

1 AN ACT

2 relating to the regulation of chemical dependency counselors.

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

4 SECTION 1. Section 504.001, Occupations Code, is amended to
5 read as follows:

6 Sec. 504.001. DEFINITIONS. In this chapter:

7 (1) "Certified clinical supervisor" means a person
8 certified in accordance with Section 504.1521.

9 (2) "Chemical dependency counseling" means assisting
10 an individual or group to:

11 (A) develop an understanding of chemical
12 dependency problems;

13 (B) define goals; and

14 (C) plan action reflecting the individual's or
15 group's interest, abilities, and needs as affected by claimed or
16 indicated chemical dependency problems.

17 (3) [~~2~~] "Chemical dependency counselor" means a
18 person licensed under this chapter.

19 (4) "Clinical training institution" means a person
20 registered with the department in accordance with Section 504.1521
21 to supervise a counselor intern.

22 (5) "Commissioner" means the commissioner of state
23 health services [~~3~~] ~~"Commission" means the Texas Commission on~~
24 ~~Alcohol and Drug Abuse~~].

1 (6) [~~3-a~~] "Counselor intern" means a person
2 registered with the department [~~commission~~] in accordance with
3 Section 504.1515.

4 (7) "Department" means the Department of State Health
5 Services.

6 (8) "Executive commissioner" means the executive
7 commissioner of the Health and Human Services Commission.

8 (9) "Peer assistance program" means a program approved
9 by the department under Section 504.057.

10 (10) [~~4~~] "~~Executive director~~" means ~~the executive~~
11 ~~director of the Texas Commission on Alcohol and Drug Abuse.~~

12 [~~5~~] "Person" means an individual, corporation,
13 partnership, association, or other business or professional
14 entity.

15 (11) [~~6~~] "Practice of chemical dependency
16 counseling" means providing or offering to provide chemical
17 dependency counseling services involving the application of the
18 principles, methods, and procedures of the chemical dependency
19 counseling profession.

20 SECTION 2. Subsection (b), Section 504.002, Occupations
21 Code, is amended to read as follows:

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

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

27 (2) except as provided by Section 504.1515 [~~504.057~~],

1 is a student, intern, or trainee pursuing a supervised course of
2 study in counseling at a regionally accredited institution of
3 higher education or training institution, if the person:

4 (A) is designated as a "counselor intern"; and

5 (B) is engaging in the activity or providing the
6 service as part of the course of study;

7 (3) is not a resident of this state, if the person:

8 (A) engages in the activity or provides the
9 service in this state for not more than 30 days during any year; and

10 (B) is authorized to engage in the activity or
11 provide the service under the law of the state of the person's
12 residence;

13 (4) is a licensed physician, psychologist,
14 professional counselor, or social worker;

15 (5) is a religious leader of a congregation providing
16 pastoral chemical dependency counseling within the scope of the
17 person's duties;

18 (6) is working for or providing counseling with a
19 program exempt under Subchapter C, Chapter 464, Health and Safety
20 Code; or

21 (7) is a school counselor certified by the State Board
22 for Educator Certification.

23 SECTION 3. Subchapters B and C, Chapter 504, Occupations
24 Code, are amended to read as follows:

25 SUBCHAPTER B. POWERS AND DUTIES OF EXECUTIVE COMMISSIONER AND
26 DEPARTMENT [~~TEXAS COMMISSION ON ALCOHOL AND DRUG ABUSE~~]

27 Sec. 504.051. GENERAL POWERS AND DUTIES OF EXECUTIVE

1 COMMISSIONER [~~COMMISSION~~]. The executive commissioner
2 [~~commission~~] shall:

3 (1) adopt [~~and enforce~~] rules as necessary for the
4 performance of its duties under this chapter;

5 (2) establish standards of conduct and ethics for
6 persons licensed under this chapter; and

7 (3) establish any additional criteria for peer
8 assistance programs for chemical dependency counselors that the
9 executive commissioner determines necessary [~~ensure strict~~
10 ~~compliance with and enforcement of this chapter~~].

11 Sec. 504.0515. GENERAL POWERS AND DUTIES OF DEPARTMENT.
12 The department shall:

13 (1) enforce rules as necessary for the performance of
14 its duties under this chapter; and

15 (2) ensure strict compliance with and enforcement of
16 this chapter.

17 Sec. 504.052. DISCRIMINATION PROHIBITED. In taking an
18 action or making a decision under this chapter, the executive
19 commissioner, commissioner, and department [~~commission~~] shall do
20 so without regard to the sex, race, religion, national origin,
21 color, or political affiliation of the person affected. For
22 purposes of this section, taking an action or making a decision
23 under this chapter includes:

24 (1) considering a license application;

25 (2) conducting an examination;

26 (3) adopting or enforcing a rule; and

27 (4) conducting a disciplinary proceeding.

1 Sec. 504.053. FEES; ACCOUNT. (a) The executive
2 commissioner [~~commission~~] shall set application, examination,
3 license renewal, and other fees in amounts sufficient to cover the
4 costs of administering this chapter. The amount of the license
5 renewal fee may not exceed \$200.

6 (b) General revenue taxes may not be used to administer this
7 chapter.

8 Sec. 504.054. COLLECTION ACTION. A district court in
9 Travis County has exclusive jurisdiction of an action to collect an
10 obligation owed to the department [~~commission~~], including an
11 administrative penalty assessed under Subchapter G.

12 Sec. 504.055. OFFICIAL ROSTER. (a) The department
13 [~~commission~~] may prepare and publish a roster showing the name and
14 address, as reflected by the department's [~~commission's~~] records,
15 of each chemical dependency counselor.

16 (b) If the department [~~commission~~] publishes a roster under
17 this section, the department [~~commission~~] shall mail a copy of the
18 roster to each person licensed by the department [~~commission~~] and
19 shall file a copy of the roster with the secretary of state.

