

BILL ANALYSIS

Senate Research Center

H.B. 3145
By: Naishtat, Perry (Zaffirini)
Health & Human Services
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 3145 would require the Department of State Health Services (DSHS) to assess a \$10 surcharge on chemical dependency counselor licenses to fund a peer assistance program, remove the requirement that person must pass an oral examination to be eligible for a chemical dependency counseling license, and modify criminal history standards to reduce the maximum waiting period to register as a chemical dependency counselor intern from five to three years.

In 2007, S.B. 155 (Zaffirini), relating to the regulation of licensed chemical dependency counselors (LCDC), required LCDCs to have access to an approved peer assistance network in order to receive a license or to renew a license. DSHS and the Texas Association of Addicted Professionals (TAAP) agreed to establish a peer assistance program that would collect the small fee (\$15 per licensee annually) as was requested by DSHS, and is the practice with peer assistance programs in other professions. The understanding was that DSHS only would renew a license for persons who have access to a peer assistance program through payment of the fee.

Since passage of S.B. 155, DSHS has interpreted the statute as not requiring that the licensees or applicants provide any documentation to verify that they are meeting this requirement, and there is no enforcement of the provision. As a result, less than 10 percent of licensees pay the fee, leaving the peer assistance program insolvent and unsustainable. Delegating the collection of the fee to chemical dependency counselor licenses to fund peer assistance programs to DSHS would address this noncompliance.

Requiring both oral and written exam for a chemical dependency counselor license is a cumbersome and confusing process that often lengthens the period of time necessary to enter the profession. The International Certification and Reciprocity Consortium (IC&RC) exam used in Texas has been redesigned to test in a written format the skills previously tested in the oral exam. The LCDC exam has not been available via the internet because of the oral requirement. Applicants have had to drive to a single location in the state for an exam that only has been available once per quarter. This poses logistical and financial hardships on persons trying to enter a profession that is already underpaid. Because IC&RC no longer requires the written examination, there is no longer a need to keep the oral examination requirement in Texas.

Lastly, S.B. 155 gave increased authority to DSHS in order to strengthen the quality and availability of licensed chemical dependency counselors. This authority resulted in an unintended inefficiency for persons with criminal history to become LCDCs by extending the time an applicant had to wait before registering to be a counselor intern. The applicants are required to wait full five years before being eligible to begin working as an intern on top of the five years waiting time required before being eligible for an LCDC license. As a result applicants are having to wait 10 years before being able to begin counseling.

H.B. 3145 amends current law relating to the regulation of chemical dependency counselors.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 6 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 467.004(a), Health and Safety Code, to authorize a licensing or disciplinary authority, except as provided by Section 467.0041(b) (relating to authorizing the Texas State Board of Dental Examiners to add a surcharge to fund an approved peer assistance program) of this code and Section 504.058, Occupations Code, to add a surcharge of not more than \$10 to its license or license renewal fee to fund an approved peer assistance program.

SECTION 2. Amends Section 504.002(b), Occupations Code, to provide that this chapter does not apply to an activity or service of a person who meets certain criteria, including a person who provides chemical dependency counseling through a program or in a facility that receives funding from the Texas Department of Criminal Justice and who is credentialed as a certified criminal justice addictions professional by the International Certification and Reciprocity Consortium, or having certified criminal justice professional applicant status issued by the Texas Certification Board of Addiction Professionals.

SECTION 3. Amends Subchapter B, Chapter 504, Occupations Code, by adding Section 504.058, as follows:

Sec. 504.058. FUNDING FOR CHEMICAL DEPENDENCY COUNSELOR PROGRAMS. (a) Requires the executive commissioner of the Health and Human Services Commission (executive commissioner) to add a surcharge of not more than \$10 to the license or license renewal fee for a license under this chapter to fund approved peer assistance programs for chemical dependency counselors. Requires that money collected from the surcharge be remitted to the comptroller of public accounts for deposit to the credit of the chemical dependency counselor account. Provides that the chemical dependency counselor account is an account in the general revenue fund.

(b) Authorizes the Department of State Health Services (DSHS), subject to the General Appropriations Act, to use the money from the surcharge collected under this section and deposited in the chemical dependency counselor account only to fund approved peer assistance programs and to pay the administrative costs incurred by DSHS that are related to the programs.

SECTION 4. Amends Section 504.152, Occupations Code, as follows:

Sec. 504.152. ELIGIBILITY REQUIREMENTS. (a) Deletes existing text relating to requiring a person to pass an oral examination approved by DSHS in order to be eligible for a license under this chapter. Makes nonsubstantive changes.

(b) Authorizes DSHS to waive the requirement under Subsection (a)(10) if DSHS determines that a peer assistance program is not reasonably available to the license holder. Makes a conforming change.

SECTION 5. Amends Sections 504.1525(a) and (b), Occupations Code, as follows:

(a) Prohibits DSHS, except as provided by Subsection (b), from issuing a license, registration, or certification under this chapter to certain applicants, including an applicant who has been convicted or placed on community supervision during the three years, rather than five years, preceding the date of application in any jurisdiction for an offense equal to a Class B misdemeanor specified by executive commissioner rule.

(b) Authorizes DSHS to issue a license, registration, or certification to a person convicted or placed on community supervision in any jurisdiction for a drug or alcohol offense described by Subsection (a)(1) or (2) if DSHS determines that the applicant has successfully completed participation in an approved peer assistance program.

SECTION 6. (a) Requires the executive commissioner to adopt rules to implement the changes in law made by this Act not later than December 1, 2011.

(b) Makes application Section 504.058, Occupations Code, as added by this Act, and Sections 504.152 and 504.1525, Occupations Code, as amended by this Act, prospective to December 1, 2011.

SECTION 7. Effective date: upon passage or September 1, 2011.