

1-1 By: Zaffirini S.B. No. 34
1-2 (In the Senate - Filed November 10, 2008; February 10, 2009,
1-3 read first time and referred to Committee on State Affairs;
1-4 March 4, 2009, reported favorably by the following vote: Yeas 8,
1-5 Nays 0; March 4, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the civil liability of an employer or former employer of
1-9 a mental health services provider who engages in sexual
1-10 exploitation of a patient or former patient.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subsections (a) and (b), Section 81.003, Civil
1-13 Practice and Remedies Code, are amended to read as follows:

1-14 (a) An employer of a mental health services provider is
1-15 liable to a patient or former patient of the mental health services
1-16 provider for damages if the patient or former patient is injured as
1-17 described by Section 81.002 and the employer:

1-18 (1) fails to make inquiries of an employer or former
1-19 employer, whose name and address have been disclosed to the
1-20 employer and who employed the mental health services provider as a
1-21 mental health services provider within the five years before the
1-22 date of disclosure, concerning the possible occurrence of sexual
1-23 exploitation by the mental health services provider of patients or
1-24 former patients of the mental health services provider; or

1-25 (2) knows or has reason to know that the mental health
1-26 services provider engaged in ~~[the]~~ sexual exploitation of a ~~[the]~~
1-27 patient or former patient and the employer failed to:

1-28 (A) report the suspected sexual exploitation as
1-29 required by Section 81.006; or

1-30 (B) take necessary action to prevent or stop the
1-31 sexual exploitation by the mental health services provider.

1-32 (b) An employer or former employer of a mental health
1-33 services provider is liable to a patient or former patient of the
1-34 mental health services provider for damages if the patient or
1-35 former patient is injured as described by Section 81.002 and the
1-36 employer or former employer:

1-37 (1) knows of the occurrence of ~~[the]~~ sexual
1-38 exploitation by the mental health services provider of a ~~[the]~~
1-39 patient or former patient;

1-40 (2) receives a specific request by an employer or
1-41 prospective employer of the mental health services provider,
1-42 engaged in the business of providing mental health services,
1-43 concerning the possible existence or nature of sexual exploitation
1-44 by the mental health services provider; and

1-45 (3) fails to disclose the occurrence of the sexual
1-46 exploitation.

1-47 SECTION 2. The changes in law made by this Act apply only to
1-48 a cause of action that accrues on or after the effective date of
1-49 this Act. A cause of action that accrues before the effective date
1-50 of this Act is governed by the law in effect on the date the cause of
1-51 action accrues, and that law is continued in effect for that
1-52 purpose.

1-53 SECTION 3. This Act takes effect immediately if it receives
1-54 a vote of two-thirds of all the members elected to each house, as
1-55 provided by Section 39, Article III, Texas Constitution. If this
1-56 Act does not receive the vote necessary for immediate effect, this
1-57 Act takes effect September 1, 2009.

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