

BILL ANALYSIS

Senate Research Center
78R6267 YDB-F

C.S.S.B. 810
By: Harris
Health & Human Services
3/28/2003
Committee Report (Substituted)

DIGEST AND PURPOSE

In 2001, the 77th Texas Legislature passed H.B. 3365, which directed the Texas State Board of Social Work Examiners to adopt rules permitting a social worker to provide medical case management services under the medical assistance program, Chapter 32, Human Resources Code. This statute will expire on September 1, 2003. Accordingly, the board appointed a task force to review the current independent practice provisions for all categories of social work licensure and recommend revisions to the to the Social Work Practice Act to ensure adequate participation in the medical assistance program for the delivery of social work services. C.S.S.B. 810 sets forth the recommendations made by the task force, clarifies the three categories of licensure, and includes other provisions which update the Act.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas State Board of Social Worker Examiners is modified in SECTION 9 (Section 505.254, Occupations Code) and in SECTION 17 (Section 505.404, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 505.001, Occupations Code, as follows:

Sec. 505.001. SHORT TITLE. Authorizes this chapter to be cited as the Social Work Practice Act.

SECTION 2. Amends Section 505.002, Occupations Code, by amending Subdivision (3) and adding Subdivisions (4-a), to define "Council on Social Work Education," "licensed baccalaureate social worker," and "licensed clinical social worker."

SECTION 3. Amends Chapter 505A, Occupations Code, by adding Section 505.0025 as follows:

Sec. 505.0025. PRACTICE OF SOCIAL WORK. (a) Defines the practice of social work.

(b) Authorizes the practice of social work to include the provision of certain psychotherapy using certain assessments, diagnoses, treatments and other activities by persons licensed under this chapter.

SECTION 4. Amends Section 505.003, Occupations Code, as follows:

Sec. 505.003. APPLICATIONS AND EXEMPTIONS. (a) Provides that this chapter does not apply to certain services and activities.

(b) Provides that this chapter does not require a public agency or private employer, including a nonprofit corporation, to employ a person licensed under this chapter rather than a licensed master social worker, licensed social worker, or social work associate.

SECTION 5. Amends Section 505.101(a), Occupations Code, to reduce from three to two the number of licensed master social workers required to be appointed to the Texas State Board of Social Worker Examiners (board), to add two board members who are licensed clinical social workers, and to delete the requirement that one board member be a social work associate.

SECTION 6. Amends Section 505.201, Occupations Code, by adding Subsections (e) and (f), as follows:

(e) Requires the board for each type of license issued under this chapter, to establish certain requirements and criteria.

(f) Requires the board to establish procedures for recognition of independent practice.

SECTION 7. Amends Section 505.205(a), Occupations Code, to require the board to board to prepare and publish at its discretion a roster that contains the name and address of each person licensed under this chapter, rather than each person licensed master social worker, licensed social worker, and social work associate as stated in the board's records.

SECTION 8. Amends Section 505.206, Occupations Code, as follows:

Sec. 505.206. New heading: ROSTER OF INDEPENDENT SOCIAL WORKERS. Requires the board to publish a roster of persons recognized under Section 505.307 as qualified for the independent practice of social work, rather than the private and independent practice of social work.

SECTION 9. Amends Section 505.254(a), Occupations Code, to require the board to adopt rules concerning the investigation of a complaint filed with the department and referred to the board. Requires the rules adopted under this subsection to among other listed requirements, prescribe the time after an act or omission during which a person may file a complaint with the board regarding the act or omission in order for the board to consider the complaint.

SECTION 10. Amends Section 505.2545(h), Occupations Code, to make a conforming change.

SECTION 11. Amends Sections 505.301(a) and (b), Occupations Code, as follows:

(a) Authorizes the board to establish within the scope of social work practice and this chapter specialty areas, rather than a specialty area, of social work for license holders under this chapter who are licensed, rather than for master social workers, in good standing if establishment of the specialty areas is necessary to promote the public interest; and assists the public in identifying qualified persons in a social work practice specialty.

(b) Deletes reference to the private practice of social work except for a licensed master social worker who satisfies the minimum number of years of active.

