

BILL ANALYSIS

Senate Research Center

S.B. 155
By: Zaffirini
Health & Human Services
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

A licensed chemical dependency counselor (counselor) is licensed to provide chemical dependency counseling services involving the application of the principles, methods, and procedures of the chemical dependency profession as defined by the profession's ethical standards and the Knowledge, Skills, and Abilities (KSAs); these standards are currently set by rule in Texas Administrative Code, Title 25, Chapter 441. Counselors are in short supply statewide, which impacts chemical dependency services provided in the child protective services, healthcare, and criminal justice systems. Counselors are leaving the system and recruitment is down for a variety of reasons: chemical dependency counselors, unlike other licensed professionals, who relapse have their licenses revoked with no ability to return to the profession; trainees and interns in rural areas often have difficulty finding clinical training centers in which to complete a requirement relating to supervised hours; chemical dependency counselors are not allowed by current law to participate in peer counseling programs in order to restore their licensure after a relapse; providers that wish to train future counselors and interns must become certified as clinical training centers, which is unlikely to occur in facilities where chemical dependency counseling is not the primary function; and because Texas does not currently recognize the International Certification and Reciprocity Consortium on the state license, counselors are unable to practice in multiple states.

S.B. 155 amends language pertaining to licensing provisions of chemical dependency counselors by ensuring that work experience obtained for licensure is supervised by a certified clinical supervisor, requiring documentation be provided to the Department of State Health Services demonstrating that the applicant has access to a peer assistance program, and requiring all certification information to be printed on the face of the license. The bill will strengthen the quality and availability of licensed chemical dependency counselors while ensuring accountability in the profession.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 6 (Section 504.1521, Occupations Code) of this bill.

Rulemaking authority previously granted to the Texas Commission on Alcohol and Drug Abuse is transferred to the executive commissioner of the Health and Human Services Commission in SECTION 2 (Section 504.051, Occupations Code), SECTION 8 (Section 504.157, Occupations Code), SECTION 9 (Section 504.201, Occupations Code), and SECTION 14 (Section 504.205, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 504.001, Occupations Code, as follows:

Sec. 504.001. DEFINITIONS. Defines "certified clinical supervisor," "clinical training institute," "commissioner," "department," "executive commissioner," and "peer assistance program." Redefines "counselor intern." Deletes the definitions for "commission" and "executive director."

SECTION 2. Amends Section 504.002(b), Occupations Code, to provide that this chapter does not apply to an activity or service of certain persons. Provides an exception under Section 504.1515, rather than Section 504.057.

SECTION 3. Amends Subchapters B and C, Chapter 504, Occupations Code, as follows:

SUBCHAPTER B. New heading: POWERS AND DUTIES OF EXECUTIVE
COMMISSIONER AND DEPARTMENT

Sec. 504.051. New heading: GENERAL POWERS AND DUTIES OF EXECUTIVE COMMISSIONER. Replaces references to the Texas Commission on Alcohol and Drug Abuse (commission) with the executive commissioner of the Health and Human Services Commission (executive commissioner). Requires the executive commissioner to adopt, rather than enforce, rules to carry out duties prescribed by this chapter, create ethical standards for individuals licensed by this chapter, and establish criteria for peer assistance programs for chemical dependency counselors as necessary, rather than ensuring compliance with and enforcement of this chapter.

Sec. 504.0515. GENERAL POWERS AND DUTIES OF DEPARTMENT. Requires the Department of State Health Services (DSHS) to enforce rules necessary to carry out duties prescribed in this chapter and ensure compliance with this chapter.

Sec. 504.052. DISCRIMINATION PROHIBITED. Requires the executive commissioner, commissioner of state health services (commissioner), and DSHS, rather than the commission, to make decisions relating to this chapter in a non-discriminatory manner.

Sec. 504.053. FEES; ACCOUNT. Makes a conforming change.

Sec. 504.054. COLLECTION ACTION. Makes a conforming change.

Sec. 504.055. OFFICIAL ROSTER. Makes conforming changes.

Sec. 504.056. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. Prohibits the executive commissioner, rather than the commission, from impeding advertising or competitive bidding by persons regulated by DSHS, rather than the commission, unless the impediments relate to false, misleading, or deceptive practices. Prohibits the executive commissioner, rather than commission, from creating rules governing certain actions.

Sec. 504.057. APPROVAL OF PEER ASSISTANCE PROGRAMS. Requires DSHS to approve a minimum of one peer assistance program (program) where licensed persons may receive help. Sets forth certain conditions the DSHS approved program must meet. Requires DSHS to maintain a list of approved programs on its website.

SUBCHAPTER C. PUBLIC INTEREST INFORMATION AND
COMPLAINT PROCEDURES

Sec. 504.101. CONSUMER INTEREST INFORMATION. Makes conforming changes.

