license after the date the board
22 begins issuing baccalaureate social worker licenses to social work
23 associates under Subsection (c) of this section. The board shall
24 treat an application for a social work associate license that is
25 pending on that date as an application for a baccalaureate social
26 worker license.