20 (c) A person's name and address may appear in the roster
21 only if each fee assessed against the person under this chapter is
22 current and paid in full at the time the roster is sent to the
23 printer or publisher.

24 (d) The department [~~commission~~] may charge a fee for the
25 roster published under this section.

26 Sec. 504.056. RULES RESTRICTING ADVERTISING OR COMPETITIVE
27 BIDDING. (a) The executive commissioner [~~commission~~] may not

1 adopt a rule restricting advertising or competitive bidding by a
2 person regulated by the department [~~commission~~] under this chapter
3 except to prohibit a false, misleading, or deceptive practice.

4 (b) The executive commissioner [~~commission~~] may not include
5 in rules adopted under this chapter a rule that:

6 (1) restricts the person's use of any advertising
7 medium;

8 (2) restricts the person's personal appearance or use
9 of the person's voice in an advertisement;

10 (3) relates to the size or duration of an
11 advertisement by the person; or

12 (4) restricts the person's advertisement under a trade
13 name.

14 Sec. 504.057. APPROVAL OF PEER ASSISTANCE PROGRAMS.

15 (a) The department shall approve one or more peer assistance
16 programs established by the department or a professional
17 association in accordance with Chapter 467, Health and Safety Code,
18 from which persons licensed under this chapter may seek assistance.

19 (b) The department shall approve a peer assistance program
20 that:

21 (1) meets the minimum criteria established by the
22 executive commissioner or department under Chapter 467, Health and
23 Safety Code;

24 (2) meets any additional criteria established by the
25 executive commissioner or department for chemical dependency
26 counselors licensed under this chapter; and

27 (3) is designed to assist a chemical dependency

1 counselor whose ability to perform a professional service is
2 impaired by abuse of or dependency on drugs or alcohol.

3 (c) The department shall maintain a list of approved peer
4 assistance programs for licensed chemical dependency counselors on
5 the department's Internet website.

6 SUBCHAPTER C. PUBLIC INTEREST INFORMATION AND
7 COMPLAINT PROCEDURES

8 Sec. 504.101. CONSUMER INTEREST INFORMATION. (a) The
9 department [~~commission~~] shall prepare information of consumer
10 interest describing the regulatory functions of the department
11 [~~commission~~] and the procedures by which consumer complaints are
12 filed with and resolved by the department [~~commission~~].

13 (b) The department [~~commission~~] shall make the information
14 available to the public and appropriate state agencies.

15 Sec. 504.102. CONSUMER INFORMATION FOR FILING COMPLAINTS.
16 Each person licensed under this chapter shall display prominently
17 at all times in the person's place of business a sign containing:

18 (1) the name, mailing address, and telephone number of
19 the department [~~commission~~]; and

20 (2) a statement informing a consumer that a complaint
21 against a person licensed under this chapter may be directed to the
22 department [~~commission~~].

23 Sec. 504.103. RECORDS OF COMPLAINTS. (a) The department
24 [~~commission~~] shall keep information about each complaint filed with
25 the department [~~commission~~]. The information must include:

26 (1) the date the complaint is received;

27 (2) the name of the complainant;

- 1 (3) the subject matter of the complaint;
- 2 (4) a record of each person contacted in relation to
3 the complaint;
- 4 (5) a summary of the results of the review or
5 investigation of the complaint; and
- 6 (6) for a complaint for which the department
7 [~~commission~~] took no action, an explanation of the reason the
8 complaint was closed without action.

9 (b) The department [~~commission~~] shall keep an information
10 file about each complaint filed with the department [~~commission~~]
11 that the department [~~commission~~] has authority to resolve.

12 (c) The department [~~commission~~], at least quarterly and
13 until final disposition of the complaint, shall notify the person
14 filing the complaint and each person or entity that is the subject
15 of the complaint of the status of the complaint unless the notice
16 would jeopardize an undercover investigation.

17 SECTION 4. Subchapter D, Chapter 504, Occupations Code, is
18 amended by adding Section 504.1511 to read as follows:

19 Sec. 504.1511. OTHER CERTIFICATIONS INCLUDED ON LICENSE. A
20 license issued under this chapter must include an area on which a
21 license holder may apply an adhesive label issued by the Texas
22 Certification Board of Addiction Professionals with the
23 designation and expiration date of any other related certification
24 held by the license holder that is approved by the International
25 Certification Reciprocity Consortium or another entity approved by
26 the department.

27 SECTION 5. Sections 504.1515 and 504.152, Occupations Code,

1 are amended to read as follows:

2 Sec. 504.1515. COUNSELOR INTERNS. (a) A person seeking a
3 license as a chemical dependency counselor shall register with the
4 department [~~commission~~] as a counselor intern by submitting, in a
5 form acceptable to the department [~~commission~~], the following:

6 (1) an application fee and a background investigation
7 fee;

8 (2) a completed, signed, dated, and notarized
9 application on a form prescribed by the department [~~commission~~];

10 (3) a recent full-face wallet-sized photograph of the
11 applicant;

12 (4) two sets of fingerprints completed in accordance
13 with department [~~commission~~] instructions on cards issued by the
14 department [~~commission~~];

15 (5) documentation verifying the applicant
16 successfully completed:

17 (A) 270 total hours of approved curricula
18 described by Section 504.152(3)(A); and

19 (B) 300 hours of approved supervised field work
20 practicum described by Section 504.152(3)(C); and

21 (6) documentation verifying the applicant received a
22 high school diploma or its equivalent.

23 (b) The department [~~commission~~] may obtain criminal history
24 record information relating to a counselor intern or an applicant
25 for registration as a counselor intern from the Department of
26 Public Safety and the Federal Bureau of Investigation.