SECTION 12. Amends Sections 505.303(b) and (c), Occupations Code, as follows:

(b) Replaces “Advanced Clinical Practitioner” and the initials “A.C.P” with “Licensed Clinical Social Worker” and the initials “LCSW” in reference to a title that a person may not use unless the person is recognized as qualified for the independent practice of clinical social work.

(c) Makes conforming changes in regard to the title of “Licensed Clinical Social Worker” for purposes of Article 21.52, Insurance Code.

SECTION 13. Amends Sections 505.305, 505.306, 505.307, and 505.351, Occupations Code, as follows:

Sec. 505.305. RECOGNITION OF SPECIALTY; ISSUANCE OF ORDER. (a) Makes conforming changes relating to the deletion of the terms “licensed master” and

“professional.”

(b) Makes conforming changes relating to the deletion of the terms “licensed master” and “professional.”

Sec. 505.306. PROHIBITED USE OF SPECIALTY AREA IDENTIFICATION OR TITLE. Makes conforming changes.

Sec. 505.307. New heading: INDEPENDENT PRACTICE RECOGNITION; MINIMUM QUALIFICATIONS. (a) Requires the board to establish procedures for recognizing a social worker, rather than a licensed master social worker, qualified for the independent, rather than private and independent practice of social work.

(b) Provides that a social worker, rather than a licensed master social worker may not be recognized as qualified for the independent practice of social work unless the person satisfies the requirements of social work education, experience, and supervision. Deletes text regarding a minimum number of years of experience. Deletes Subsection (c) regarding recognition as qualified for the private and independent practice of social work.

Sec. 505.351. LICENSE REQUIRED. (a) Prohibits a person from using or causing to be used the title "social worker," "licensed baccalaureate social worker," "licensed master social worker," "licensed clinical social worker," or "licensed social worker," or any combination, variation, or abbreviation of those titles, as a professional or business identification, representation, asset, or means of obtaining a benefit unless the person holds an appropriate license issued under this chapter. Deletes the title “social work associate.”

(b) Makes a conforming change.

(c) Makes a conforming change.

SECTION 14. Amends Section 505.353(b), Occupations Code, as follows:

(b) Authorizes an applicant to take the licensing examination conducted by the board under Section 505.354 for:

(2) a baccalaureate social worker license if the applicant possesses a baccalaureate degree in social work from an educational program accredited by the Council on Social Work Education; or

(3) a clinical social worker license if the applicant possesses a doctoral or master's degree in social work from an accredited graduate program approved by the board and meets the qualifications for clinical social work practice as determined by the board under this chapter. Deletes reference to a social work associate license.

SECTION 15. Amends Sections 505.358(a) and (b), Occupations Code, as follows:

(a) Make a conforming change regarding the deletion of the term social work associate.

(b) Makes conforming changes.

SECTION 16. Amends Section 505.360, Occupations Code, by amending Subsections (b) and (c) and adding Subsection (e), as follows:

(b) Requires a licensed master social worker to use the identification "licensed

master social worker" or the initials "LMSW" rather than the initial "L.M.S.W."

(c) Requires a licensed baccalaureate social worker to use the identification "licensed baccalaureate social worker" or the initials "LBSW" rather than the initials "L.S.W."

(e) Requires a licensed clinical social worker to use the identification "licensed clinical social worker" or the initials "LCSW."

SECTION 17. Amends Section 505.404(a), Occupations Code, to make conforming changes.

SECTION 18. Amends Section 505.502, Occupations Code, to make conforming changes.

SECTION 19. Amends Chapter 505J, Occupations Code, by adding Section 505.507, as follows:

Sec. 505.507. CRIMINAL PENALTY. (a) Provides that a person commits an offense if the person knowingly acts as a social worker without holding a license required under this chapter.

(b) Provides that an offense under Subsection (a) is a Class B misdemeanor.

SECTION 20. Amends Section 9(l), Article 42.12, Code of Criminal Procedure, to make a conforming change.

SECTION 21. Amends Section 202.002(a), Family Code, to make a conforming change.

SECTION 22. Amends Section 493.009(e), Government Code, by changing a reference to a "certified alcohol and drug abuse counselor" to a "licensed chemical dependency counselor." Makes conforming changes.

