

SUBJECT: Texas Commission on Alcohol and Drug Abuse cease and desist orders

COMMITTEE: Public Health — committee substitute recommended

VOTE: 7 ayes — Berlanga, Hirschi, Glaze, Janek, Maxey, McDonald, Rodriguez

0 nays

2 absent — Coleman, Delisi

SENATE VOTE: On final passage, February 8 — 30-0

WITNESSES: For — Cynthia Humphrey, Association of Substance Abuse Service Providers

Against — None

DIGEST: CSSB 158 would authorize the executive director of the Texas Commission on Alcohol and Drug Abuse (TCADA), after an investigation, to issue a cease and desist order directing a treatment facility to stop certain practices, cease operations or surrender its management to the commission's control. The order would have to follow a finding that the facility had violated the state's rules for treating alcoholics and drug-dependent persons or substantially breached a contract with TCADA or that there was a threat to the facility's clients.

TCADA's executive director would be required to obtain approval to issue the cease and desist order from at least three TCADA commissioners at a scheduled or called meeting. The meeting could be through state-approved interactive video or telephone conference procedures.

TCADA would be required to hold a hearing concerning the issues giving rise to the order not earlier than 11 days or later than 30 days following the issue of the order, unless more time was requested by the facility. The cease and desist order — which would contain notice of the date and time of the hearing — would be effective immediately and would continue in effect pending the outcome of the hearing. TCADA's executive director

would continue, modify or revoke the order in accordance with the results of the hearing.

TCADA could petition a district court to restrain a person or facility that violated a TCADA cease and desist order. Courts would be authorized to issue restraining orders regardless of whether such persons or facilities violated TCADA's rules, orders, standards or licensing requirements in a manner that causes immediate threat to the health and safety of *individual* clients.

A district court would be able to grant any prohibitory or mandatory injunctive relief if it finds that a person or facility has violated a cease and desist order.

**SUPPORTERS  
SAY:**

CSSB 158 would protect drug and alcohol treatment patients by allowing the TCADA executive director to issue cease and desist orders to treatment facilities that violate the TCADA's rules, standards or licensing requirements. Recent events have spotlighted the need for the state to be more vigilant in overseeing how treatment centers function. Current law does not allow TCADA to take immediate action against treatment facilities that violate TCADA's rules, standards or licensing requirements. This bill would help assure that state funds for drug and alcohol treatment benefit clients and that treatment operations adhere to reasonable standards. The bill contains adequate safeguards to assure due process in every case.

**OPPONENTS  
SAY:**

No apparent opposition.

**NOTES:**

The committee substitute added breach of contract with TCADA as a ground for issuing a cease and desist order against a facility after an investigation is conducted. The substitute states that the executive director may issue a cease and desist order directing that the facility to surrender its management to the direction and control of the commission. It also added the provision that the executive director must obtain from at least three commissioners ratification of the decision to issue the order before it is issued.

SB 17 by Montford, effective April 24, 1995, amended requirements for the State Conservatorship Board; soon after the bill's enactment Gov. George W. Bush appointed conservators to oversee the operations of TCADA.