

1-1 By: Naishtat, Perry (Senate Sponsor - Zaffirini) H.B. No. 3145
1-2 (In the Senate - Received from the House May 6, 2011;
1-3 May 9, 2011, read first time and referred to Committee on Health
1-4 and Human Services; May 18, 2011, reported favorably by the
1-5 following vote: Yeas 9, Nays 0; May 18, 2011, sent to printer.)

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

1-8 relating to the regulation of chemical dependency counselors.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Section 467.004(a), Health and Safety Code, is
1-11 amended to read as follows:

1-12 (a) Except as provided by Section 467.0041(b) of this code
1-13 and Section 504.058, Occupations Code, a licensing or disciplinary
1-14 authority may add a surcharge of not more than \$10 to its license or
1-15 license renewal fee to fund an approved peer assistance program.
1-16 The authority must adopt the surcharge in accordance with the
1-17 procedure that the authority uses to initiate and adopt an increase
1-18 in its license or license renewal fee.

1-19 SECTION 2. Section 504.002(b), Occupations Code, is amended
1-20 to read as follows:

1-21 (b) This chapter does not apply to an activity or service of
1-22 a person who:

1-23 (1) is employed as a counselor by a federal
1-24 institution and is providing chemical dependency counseling within
1-25 the scope of the person's employment;

1-26 (2) except as provided by Section 504.1515, is a
1-27 student, intern, or trainee pursuing a supervised course of study
1-28 in counseling at a regionally accredited institution of higher
1-29 education or training institution, if the person:

1-30 (A) is designated as a "counselor intern"; and

1-31 (B) is engaging in the activity or providing the
1-32 service as part of the course of study;

1-33 (3) is not a resident of this state, if the person:

1-34 (A) engages in the activity or provides the
1-35 service in this state for not more than 30 days during any year; and

1-36 (B) is authorized to engage in the activity or
1-37 provide the service under the law of the state of the person's
1-38 residence;

1-39 (4) is a licensed physician, psychologist,
1-40 professional counselor, or social worker;

1-41 (5) is a religious leader of a congregation providing
1-42 pastoral chemical dependency counseling within the scope of the
1-43 person's duties;

1-44 (6) is working for or providing counseling with a
1-45 program exempt under Subchapter C, Chapter 464, Health and Safety
1-46 Code; ~~or~~

1-47 (7) is a school counselor certified by the State Board
1-48 for Educator Certification; or

1-49 (8) provides chemical dependency counseling through a
1-50 program or in a facility that receives funding from the Texas
1-51 Department of Criminal Justice and who is credentialed as:

1-52 (A) a certified criminal justice addictions
1-53 professional by the International Certification and Reciprocity
1-54 Consortium; or

1-55 (B) having certified criminal justice
1-56 professional applicant status issued by the Texas Certification
1-57 Board of Addiction Professionals.

1-58 SECTION 3. Subchapter B, Chapter 504, Occupations Code, is
1-59 amended by adding Section 504.058 to read as follows:

1-60 Sec. 504.058. FUNDING FOR CHEMICAL DEPENDENCY COUNSELOR
1-61 PROGRAMS. (a) The executive commissioner shall add a surcharge of
1-62 not more than \$10 to the license or license renewal fee for a
1-63 license under this chapter to fund approved peer assistance
1-64 programs for chemical dependency counselors. Money collected from

2-1 the surcharge shall be remitted to the comptroller for deposit to
 2-2 the credit of the chemical dependency counselor account. The
 2-3 chemical dependency counselor account is an account in the general
 2-4 revenue fund.

2-5 (b) Subject to the General Appropriations Act, the
 2-6 department may use the money from the surcharge collected under
 2-7 this section and deposited in the chemical dependency counselor
 2-8 account only to fund approved peer assistance programs and to pay
 2-9 the administrative costs incurred by the department that are
 2-10 related to the programs.