Sec. 504.102. CONSUMER INFORMATION FOR FILING COMPLAINTS. Makes conforming changes.

Sec. 504.103. RECORDS OF COMPLAINTS. Makes conforming changes.

SECTION 4. Amends Subchapter D, Chapter 504, Occupations Code, by adding Section 504.1511, as follows:

Sec. 504.1511. OTHER CERTIFICATIONS INCLUDED ON LICENSE. Requires a license issued under this chapter (Chemical Dependency Counselors) to include an area on which a license holder may apply an adhesive label issued by the Texas Certification Board of Addition Professionals which contains certain required information.

SECTION 5. Amends Sections 504.1515 and 504.152, Occupations Code, as follows:

Sec. 504.1515. COUNSELOR INTERNS. Makes conforming changes.

Sec. 504.152. ELIGIBILITY REQUIREMENTS. (a) Requires an applicant to provide DSHS a written guarantee of access to a program, among other requirements a person is required to meet to be eligible for a license. Makes conforming changes.

(b) Authorizes DSHS to waive the requirement under Subsection (a)(11) if DSHS determines that a peer assistance program is not reasonably available to the license holder.

SECTION 6. Amends Subchapter D, Chapter 504, Occupations Code, by adding Section 504.1521, as follows:

Sec. 504.1521. SUPERVISED WORK EXPERIENCE. (a) Requires a counselor intern to complete supervised work experience as required under Section 504.152 at a clinical training institution (institution) or under a certified clinical supervisor.

(b) Requires the executive commissioner to adopt rules necessary to regulate registering institutions which meet safety and welfare criteria and to certify clinical supervisors who hold approved certification credentials for protecting the public's safety and welfare.

SECTION 7. Amends Sections 504.1525, 504.153, and 504.155, Occupations Code, as follows:

Sec. 504.1525. New heading: CERTAIN GROUNDS FOR LICENSE, REGISTRATION, OR CERTIFICATION REFUSAL; EXCEPTION. (a) Prohibits DSHS, rather than the commission, except as provided by Subsection (b), from issuing a license, registration, or certification under this chapter to certain persons. Makes a conforming change.

(b) Authorizes DSHS to grant a license to a person who has been convicted of or placed on community supervision for a drug or alcohol offense equal to a Class A or B misdemeanor if DSHS concludes that the offender has successfully completed an approved program. Makes conforming changes.

(c) Redesignated from existing Subsection (b).

Sec. 504.153. ALTERNATIVE QUALIFICATIONS AND EVIDENCE OF LICENSE REQUIREMENT SATISFACTION. Makes conforming changes.

Sec. 504.155. LICENSE APPLICATION. Makes conforming changes.

SECTION 8. Amends Section 504.156(a), Occupations Code, to make conforming changes.

SECTION 9. Amends Sections 504.157 through 504.161, Occupations Code, as follows:

Sec. 504.157. EXAMINATION RESULTS; EXAMINATION. (a) Requires DSHS, rather than the commission, to notify each examinee of the results of the examination not later than the 45th, rather than 30th, day after the date the examination is administered.

(b) Makes a conforming change.

(c) Makes no changes to this subsection.

(d) Requires the executive commissioner, rather than commission, to establish by rule criteria under which an applicant is authorized to take a subsequent examination under Subsection (c).

Sec. 504.158. PROVISIONAL LICENSE. Makes conforming changes.

Sec. 504.159. ISSUANCE OF LICENSE TO PROVISIONAL LICENSE HOLDER. Makes conforming changes.

Sec. 504.160. ISSUANCE OF LICENSE TO CERTAIN OUT-OF-STATE APPLICANTS. Makes conforming changes.

Sec. 504.161. CRIMINAL HISTORY RECORD INFORMATION. (a) Authorizes DSHS, rather than the commission, to obtain criminal history record information as provided by Section 411.1105 (Access to Criminal History Record Information: Texas Commission on Alcohol and Drug Abuse), rather than 411.132 (Access to Criminal History Record Information: State Auditor), Government Code, and consider that information in determining a person's license, registration, or certification status under this chapter. Deletes existing text.

(b) Makes conforming changes.

SECTION 10. Amends Section 504.201(a), Occupations Code, to require the executive commissioner, rather than commission, to implement a system creating license expiration dates by rule. Makes a conforming change.

SECTION 11. Amends Sections 504.202 and 504.2025, Occupations Code, as follows:

Sec. 504.202. NOTICE OF LICENSE EXPIRATION AND REQUIREMENTS TO RENEW. Makes conforming changes.

Sec. 504.2025. New heading: CERTAIN GROUNDS FOR REFUSAL TO RENEW LICENSE, REGISTRATION, OR CERTIFICATION. Requires DSHS, rather than the commission, to refuse to renew a license, registration, or certification to any person that the Department of Public Safety or a law enforcement agency reports has been convicted, placed on community supervision, or incapacitated in relation to a Class A or B misdemeanor drug or alcohol offense. Authorizes DSHS to renew a license if it finds that a person has successfully completed a program after committing a drug or alcohol offense equal to a Class A or B misdemeanor. Makes conforming changes.