SECTION 23. Amends Section 501.0931(f), Government Code, by changing a reference to a "certified alcohol and drug abuse counselor" to a "licensed chemical dependency counselor." Makes conforming changes.

SECTION 24. Amends Section 61.0285(a), Health and Safety Code, to make conforming changes.

SECTION 25. Amends Section 142.001(27), Health and Safety Code, to define "social worker" as an individual licensed as a social worker under Chapter 505, Occupations Code, rather than Chapter 50, Human Resources Code.

SECTION 26. Amends Section 467.001(5), Health and Safety Code, to make a conforming change.

SECTION 27. Amends Section 571.003(15), Health and Safety Code, to redefine "non-physician mental health professional."

SECTION 28. Amends Section 2(B), Chapter 397, Acts of the 54th Legislature, Regular Session, 1955 (Article 3.70-2, Insurance Code), to make conforming changes.

SECTION 29. Reenacts and amends Section 1, Article 21.52, Insurance Code, as amended by Chapters 812 and 1014, Acts of the 77th Legislature, Regular Session, 2001, to make conforming changes.

SECTION 30. Reenacts and amends Section 3(a), Article 21.52, Insurance Code, as amended by Chapters 812 and 1014, Acts of the 77th Legislature, Regular Session, 2001, to make conforming changes.

SECTION 31. Amends Sections 3(b) and (c), Article 21.52, Insurance Code, to make

conforming changes.

SECTION 32. Amends Section 3(d), Article 21.52, Insurance Code, as amended by Chapters 812 and 1014, Acts of the 77th Legislature, Regular Session, 2001, to make conforming changes.

SECTION 33. Amends Section 205.303(a), Occupations Code, to make conforming changes.

SECTION 34. Amends Section 502.004, Occupations Code, to make a conforming change.

SECTION 35. Amends Section 1(7), Chapter 462, Acts of the 68th Legislature, Regular Session, 1983 (Article 4413(51), V.T.C.S.), to make a conforming change.

SECTION 36. Amends Section 4, Article 4512g-1, Revised Statutes, to make a conforming change.

SECTION 37. Repealers: Sections 505.002(1), (7), and (8) and 505.360(d), Occupations Code.

SECTION 38. Makes the changes in law made by this Act in the qualifications of members of the Texas State Board of Social Worker Examiners prospective.

SECTION 39. (a) Effective date: September 1, 2003.

(b) Provides that the changes in law made by this Act relating to the licensing of social work associates do not affect the right of a person to obtain, engage in conduct authorized by, or renew a social work associate license until the date the Texas State Board of Social Worker Examiners issues to the person a baccalaureate social worker license and cancels the person's social work associate license as provided by Subsection (c) of this section, and the former law is continued in effect for that purpose.

(c) Requires the Texas State Board of Social Worker Examiners as soon as practicable on or after September 1, 2004, to:

(1) issue a baccalaureate social worker license to each person who holds a social work associate license on September 1, 2004; and

(2) cancel the person's social work associate license.

(d) Provides that a baccalaureate social worker license issued under Subsection (c) of this section expires on the date the social work associate license that it replaces expires.

(e) Provides that except as provided by Subsection (d) of this section, the holder of a baccalaureate social worker license issued under this section has all the benefits, rights, duties, responsibilities, and obligations of the holder of a baccalaureate social worker license issued under Chapter 505, Occupations Code.

(f) Prohibits the Texas State Board of Social Worker Examiners from issuing a social work associate license after the date the board begins issuing baccalaureate social worker licenses to social work associates under Subsection (c) of this section. Requires the board to treat an application for a social work associate license that is pending on that date as an application for a baccalaureate social worker license.

SUMMARY OF COMMITTEE CHANGES

SECTION 6: Differs from the original by deleting proposed Subdivision (6) (requiring the board to establish scope of practice parameters) from Subsection (e) added to Section 505.201, Occupations Code.

SECTION 13: Differs from the original by leaving the word "shall" intact in Section 505.307, Occupations Code, requiring the board to establish certain procedures, rather than replacing it

with the word “may.”

SECTION 22: Differs from the original by changing a reference to a “certified alcohol and drug abuse counselor” to a “licensed chemical dependency counselor.”

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