27 Sec. 504.152. ELIGIBILITY REQUIREMENTS. (a) To be

1 eligible for a license under this chapter, a person must:

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

3 (2) hold an associate degree or a more advanced
4 degree;

5 (3) have completed:

6 (A) 135 hours, or nine semester hours, specific
7 to substance abuse disorders and treatment and an additional 135
8 hours, or nine semester hours, specific or related to chemical
9 dependency counseling;

10 (B) 4,000 hours of approved supervised
11 experience working with chemically dependent persons; and

12 (C) 300 hours of approved supervised field work
13 practicum;

14 (4) provide two letters of reference from chemical
15 dependency counselors;

16 (5) pass a written examination approved by the
17 department [~~commission~~];

18 (6) submit a case presentation to the test
19 administrator;

20 (7) pass an oral examination approved by the
21 department [~~commission~~];

22 (8) be determined by the department [~~commission~~] to be
23 worthy of the public trust and confidence;

24 (9) successfully complete the chemical dependency
25 counselor examination under Section 504.156; [~~and~~]

26 (10) sign a written agreement to comply with the
27 standards of ethics approved by the department; and

1 (11) provide to the department written assurance that
2 the applicant has access to a peer assistance program [~~commission~~].

3 (b) The department may waive the requirement under
4 Subsection (a)(11) if the department determines that a peer
5 assistance program is not reasonably available to the license
6 holder.

7 SECTION 6. Subchapter D, Chapter 504, Occupations Code, is
8 amended by adding Section 504.1521 to read as follows:

9 Sec. 504.1521. SUPERVISED WORK EXPERIENCE. (a) A
10 counselor intern shall obtain the supervised work experience
11 required under Section 504.152 that is obtained in this state at a
12 clinical training institution or under the supervision of a
13 certified clinical supervisor.

14 (b) The executive commissioner shall adopt rules necessary
15 to:

16 (1) register clinical training institutions that meet
17 the criteria established by the executive commissioner,
18 commissioner, or department to protect the safety and welfare of
19 the people of this state; and

20 (2) certify clinical supervisors who hold
21 certification credentials approved by the department or by a person
22 designated by the department, such as the International
23 Certification and Reciprocity Consortium or another person that
24 meets the criteria established by the executive commissioner,
25 commissioner, or department to protect the safety and welfare of
26 the people of this state.

27 SECTION 7. Sections 504.1525, 504.153, and 504.155,

1 Occupations Code, are amended to read as follows:

2 Sec. 504.1525. CERTAIN GROUNDS FOR LICENSE, REGISTRATION,
3 OR CERTIFICATION REFUSAL; EXCEPTION. (a) Except as provided by
4 Subsection (b), the department [~~The commission~~] may not issue a
5 license, registration, or certification under this chapter to an
6 applicant who has been:

7 (1) convicted or placed on community supervision
8 during the five years preceding the date of application in any
9 jurisdiction for an offense equal to a Class B misdemeanor
10 specified by executive commissioner [~~commission~~] rule;

11 (2) convicted or placed on community supervision in
12 any jurisdiction for an offense equal to or greater than a Class A
13 misdemeanor specified by executive commissioner [~~commission~~] rule;
14 or

15 (3) found to be incapacitated by a court on the basis
16 of a mental defect or disease.

17 (b) The department may issue a license to a person convicted
18 or placed on community supervision in any jurisdiction for a drug or
19 alcohol offense described by Subsection (a)(1) or (2) if the
20 department determines that the applicant has successfully
21 completed participation in an approved peer assistance program.

22 (c) Subsection (a) does not apply to an applicant who has,
23 with respect to Subsection (a)(1) or (2), received a full pardon
24 based on the person's wrongful conviction or, with respect to
25 Subsection (a)(3), been found by a court to no longer be
26 incapacitated.

27 Sec. 504.153. ALTERNATIVE QUALIFICATIONS AND EVIDENCE OF

1 LICENSE REQUIREMENT SATISFACTION. (a) An applicant is exempt from
2 the requirements of Sections 504.152(3)(A) and (C) if the applicant
3 holds a baccalaureate degree or a more advanced degree in:

- 4 (1) chemical dependency counseling; or
5 (2) psychology, sociology, or any other related
6 program approved by the department [~~commission~~].

7 (b) On presentation of documentation by an applicant who
8 holds a degree described by Subsection (a), the department
9 [~~commission~~] may waive any portion of the requirement established
10 by Section 504.152(3)(B) that the department [~~commission~~]
11 determines has been satisfied as evidenced by the documentation.

12 Sec. 504.155. LICENSE APPLICATION. (a) An application for
13 a license under this chapter must:

14 (1) be on a form prescribed and furnished by the
15 department [~~commission~~]; and

16 (2) contain a statement made under oath of the
17 applicant's education, experience, and other qualifications
18 established by the department [~~commission~~] as required for a
19 license under this chapter.

20 (b) The department [~~commission~~] may require additional
21 information regarding the quality, scope, and nature of the
22 experience and competence of the applicant if the department
23 [~~commission~~] determines that a person's application lacks
24 sufficient information for consideration by the department
25 [~~commission~~].

26 (c) The department [~~commission~~] may obtain criminal history
27 record information relating to an applicant for a license under

1 this chapter from the Department of Public Safety and the Federal
2 Bureau of Investigation. The department [~~commission~~] may deny an
3 application for a license if the applicant fails to provide two
4 complete sets of fingerprints on a form prescribed by the
5 department [~~commission~~].

6 (d) The issuance of a license by the department [~~commission~~]
7 is conditioned on the receipt by the department [~~commission~~] of the
8 applicant's criminal history record information.

