

BILL ANALYSIS

C.S.H.B. 3146
By: Naishtat
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Part of the intake process for a chemical dependency treatment program involves the client signing informed consent forms to ensure that the client participates in, understands, and agrees to his or her individualized treatment plan. It also may be necessary throughout a client's treatment process to explain and complete subsequent forms that require the client's signature. Traditionally, informed consent must be obtained by the treating physician. Not all chemical dependency treatment programs have a physician on staff, and these services would be more efficiently provided by counselors who are working with the client.

Additionally, a chemical dependency treatment facility is required to annually provide a minimum of eight hours of inservice training regarding intake and assessment to individuals who will be conducting the intake and assessment functions at the facility. An initial assessment is usually performed by a licensed chemical dependency counselor, who would have received this training as part of the licensing process.

C.S.H.B. 3146 seeks to address these issues by authorizing a psychologist, social worker, professional counselor, or chemical dependency counselor to obtain and document that informed consent for a therapy or treatment was obtained from an individual in treatment for chemical dependency, specifying that the treating physician must obtain and document such consent for the administration of a medication, and by reducing the number of hours of annual inservice training relating to certain admission procedures and removing the requirement for such training regarding the assessment process.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 3 of this bill.

ANALYSIS

Section 531.0055, Government Code, as amended by Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, expressly grants to the executive commissioner of the Health and Human Services Commission all rulemaking authority for the operation of and provision of services by the health and human services agencies. Similarly, Sections 1.16-1.29, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, provide for the transfer of a power, duty, function, program, or activity from a health and human services agency abolished by that act to the corresponding legacy agency. To the extent practical, this bill analysis is written to reflect any transfer of rulemaking authority and to update references as necessary to an agency's authority with respect to a particular health and human services program.

C.S.H.B. 3146 amends the Health and Safety Code, in provisions of law establishing the conditions under which consent given for the administration of a medication, therapy, or treatment for a chemically dependent patient in a treatment facility is considered valid, to authorize a psychologist, social worker, professional counselor, or chemical dependency

counselor, in addition to the treating physician, to take certain actions relating to informing the patient or person giving consent about the therapy or treatment and obtaining and documenting that consent. The bill extends the authorization for those same medical professionals to provisions relating to a requirement to provide new information relating to a medication, therapy, or treatment for which consent was previously obtained. The bill specifies, in those same provisions of law, that consent for the administration of a medication is considered valid only if the treating physician takes the same actions relating to informing the patient or person giving consent about the medication and obtaining the consent. The bill specifies that a statement documenting that consent was given by the appropriate person and the circumstances under which the consent was obtained must be made by the authorized professional who obtained the consent.

C.S.H.B. 3146 includes rules governing the screening process used by a treatment facility to determine whether a prospective patient presents sufficient signs, symptoms, or behaviors indicating a potential chemical dependency disorder to warrant a more in-depth assessment by a qualified professional among the rules the executive commissioner of the Health and Human Services Commission is required to adopt governing the voluntary admission of a patient to a treatment facility. The bill requires the rules governing the screening process to establish minimum standards for making such a determination. The bill requires the screening to be reviewed and approved by a qualified professional.

C.S.H.B. 3146 includes training regarding the screening, rather than assessment, of a prospective patient in the inservice training required to be provided by a treatment facility to persons who perform certain procedures in the admission process. The bill prohibits a person from conducting screenings, in addition to intake, without having completed the initial and applicable annual inservice training and lowers from eight to two the minimum number of hours of inservice training required to be provided annually.

C.S.H.B. 3146 defines "screening," redefines "assessment," and makes conforming and nonsubstantive changes.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3146 differs from the original, in provisions of law establishing the conditions under which consent given for the administration of a medication, therapy, or treatment for a chemically dependent patient in a treatment facility is considered valid, by authorizing a psychologist, social worker, professional counselor, or chemical dependency counselor, in addition to the treating physician, to take certain actions relating to consent for therapy and treatment, and establishing the same conditions regarding a treating physician for the purpose of obtaining consent for the administration of medication, whereas the original authorizes those same medical professionals, in addition to the treating physician, to take any such action with regard to consent for a medication, therapy, or treatment.

C.S.H.B. 3146 differs from the original by specifying that the statement documenting that consent was given by the appropriate person and the circumstances under which the consent was obtained that constitutes evidence of informed consent applies to a statement by the authorized professional who obtained the consent, whereas the original contains no such specification.

C.S.H.B. 3146 contains provisions not included in the original including rules governing the screening process used by a treatment facility for a potential patient among certain rules the executive commissioner of Health and Human Services Commission is required to adopt and requiring those rules to establish specified minimum standards.

C.S.H.B. 3146 differs from the original by including training regarding the screening of a prospective patient in the inservice training required to be provided to persons who will be performing certain procedures during the admission process and by lowering from eight to two the number of inservice training hours required to be provided annually to persons who will be performing certain procedures in the admission process, whereas the original removes the requirement that the minimum eight hours of inservice training be provided to such persons annually. The substitute contains a provision not in the original defining "screening" and redefining "assessment."

C.S.H.B. 3146 differs from the original in nonsubstantive ways.