2-11 SECTION 4. Section 504.152, Occupations Code, is amended to
 2-12 read as follows:

2-13 Sec. 504.152. ELIGIBILITY REQUIREMENTS. (a) To be
 2-14 eligible for a license under this chapter, a person must:

2-15 (1) be at least 18 years of age;

2-16 (2) hold an associate degree or a more advanced
 2-17 degree;

2-18 (3) have completed:

2-19 (A) 135 hours, or nine semester hours, specific
 2-20 to substance abuse disorders and treatment and an additional 135
 2-21 hours, or nine semester hours, specific or related to chemical
 2-22 dependency counseling;

2-23 (B) 4,000 hours of approved supervised
 2-24 experience working with chemically dependent persons; and

2-25 (C) 300 hours of approved supervised field work
 2-26 practicum;

2-27 (4) provide two letters of reference from chemical
 2-28 dependency counselors;

2-29 (5) pass a written examination approved by the
 2-30 department;

2-31 (6) submit a case presentation to the test
 2-32 administrator;

2-33 (7) ~~[pass an oral examination approved by the~~
 2-34 ~~department,~~

2-35 ~~[(8)]~~ be determined by the department to be worthy of
 2-36 the public trust and confidence;

2-37 ~~(8) [(9)]~~ successfully complete the chemical
 2-38 dependency counselor examination under Section 504.156;

2-39 ~~(9) [(10)]~~ sign a written agreement to comply with the
 2-40 standards of ethics approved by the department; and

2-41 ~~(10) [(11)]~~ provide to the department written
 2-42 assurance that the applicant has access to a peer assistance
 2-43 program.

2-44 (b) The department may waive the requirement under
 2-45 Subsection (a)(10) ~~[(a)(11)]~~ if the department determines that a
 2-46 peer assistance program is not reasonably available to the license
 2-47 holder.

2-48 SECTION 5. Sections 504.1525(a) and (b), Occupations Code,
 2-49 are amended to read as follows:

2-50 (a) Except as provided by Subsection (b), the department may
 2-51 not issue a license, registration, or certification under this
 2-52 chapter to an applicant who has been:

2-53 (1) convicted or placed on community supervision
 2-54 during the three ~~[five]~~ years preceding the date of application in
 2-55 any jurisdiction for an offense equal to a Class B misdemeanor
 2-56 specified by executive commissioner rule;

2-57 (2) convicted or placed on community supervision in
 2-58 any jurisdiction for an offense equal to or greater than a Class A
 2-59 misdemeanor specified by executive commissioner rule; or

2-60 (3) found to be incapacitated by a court on the basis
 2-61 of a mental defect or disease.

2-62 (b) The department may issue a license, registration, or
 2-63 certification to a person convicted or placed on community
 2-64 supervision in any jurisdiction for a drug or alcohol offense
 2-65 described by Subsection (a)(1) or (2) if the department determines
 2-66 that the applicant has successfully completed participation in an
 2-67 approved peer assistance program.

2-68 SECTION 6. (a) The executive commissioner of the Health and
 2-69 Human Services Commission shall adopt rules to implement the

3-1 changes in law made by this Act not later than December 1, 2011.
3-2 (b) Section 504.058, Occupations Code, as added by this Act,
3-3 and Sections 504.152 and 504.1525, Occupations Code, as amended by
3-4 this Act, apply only to an application for an original or renewal
3-5 license, registration, or certification submitted to the
3-6 Department of State Health Services on or after December 1, 2011. An
3-7 application submitted before December 1, 2011, is governed by the
3-8 law in effect on the date the application was submitted, and the
3-9 former law is continued in effect for that purpose.

3-10 SECTION 7. This Act takes effect immediately if it receives
3-11 a vote of two-thirds of all the members elected to each house, as
3-12 provided by Section 39, Article III, Texas Constitution. If this
3-13 Act does not receive the vote necessary for immediate effect, this
3-14 Act takes effect September 1, 2011.

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