9 SECTION 8. Subsection (a), Section 504.156, Occupations
10 Code, is amended to read as follows:

11 (a) At least twice each year, the department [~~commission~~]
12 may prepare and administer or contract with an organization
13 approved by the International Certification Reciprocity Consortium
14 to prepare and administer an examination to determine the
15 qualifications of an applicant for a license under this chapter.
16 The examination shall be conducted as determined by the department
17 [~~commission~~] and in a manner that is fair and impartial to and takes
18 into consideration each school or system of chemical dependency
19 counseling.

20 SECTION 9. Sections 504.157 through 504.161, Occupations
21 Code, are amended to read as follows:

22 Sec. 504.157. EXAMINATION RESULTS; REEXAMINATION.
23 (a) The department [~~commission~~] shall notify each examinee of the
24 results of the examination not later than the 45th [~~30th~~] day after
25 the date the examination is administered.

26 (b) If requested by an applicant who fails the examination,
27 the department [~~commission~~] shall furnish the applicant with an

1 analysis of the applicant's performance on the examination.

2 (c) An applicant who fails the examination may take a
3 subsequent examination on payment of the required examination fee.

4 (d) The executive commissioner [~~commission~~] by rule shall
5 establish the criteria under which an applicant may take a
6 subsequent examination under Subsection (c).

7 Sec. 504.158. PROVISIONAL LICENSE. (a) The department
8 [~~commission~~] may issue a provisional license to an applicant who is
9 licensed in another state. An applicant for a provisional license
10 under this section must:

11 (1) be licensed in good standing as a chemical
12 dependency counselor at least two years in another state or country
13 that has licensing requirements substantially equivalent to the
14 requirements of this chapter;

15 (2) have passed a national or other examination
16 recognized by the department [~~commission~~] relating to the practice
17 of chemical dependency counseling; and

18 (3) be sponsored by a person licensed by the
19 department [~~commission~~] under this chapter with whom the
20 provisional license holder may practice.

21 (b) The department [~~commission~~] may waive the requirement
22 of Subsection (a)(3) if the department [~~commission~~] determines that
23 compliance with that subsection would constitute a hardship to the
24 applicant.

25 (c) The department [~~commission~~] may establish a fee for a
26 provisional license in an amount reasonable and necessary to cover
27 the cost of issuing the license.

1 (d) A provisional license is valid until the date the
2 department [~~commission~~] approves or denies the provisional license
3 holder's application for a license under Section 504.159.

4 Sec. 504.159. ISSUANCE OF LICENSE TO PROVISIONAL LICENSE
5 HOLDER. (a) The department [~~commission~~] shall issue a license
6 under this chapter to a provisional license holder who satisfies
7 the eligibility requirements established by Section 504.152. When
8 issuing a license under this subsection, the department
9 [~~commission~~] may waive the requirements established by Sections
10 504.152(6), (7), and (9).

11 (b) The department [~~commission~~] shall complete the
12 processing of a provisional license holder's application for a
13 license not later than the 180th day after the date the provisional
14 license is issued. The department [~~commission~~] may extend the
15 180-day period if the department [~~commission~~] has not received
16 information necessary to determine whether the applicant is
17 eligible for a license as provided by Subsection (a).

18 Sec. 504.160. ISSUANCE OF LICENSE TO CERTAIN OUT-OF-STATE
19 APPLICANTS. (a) The department [~~commission~~] may, on application
20 and payment of the appropriate fee, issue a license to a person who
21 is licensed or certified by another state as a chemical dependency
22 counselor if the department [~~commission~~] determines that the
23 license or certificate requirements of that state are substantially
24 equivalent to the requirements of this chapter.

25 (b) The department [~~commission~~] may waive any license
26 requirement for an applicant with a license or certificate issued
27 by another state with which this state has a reciprocity agreement.

1 Sec. 504.161. CRIMINAL HISTORY RECORD INFORMATION.

2 (a) The department [~~commission~~] may obtain criminal history
3 record information as provided by Section 411.1105 [~~411.132~~],
4 Government Code, [~~as added by Chapter 18, Acts of the 75th~~
5 ~~Legislature, Regular Session, 1997,~~] and consider that information
6 in determining a person's license, registration, or certification
7 status under this chapter.

8 (b) The department [~~commission~~] may charge a person on whom
9 criminal history record information is sought a fee in an amount set
10 by the department [~~commission~~] as reasonably necessary to cover the
11 costs of administering this section. A fee collected under this
12 subsection may be appropriated only to the department [~~commission~~]
13 to administer this section.

14 SECTION 10. Subsection (a), Section 504.201, Occupations
15 Code, is amended to read as follows:

16 (a) A license issued under this chapter expires on the
17 second anniversary of the date of issuance. The executive
18 commissioner [~~commission~~] by rule shall adopt a system under which
19 licenses expire on various dates during the year.

20 SECTION 11. Sections 504.202 and 504.2025, Occupations
21 Code, are amended to read as follows:

22 Sec. 504.202. NOTICE OF LICENSE EXPIRATION AND REQUIREMENTS
23 TO RENEW. Not later than the 31st day before the expiration date of
24 a person's license, the department [~~commission~~] shall send to the
25 license holder at the license holder's last known address according
26 to department [~~commission~~] records written notice of:

- 27 (1) the impending license expiration;

- 1 (2) the amount of the renewal fee; and
- 2 (3) any continuing education required to renew the
- 3 license.

4 Sec. 504.2025. CERTAIN GROUNDS FOR REFUSAL TO RENEW
5 LICENSE, REGISTRATION, OR CERTIFICATION. (a) Except as provided
6 by Subsection (b), the department [~~The commission~~] shall refuse to
7 renew a license, registration, or certification under this chapter
8 on receipt of information from the Department of Public Safety or
9 another law enforcement agency that the person has been convicted,
10 placed on community supervision, or found to be incapacitated as
11 described by Section 504.1525.

12 (b) The department may renew a license under this chapter if
13 the department determines that the person has successfully
14 completed participation in an approved peer assistance program
15 subsequent to the conviction or placement on community supervision
16 for an offense described by Section 504.1525(b).