SECTION 12. Amends Subchapter E, Chapter 504, Occupations Code, by adding Section 504.2026, as follows:

Sec. 504.2026. REFUSAL TO RENEW LICENSE: ACCESS TO PEER ASSISTANCE PROGRAM. Prohibits DSHS from renewing a license unless provided written documentation that the license holder has access to an approved program. Authorizes DSHS to waive this requirement if DSHS finds that a program is not reasonably accessible to the license holder.

SECTION 13. Amends Sections 504.203(a), (b), and (c), Occupations Code, to make conforming changes.

SECTION 14. Amends Section 504.204, Occupations Code, to make conforming changes.

SECTION 15. Amends Sections 504.205(a), (b), and (d), Occupations Code, as follows:

(a) Requires the executive commissioner, rather than commission, by rule to allow for the administration of continuing education requirements. Makes a conforming change.

(b) Requires a license holder, other than a license holder subject to Subsection (c), to participate in the continuing education program for chemical dependency counselors and complete continuing education hours in each two-year licensing period based upon the type of degree held by the license holder as a prerequisite for renewal of a license issued under this chapter.

(d) Makes conforming changes.

SECTION 16. Amends Sections 504.206(b) and (d), Occupations Code, by removing the requirement that the commission consult with the Texas Department of Health in developing a training program for chemical dependency counselors. Makes conforming changes.

SECTION 17. Amends Subchapter F, Chapter 504, Occupations Code, as follows:

SUBCHAPTER F. DISCIPLINARY PROCEEDINGS

Sec. 504.251. New heading: GROUNDS FOR LICENSE, REGISTRATION, OR CERTIFICATION DENIAL OR DISCIPLINARY ACTION. Requires DSHS, rather than the commission, to refuse to issue a license, registration, or certification issued by DSHS to an applicant, refuse to renew a license, registration, or certification holder's license, registration, or certification issued by DSHS, or take disciplinary action against the holder of a license, registration, or certification issued by DSHS, rather than holder, if the applicant or license, registration, or certification holder undertakes certain actions. Makes conforming changes.

Sec. 504.252. New Heading: DISCIPLINARY POWERS OF DEPARTMENT. Makes conforming changes.

Sec. 504.2525. New heading: SUMMARY LICENSE, REGISTRATION, OR CERTIFICATION SUSPENSION. Makes conforming changes.

Sec. 504.253. COMPLAINT AND INVESTIGATION. Makes conforming changes.

Sec. 504.254. RIGHT TO ADMINISTRATIVE HEARING. Makes conforming changes.

Sec. 504.255. New heading: APPEAL OF CERTAIN DENIALS, REFUSALS TO RENEW, AND SUSPENSIONS. Makes conforming changes.

SECTION 18. Amends Section 504.301 and 504.303 through 504.307, Occupations Code, to make conforming changes.

SECTION 19. Amends Section 504.310, Occupations Code, to make conforming changes.

SECTION 20. Amends Sections 504.351(a) and (b), Occupations Code, to make conforming changes.

SECTION 21. Amends Sections 467.001(1), (2), and (5), Health and Safety Code, as follows:

(1) (B) Replaces a reference to the Texas Commission on Alcohol and Drug Abuse with the Department of State Health Services.

(2) Deletes the definition of "commission" and adds the definition for "department."

(5) Redefines "professional" to include a licensed chemical dependency counselor.

SECTION 22. Amends Section 467.003, Health and Safety Code, to make conforming changes.

SECTION 23. Amends Section 411.1105, Government Code, as follows:

Sec. 411.1105. New heading: ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF STATE HEALTH SERVICES. Replaces references to the commission with DSHS and makes conforming changes.

SECTION 24. Repealer: Section 504.154 (Licensing Without Examination for Certain Applicants), Occupations Code.

SECTION 25. Requires the executive commissioner of the Health and Human Services Commission to adopt rules and DSHS to adopt the procedures necessary to implement the

changes made by this Act not later than May 1, 2008. Requires DSHS to approve at least one program as required under Section 504.057, Occupations Code, as added by this Act, not later than September 1, 2008. Makes Section 504.1521, Occupations Code, as added by this Act, and Section 504.1525, Occupations Code, as amended by this act, prospective to September 1, 2008. Makes Section 504.2025, Occupations Code, as amended by this Act, prospective to September 1, 2007.

SECTION 26. (a) Effective date: September 1, 2007, except as provided by Subsection (b).

(b) Effective date, Sections 504.1521 and 504.2025, Occupations Code, as added by this Act: September 1, 2008.