

1-1 By: Zaffirini S.B. No. 53  
1-2 (In the Senate - Filed November 13, 2006; January 23, 2007,  
1-3 read first time and referred to Committee on State Affairs;  
1-4 April 16, 2007, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 8, Nays 0; April 16, 2007,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 53 By: Williams

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the civil liability of an employer or former employer of  
1-11 a mental health services provider who engages in sexual  
1-12 exploitation of a patient or former patient.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subsections (a) and (b), Section 81.003, Civil  
1-15 Practice and Remedies Code, are amended to read as follows:

1-16 (a) An employer of a mental health services provider is  
1-17 liable to a patient or former patient of the mental health services  
1-18 provider for damages if the patient or former patient is injured as  
1-19 described by Section 81.002 and the employer:

1-20 (1) fails to make inquiries of an employer or former  
1-21 employer, whose name and address have been disclosed to the  
1-22 employer and who employed the mental health services provider as a  
1-23 mental health services provider within the five years before the  
1-24 date of disclosure, concerning the possible occurrence of sexual  
1-25 exploitation by the mental health services provider of patients or  
1-26 former patients of the mental health services provider; or

1-27 (2) knows or has reason to know that the mental health  
1-28 services provider engaged in ~~[the]~~ sexual exploitation of a ~~[the]~~  
1-29 patient or former patient and the employer failed to:

1-30 (A) report the suspected sexual exploitation as  
1-31 required by Section 81.006; or

1-32 (B) take necessary action to prevent or stop the  
1-33 sexual exploitation by the mental health services provider.

1-34 (b) An employer or former employer of a mental health  
1-35 services provider is liable to a patient or former patient of the  
1-36 mental health services provider for damages if the patient or  
1-37 former patient is injured as described by Section 81.002 and the  
1-38 employer or former employer:

1-39 (1) knows of the occurrence of ~~[the]~~ sexual  
1-40 exploitation by the mental health services provider of a ~~[the]~~  
1-41 patient or former patient;

1-42 (2) receives a specific request by an employer or  
1-43 prospective employer of the mental health services provider,  
1-44 engaged in the business of providing mental health services,  
1-45 concerning the possible existence or nature of sexual exploitation  
1-46 by the mental health services provider; and

1-47 (3) fails to disclose the occurrence of the sexual  
1-48 exploitation.

1-49 SECTION 2. The changes in law made by this Act apply only to  
1-50 a cause of action that accrues on or after the effective date of  
1-51 this Act. A cause of action that accrues before the effective date  
1-52 of this Act is governed by the law in effect on the date the cause of  
1-53 action accrues, and that law is continued in effect for this  
1-54 purpose.

1-55 SECTION 3. This Act takes effect immediately if it receives  
1-56 a vote of two-thirds of all the members elected to each house, as  
1-57 provided by Section 39, Article III, Texas Constitution. If this  
1-58 Act does not receive the vote necessary for immediate effect, this  
1-59 Act takes effect September 1, 2007.

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