17 SECTION 12. Subchapter E, Chapter 504, Occupations Code, is
18 amended by adding Section 504.2026 to read as follows:

19 Sec. 504.2026. REFUSAL TO RENEW LICENSE: ACCESS TO PEER
20 ASSISTANCE PROGRAM. (a) Except as provided by Subsection (b), the
21 department may not renew a license under this chapter unless the
22 license holder provides to the department written documentation
23 that the license holder has access to an approved peer assistance
24 program.

25 (b) The department may waive the requirement of Subsection
26 (a) if the department determines that a peer assistance program is
27 not reasonably available to the license holder.

1 SECTION 13. Subsections (a), (b), and (c), Section 504.203,
2 Occupations Code, are amended to read as follows:

3 (a) A person who is otherwise eligible to renew a license
4 may renew an unexpired license by paying the required renewal fee to
5 the department [~~commission~~] before the expiration date of the
6 license.

7 (b) If the person's license has been expired for 90 days or
8 less, the person may renew the license by paying to the department
9 [~~commission~~] a fee in an amount equal to one and one-half times the
10 required renewal fee.

11 (c) If the person's license has been expired for more than
12 90 days but less than one year, the person may renew the license by
13 paying to the department [~~commission~~] a fee in an amount equal to
14 two times the required renewal fee.

15 SECTION 14. Section 504.204, Occupations Code, is amended
16 to read as follows:

17 Sec. 504.204. RENEWAL OF EXPIRED LICENSE OF OUT-OF-STATE
18 PRACTITIONER. (a) The department [~~commission~~] may renew without
19 reexamination an expired license of a person who was licensed in
20 this state, moved to another state, and is currently licensed and
21 has been in practice in the other state for the two years preceding
22 the date the person applies for renewal.

23 (b) The person must pay to the department [~~commission~~] a fee
24 in an amount equal to two times the required renewal fee for the
25 license.

26 SECTION 15. Subsections (a), (b), and (d), Section 504.205,
27 Occupations Code, are amended to read as follows:

1 (a) The department [~~commission~~] shall recognize, prepare,
2 or administer a continuing education program for chemical
3 dependency counselors. The executive commissioner [~~commission~~] by
4 rule shall provide for the administration of the continuing
5 education requirements established under this section.

6 (b) As a prerequisite for renewal of a license issued under
7 this chapter, a license holder, other than a license holder subject
8 to Subsection (c), must participate in the continuing education
9 program and complete [~~at least 60 hours of~~] continuing education
10 hours in each two-year licensing period as follows:

11 (1) 40 hours if the license holder holds an associate's
12 or bachelor's degree; and

13 (2) 24 hours if the license holder holds a master's
14 degree or a more advanced degree.

15 (d) Except for the number of hours required, the executive
16 commissioner [~~commission~~] may not adopt a rule under Subsection (a)
17 that distinguishes between the continuing education requirements
18 for a license holder subject to Subsection (b) and a license holder
19 subject to Subsection (c).

20 SECTION 16. Subsections (b) and (d), Section 504.206,
21 Occupations Code, are amended to read as follows:

22 (b) The department [~~commission~~] shall recognize, prepare,
23 or administer a training component that satisfies the requirement
24 of Subsection (a) for use in continuing education for chemical
25 dependency counselors.

26 (d) In developing the training component, the department
27 [~~commission shall consult with the Texas Department of Health and~~]

1 may, to the extent appropriate, consider the training course
2 relating to hepatitis C developed by the department under Section
3 94.002 [~~93.003~~], Health and Safety Code [~~as added by Chapter 823,~~
4 ~~Acts of the 76th Legislature, Regular Session, 1999~~].

5 SECTION 17. Subchapter F, Chapter 504, Occupations Code, is
6 amended to read as follows:

7 SUBCHAPTER F. DISCIPLINARY PROCEEDINGS

8 Sec. 504.251. GROUNDS FOR LICENSE, REGISTRATION, OR
9 CERTIFICATION DENIAL OR DISCIPLINARY ACTION. The department
10 [~~commission~~] shall refuse to issue a license, registration, or
11 certification issued by the department to an applicant, refuse to
12 renew a license, registration, or certification holder's license,
13 registration, or certification issued by the department, or take
14 disciplinary action against the holder of a license, registration,
15 or certification issued by the department [~~holder~~] if the applicant
16 or license, registration, or certification holder:

17 (1) violates or assists another to violate this
18 chapter or a rule adopted under this chapter;

19 (2) circumvents or attempts to circumvent this chapter
20 or a rule adopted under this chapter;

21 (3) directly or indirectly participates in a plan to
22 evade this chapter or a rule adopted under this chapter;

23 (4) has a license to practice chemical dependency
24 counseling in another jurisdiction refused, suspended, or revoked
25 for a reason that the department [~~commission~~] determines would
26 constitute a violation of this chapter or a rule adopted under this
27 chapter;

1 (5) engages in false, misleading, or deceptive conduct
2 as defined by Section 17.46, Business & Commerce Code;

3 (6) engages in conduct that discredits or tends to
4 discredit the profession of chemical dependency counseling;

5 (7) directly or indirectly reveals a confidential
6 communication made to the person by a client or recipient of
7 services, except as required by law;

8 (8) refuses to perform an act or service the person is
9 licensed, registered, or certified to perform under this chapter on
10 the basis of the client's or recipient's age, sex, race, religion,
11 national origin, color, or political affiliation; or

12 (9) commits an act for which liability exists under
13 Chapter 81, Civil Practice and Remedies Code.

