

By: Zaffirini

S.B. No. 43

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the civil liability of an employer or former employer of
3 a mental health services provider who engages in sexual
4 exploitation of a patient or former patient.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

8 (a) An employer of a mental health services provider is
9 liable to a patient or former patient of the mental health services
10 provider for damages if the patient or former patient is injured as
11 described by Section 81.002 and the employer:

12 (1) fails to make inquiries of an employer or former
13 employer, whose name and address have been disclosed to the
14 employer and who employed the mental health services provider as a
15 mental health services provider within the five years before the
16 date of disclosure, concerning the possible occurrence of sexual
17 exploitation by the mental health services provider of patients or
18 former patients of the mental health services provider; or

19 (2) knows or has reason to know that the mental health
20 services provider engaged in ~~[the]~~ sexual exploitation of a ~~[the]~~
21 patient or former patient and the employer failed to:

22 (A) report the suspected sexual exploitation as
23 required by Section 81.006; or

24 (B) take necessary action to prevent or stop the

1 sexual exploitation by the mental health services provider.

2 (b) An employer or former employer of a mental health
3 services provider is liable to a patient or former patient of the
4 mental health services provider for damages if the patient or
5 former patient is injured as described by Section 81.002 and the
6 employer or former employer:

7 (1) knows of the occurrence of [~~the~~] sexual
8 exploitation by the mental health services provider of a [~~the~~]
9 patient or former patient;

10 (2) receives a specific request by an employer or
11 prospective employer of the mental health services provider,
12 engaged in the business of providing mental health services,
13 concerning the possible existence or nature of sexual exploitation
14 by the mental health services provider; and

15 (3) fails to disclose the occurrence of the sexual
16 exploitation.

17 SECTION 2. The changes in law made by this Act apply only to
18 a cause of action that accrues on or after the effective date of
19 this Act. A cause of action that accrues before the effective date
20 of this Act is governed by the law in effect on the date the cause of
21 action accrues, and that law is continued in effect for that
22 purpose.

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