14 Sec. 504.252. DISCIPLINARY POWERS OF DEPARTMENT
15 [~~COMMISSION~~]. (a) On a determination that grounds exist to deny a
16 license, registration, or certification issued by the department or
17 license, registration, or certification renewal issued by the
18 department or to take disciplinary action against the holder of a
19 license, registration, or certification issued by the department
20 [~~holder~~], the department [~~commission~~] may:

21 (1) refuse to issue or renew a license, registration,
22 or certification;

23 (2) revoke or suspend a license, registration, or
24 certification;

25 (3) place on probation a license, registration, or
26 certification holder whose license, registration, or certification
27 is suspended; or

1 (4) reprimand a license, registration, or
2 certification holder.

3 (b) If the department [~~commission~~] places on probation a
4 license, registration, or certification holder whose license,
5 registration, or certification issued by the department is
6 suspended, the department [~~commission~~] may require the license,
7 registration, or certification holder to:

8 (1) report regularly to the department [~~commission~~] on
9 matters that are the basis of the probation;

10 (2) limit practice to the areas prescribed by the
11 department [~~commission~~]; or

12 (3) continue or review professional education until
13 the license, registration, or certification holder attains a degree
14 of skill satisfactory to the department [~~commission~~] in the areas
15 that are the basis of the probation.

16 Sec. 504.2525. SUMMARY LICENSE, REGISTRATION, OR
17 CERTIFICATION SUSPENSION. (a) The department [~~commission~~] shall
18 suspend the license, registration, or certification issued by the
19 department of a license, registration, or certification holder if
20 the department [~~commission~~] receives written notice from the
21 Department of Public Safety or another law enforcement agency that
22 the license, registration, or certification holder has been
23 charged, indicted, placed on deferred adjudication, community
24 supervision, or probation, or convicted of an offense described by
25 Section 504.1525.

26 (b) To initiate a proceeding to take action under Subsection
27 (a), the department [~~commission~~] must serve notice on the license,

1 registration, or certification holder. The notice must:

2 (1) state the grounds for summary suspension; and

3 (2) be personally served on the license, registration,
4 or certification holder or sent to the license, registration, or
5 certification holder by certified or registered mail, return
6 receipt requested, to the license, registration, or certification
7 holder's mailing address as it appears in the department's
8 ~~[commission's]~~ records.

9 (c) The suspension is effective at the time notice is
10 served. The license, registration, or certification holder is
11 entitled to appeal the suspension as provided by Section 504.255.

12 Sec. 504.253. COMPLAINT AND INVESTIGATION. (a) A person
13 may file a complaint with the department ~~[commission]~~ alleging a
14 violation of this chapter. The complaint must be in writing and
15 under oath.

16 (b) The department ~~[commission]~~ shall provide to the person
17 filing the complaint and to each person or entity that is the
18 subject of the complaint the department's ~~[commission's]~~ policies
19 and procedures pertaining to complaint investigation and
20 resolution.

21 Sec. 504.254. RIGHT TO ADMINISTRATIVE HEARING. (a) If the
22 department ~~[commission]~~ proposes to suspend, revoke, or refuse to
23 renew a person's license, registration, or certification issued by
24 the department, the person is entitled to a hearing conducted by the
25 State Office of Administrative Hearings.

26 (b) Procedures for disciplinary action are governed by
27 Chapter 2001, Government Code. Rules of practice adopted by the

1 executive commissioner [~~commission~~] under Section 2001.004,
2 Government Code, applicable to the proceedings for a disciplinary
3 action may not conflict with rules adopted by the State Office of
4 Administrative Hearings.

5 Sec. 504.255. APPEAL OF CERTAIN [~~LICENSE~~] DENIALS, REFUSALS
6 TO RENEW, AND SUSPENSIONS. (a) A person whose license,
7 registration, or certification application is denied under Section
8 504.1525, whose license, registration, or certification renewal is
9 refused under Section 504.2025, or whose license, registration, or
10 certification is suspended under Section 504.2525 may appeal the
11 denial, refusal to renew, or suspension on the grounds that:

12 (1) the sole basis for the department's [~~commission's~~]
13 determination is a conviction or placement on community supervision
14 for an offense described by Section 504.1525; and

15 (2) sufficient time, as determined by executive
16 commissioner [~~commission~~] rule, has expired since the date of the
17 conviction or placement.

18 (b) A proceeding under this section is governed by Chapter
19 2001, Government Code.

20 (c) After a hearing under this section, the department
21 [~~commission~~] may determine that the person is entitled to a
22 license, registration, or certification under this chapter.

23 SECTION 18. Sections 504.301 and 504.303 through 504.307,
24 Occupations Code, are amended to read as follows:

25 Sec. 504.301. IMPOSITION OF PENALTY. The department
26 [~~commission~~] may impose an administrative penalty on a person who
27 violates this chapter or a rule adopted under this chapter.

1 Sec. 504.303. NOTICE OF VIOLATION AND PENALTY. If, after
2 investigation of a possible violation and the facts surrounding the
3 possible violation, the department [~~commission~~] determines that a
4 violation occurred, the department [~~commission~~] shall give written
5 notice of the violation to the person alleged to have committed the
6 violation. The notice must:

- 7 (1) include a brief summary of the alleged violation;
8 (2) state the amount of the proposed administrative
9 penalty; and
10 (3) inform the person of the person's right to a
11 hearing on the occurrence of the violation, the amount of the
12 penalty, or both.

13 Sec. 504.304. PENALTY TO BE PAID OR HEARING REQUESTED.

14 (a) Not later than the 20th day after the date the person receives
15 the notice under Section 504.303, the person may:

- 16 (1) accept the department's [~~commission's~~]
17 determination and proposed administrative penalty; or
18 (2) make a written request for a hearing on that
19 determination.

20 (b) If the person accepts the department's [~~commission's~~]
21 determination, the commissioner [~~executive-director~~] or the
22 commissioner's [~~executive-director's~~] designee by order shall
23 approve the determination and assess the proposed penalty.

24 Sec. 504.305. HEARING. (a) If the person requests a
25 hearing in a timely manner, the department [~~commission~~] shall set a
26 hearing and give written notice of the hearing to the person.

27 (b) The department [~~commission~~] may employ a hearings

1 examiner for this purpose.

2 (c) The hearings examiner shall:

3 (1) make findings of fact and conclusions of law; and

4 (2) promptly issue to the commissioner [~~executive~~
5 ~~director~~] or the commissioner's [~~executive-director's~~] designee a
6 proposal for decision as to the occurrence of the violation and the
7 amount of any proposed administrative penalty.

8 Sec. 504.306. DECISION BY DEPARTMENT [~~COMMISSION~~].

9 (a) Based on the findings of fact, conclusions of law, and
10 recommendations of the hearings examiner, the commissioner
11 [~~executive-director~~] or the commissioner's [~~executive-director's~~]
12 designee by order may determine that:

13 (1) a violation occurred and assess an administrative
14 penalty; or

15 (2) a violation did not occur.

16 (b) The department [~~commission~~] shall give notice of the
17 order to the person. The notice must include:

18 (1) separate statements of the findings of fact and
19 conclusions of law;

20 (2) the amount of any penalty assessed; and

21 (3) a statement of the person's right to judicial
22 review of the order.

23 Sec. 504.307. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.

24 (a) Not later than the 30th day after the date the department's
25 [~~commission's~~] order becomes final, the person shall:

26 (1) pay the administrative penalty;

27 (2) pay the penalty and file a petition for judicial

1 review contesting the fact of the violation, the amount of the
2 penalty, or both; or

3 (3) without paying the penalty, file a petition for
4 judicial review contesting the fact of the violation, the amount of
5 the penalty, or both.

6 (b) Within the 30-day period, a person who acts under
7 Subsection (a)(3) may:

8 (1) stay enforcement of the penalty by:

9 (A) paying the penalty to the court for placement
10 in an escrow account; or

11 (B) giving to the court a supersedeas bond
12 approved by the court that:

13 (i) is for the amount of the penalty; and

14 (ii) is effective until judicial review of
15 the order is final; or

16 (2) request the court to stay enforcement of the
17 penalty by:

18 (A) filing with the court a sworn affidavit of
19 the person stating that the person is financially unable to pay the
20 penalty and is financially unable to give the supersedeas bond; and

21 (B) giving a copy of the affidavit to the
22 department [~~commission~~] by certified mail.

23 (c) If the department [~~commission~~] receives a copy of an
24 affidavit under Subsection (b)(2), the department [~~commission~~] may
25 file with the court a contest to the affidavit not later than the
26 fifth day after the date the copy is received.

27 (d) The court shall hold a hearing on the facts alleged in

1 the affidavit as soon as practicable and shall stay enforcement of
2 the penalty on finding that the alleged facts are true. The person
3 who files an affidavit has the burden of proving that the person is
4 financially unable to pay the penalty and to give a supersedeas
5 bond.

6 SECTION 19. Section 504.310, Occupations Code, is amended
7 to read as follows:

8 Sec. 504.310. COLLECTION OF PENALTY. (a) In this section,
9 "reasonable expenses and costs" includes expenses incurred by the
10 department [~~commission~~] and the attorney general in the
11 investigation, initiation, or prosecution of an action, including
12 reasonable investigative costs, court costs, attorney's fees,
13 witness fees, and deposition expenses.

14 (b) If the person does not pay the administrative penalty
15 and the enforcement of the penalty is not stayed under Section
16 504.307, the department [~~commission~~] may refer the matter to the
17 attorney general for collection of the penalty.

18 (c) The department [~~commission~~] may assess reasonable
19 expenses and costs against a person in an administrative hearing
20 if, as a result of the hearing, an administrative penalty is
21 assessed against the person. The person shall pay expenses and
22 costs assessed under this subsection not later than the 30th day
23 after the date the order of the commissioner [~~executive director~~]
24 or the commissioner's [~~executive director's~~] designee requiring the
25 payment of expenses and costs is final. The department
26 [~~commission~~] may refer the matter to the attorney general for
27 collection of expenses and costs.

1 (d) If the attorney general brings an action against a
2 person to enforce an administrative penalty assessed under this
3 chapter and the person is found liable for the administrative
4 penalty, the attorney general may recover, on behalf of the
5 attorney general and the department [~~commission~~], reasonable
6 expenses and costs.

7 SECTION 20. Subsections (a) and (b), Section 504.351,
8 Occupations Code, are amended to read as follows:

9 (a) If it appears that a person has violated, is violating,
10 or is threatening to violate this chapter or a rule adopted under
11 this chapter, the department [~~commission~~] or the attorney general
12 at the request of the department [~~commission~~] may institute an
13 action in district court for an injunction, a civil penalty, or
14 both.

15 (b) On application for injunctive relief and a finding that
16 a person is violating or threatening to violate this chapter or a
17 rule adopted under this chapter, the district court may grant
18 injunctive relief as the facts warrant. The department
19 [~~commission~~] is not required to give an appeal bond in an appeal of
20 an action seeking injunctive relief under this section.

21 SECTION 21. Subdivisions (1), (2), and (5), Section
22 467.001, Health and Safety Code, are amended to read as follows:

23 (1) "Approved peer assistance program" means a program
24 that is designed to help an impaired professional and that is:

25 (A) established by a licensing or disciplinary
26 authority; or

27 (B) approved by a licensing or disciplinary

1 authority as meeting the criteria established by the department
2 [~~Texas Commission on Alcohol and Drug Abuse~~] and any additional
3 criteria established by that licensing or disciplinary authority.

4 (2) "Department" means the Department of State Health
5 Services [~~"Commission" means the Texas Commission on Alcohol and~~
6 ~~Drug Abuse~~].

7 (5) "Professional" means an individual who:

8 (A) may incorporate under The Texas Professional
9 Corporation Act (Article 1528e, Vernon's Texas Civil Statutes); or

10 (B) is licensed, registered, certified, or
11 otherwise authorized by the state to practice as a licensed
12 vocational nurse, social worker, chemical dependency counselor,
13 occupational therapist, speech-language pathologist, audiologist,
14 licensed dietitian, or dental or dental hygiene school faculty
15 member.

16 SECTION 22. Section 467.003, Health and Safety Code, is
17 amended to read as follows:

18 Sec. 467.003. PROGRAMS. (a) A professional association or
19 licensing or disciplinary authority may establish a peer assistance
20 program to identify and assist impaired professionals in accordance
21 with the minimum criteria established by the department
22 [~~commission~~] and any additional criteria established by the
23 appropriate licensing or disciplinary authority.

24 (b) A peer assistance program established by a professional
25 association is not governed by or entitled to the benefits of this
26 chapter unless the association submits evidence to the appropriate
27 licensing or disciplinary authority showing that the association's

1 program meets the minimum criteria established by the department
2 [~~commission~~] and any additional criteria established by that
3 authority.

4 (c) If a licensing or disciplinary authority receives
5 evidence showing that a peer assistance program established by a
6 professional association meets the minimum criteria established by
7 the department [~~commission~~] and any additional criteria
8 established by that authority, the authority shall approve the
9 program.

10 (d) A licensing or disciplinary authority may revoke its
11 approval of a program established by a professional association
12 under this chapter if the authority determines that:

13 (1) the program does not comply with the criteria
14 established by the department [~~commission~~] or by that authority;
15 and

16 (2) the professional association does not bring the
17 program into compliance within a reasonable time, as determined by
18 that authority.

19 SECTION 23. Section 411.1105, Government Code, is amended
20 to read as follows:

21 Sec. 411.1105. ACCESS TO CRIMINAL HISTORY RECORD
22 INFORMATION: DEPARTMENT OF STATE HEALTH SERVICES [~~TEXAS COMMISSION~~
23 ~~ON ALCOHOL AND DRUG ABUSE~~]. (a) The Department of State Health
24 Services [~~Texas Commission on Alcohol and Drug Abuse~~] is entitled
25 to obtain from the department criminal history record information
26 maintained by the department that relates to a person who is:

27 (1) an applicant for a chemical dependency counselor's

1 license, a counselor intern's registration, or a clinical
2 supervisor certification under Chapter 504, Occupations Code; or

3 (2) the holder of a license, registration, or
4 certification under that chapter.

5 (b) In addition to information obtained from the Federal
6 Bureau of Investigation under Section 411.087, the Department of
7 State Health Services [~~Texas Commission on Alcohol and Drug Abuse~~]
8 is entitled to obtain information relating to the wanted persons
9 status of an individual listed in Subsection (a).

10 (c) Criminal history record information obtained by the
11 Department of State Health Services [~~Texas Commission on Alcohol~~
12 ~~and Drug Abuse~~] under Subsection (a) may not be released or
13 disclosed to any person except on court order, with the consent of
14 the person who is the subject of the criminal history record
15 information, or as provided by Subsection (d).

16 (d) The Department of State Health Services [~~Texas~~
17 ~~Commission on Alcohol and Drug Abuse~~] may provide the applicant or
18 licensee with a copy of the person's criminal history record
19 information obtained from the Department of Public Safety, Federal
20 Bureau of Investigation identification division, or another law
21 enforcement agency.

22 SECTION 24. Section 504.154, Occupations Code, is repealed.

23 SECTION 25. (a) Not later than May 1, 2008, the executive
24 commissioner of the Health and Human Services Commission shall
25 adopt the rules and the Department of State Health Services shall
26 adopt the procedures necessary to implement the changes in law made
27 by this Act.

1 (b) The Department of State Health Services shall approve
2 one or more peer assistance programs as required under Section
3 504.057, Occupations Code, as added by this Act, not later than
4 September 1, 2008, provided that applicants for approval under that
5 section meet the criteria established by the department.

6 (c) Section 504.1521, Occupations Code, as added by this
7 Act, and Section 504.1525, Occupations Code, as amended by this
8 Act, apply only to an initial license application filed on or after
9 September 1, 2008. An initial license application filed before
10 that date is governed by the law in effect on the date the
11 application was filed, and the former law is continued in effect for
12 that purpose for the initial license application.

13 (d) The changes in law made by this Act to Section 504.2025,
14 Occupations Code, apply only to a renewal application filed on or
15 after September 1, 2008. A renewal application filed before that
16 date is governed for that renewal term by the law in effect on the
17 date the renewal application was filed, and the former law is
18 continued in effect for that purpose. A subsequent renewal
19 application filed on or after the date of expiration of that license
20 renewal term is subject to the changes in law made by this Act to
21 Section 504.2025, Occupations Code.

22 SECTION 26. (a) Except as provided by Subsection (b) of
23 this section, this Act takes effect September 1, 2007.

24 (b) Sections 504.1521 and 504.2025, Occupations Code, as
25 added by this Act, take effect September 1, 2008.

David Bushurst

President of the Senate

Tom Craddock

Speaker of the House

I hereby certify that S.B. No. 155 passed the Senate on April 26, 2007, by the following vote: Yeas 30, Nays 0; and that the Senate concurred in House amendment on May 24, 2007, by the following vote: Yeas 30, Nays 0.

Aetsy Spaw
Secretary of the Senate

I hereby certify that S.B. No. 155 passed the House, with amendment, on May 23, 2007, by the following vote: Yeas 144, Nays 0, two present not voting.

Robert Honey
Chief Clerk of the House

Approved:

15 JUN 07

Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE

9 PM O'CLOCK

JUN 15 2007

Roger Williams
Secretary of State