

Introduced by Senator Wieckowski

February 17, 2016

An act to add Sections 11751.1 and 131055.3 to, and to add Part 6.5 (commencing with Section 1179.80) to Division 1 of the Health and Safety Code, relating to alcohol and drug counselors.

LEGISLATIVE COUNSEL'S DIGEST

SB 1101, as introduced, Wieckowski. Alcohol and drug counselors: regulation.

Existing law provides for the registration, certification, and licensure of various healing arts professionals. Existing law provides for various programs to eliminate alcohol and drug abuse, and states the finding of the Legislature that state government has an affirmative role in alleviating problems related to the inappropriate use of alcoholic beverages and other drug use.

This bill, among other things, would prohibit any person from using the title licensed alcohol and drug counselor unless the person had applied for and obtained a license from the State Department of Public Health, and would specify the minimum qualifications for a license, including, but not limited to, educational qualifications, being currently credentialed as an advanced alcohol and drug counselor, and having submitted to a criminal background check. The bill would provide that a license for an alcohol and drug counselor would be valid for 2 years unless at any time during that period it is revoked or suspended, that the license would be authorized to be renewed prior to the expiration of the 2-year period, and that a licensee fulfill continuing education requirements prior to renewal. The bill would also require that the license fee for an original alcohol and drug counselor license and the license renewal fee be reasonably related to the department's actual

costs in performing its duties under this part, but to not exceed \$200. The bill would require the department to ensure that the state and federal level criminal history of the applicant is reviewed before issuing a license, and the department would be required, with exceptions, to deny, suspend, delay, or set aside a person's license if, at the time of the department's determination, the person has a criminal conviction or pending criminal charge relating to an offense, the circumstances of which substantially relate to actions as a licensed alcohol and drug counselor.

This bill, effective July 1, 2017, would transfer the administrative and programmatic functions of the State Department of Health Care Services pertaining to alcohol and drug counselor certification and the approval and regulation of certifying organizations to the department. The bill would also require the State Department of Public Health to oversee the disciplinary actions of certifying organizations it approves, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Part 6.5 (commencing with Section 1179.80) is added to Division 1 of the Health and Safety Code, to read:

PART 6.5. REGULATION OF ALCOHOL AND DRUG
COUNSELING PROFESSIONALS

CHAPTER 1. LICENSING

1179.80. (a) A person shall not use the title of licensed alcohol and drug counselor unless the person has applied for and obtained a license from the State Department of Public Health.

(b) The applicant for an alcohol and drug counselor license shall meet minimum qualifications that include, but are not limited to, all of the following:

(1) Has earned a master of arts, master of science, or doctoral degree in addiction counseling, psychology, social work, counseling, marriage and family therapy, counseling psychology, clinical psychology, or other clinically focused major that requires no less than 21 semester units, or equivalent, of addiction specific

1 education approved by a certifying organization recognized by the
2 department, from an institution of higher learning accredited by a
3 regional accrediting agency, or a board for private postsecondary
4 education.

5 (2) Has demonstrated competence by passing a master's level
6 exam accepted by a certifying organization approved by the
7 department.

8 (3) Is currently credentialed as an advanced alcohol and drug
9 counselor and in good standing with a certification organization
10 recognized by the Department of Health Care Services pursuant
11 to Section 13035 of Title 9 of the California Code of Regulations,
12 as it read on January 1, 2017, and has no history of revocation by
13 a certifying organization, licensure board, or certifying entity.

14 (4) Has documented to the certifying organization that the
15 following courses have been completed:

16 (A) Three semester units, or the equivalent, of
17 psychopharmacology and physiology of addiction, including any
18 of the following areas:

19 (i) Examination of the effects of alcohol and similar legal
20 psychoactive drugs to the body and behavior.

21 (ii) Damage to the body and behaviors.

22 (iii) Damage to the brain, liver, and other organs.

23 (iv) Tolerance, cross tolerance, and synergistic effects.

24 (v) Physiological differences between males and females.

25 (vi) Disease model, including neurobiological signs and
26 symptoms.

27 (B) Three semester units, or the equivalent, of clinical evaluation
28 and psychopathology, including any of the following areas:

29 (i) Initial interviewing process.

30 (ii) Biopsychosocial assessment.

31 (iii) Differential diagnosis.

32 (iv) Diagnostic summaries.

33 (v) Co-occurring disorders, referral processes, and the evaluation
34 of clients using placement criteria, including the American Society
35 of Addiction Medicine (ASAM) patient placement criteria or other
36 validated clinical tools, to determine the most appropriate level of
37 care for the client and eligibility for admission to a particular
38 alcohol and other drug abuse treatment program.

- 1 (C) Three semester units, or the equivalent, of
2 counseling/psychotherapy for addiction, including all of the
3 following areas:
- 4 (i) Introduction to counseling.
 - 5 (ii) Introduction to techniques and approaches.
 - 6 (iii) Crisis intervention.
 - 7 (iv) Individual counseling focused on addiction.
 - 8 (v) Group counseling.
 - 9 (vi) Family counseling as it pertains to addiction treatment.
- 10 (D) Three semester units, or the equivalent, in case management,
11 including all of the following areas:
- 12 (i) Community resources.
 - 13 (ii) Consultation.
 - 14 (iii) Documentation.
 - 15 (iv) HIV-positive resources.
- 16 (E) Three semester units, or the equivalent, of client education,
17 including all of the following areas:
- 18 (i) Addiction recovery.
 - 19 (ii) Psychological client education.
 - 20 (iii) Biochemical and medical client education.
 - 21 (iv) Sociocultural client education.
 - 22 (v) Addiction recovery and psychological family education.
 - 23 (vi) Biomedical and sociocultural family education.
 - 24 (vii) Community and professional education.
- 25 (F) Three semester units, or the equivalent, of professional
26 responsibility law and ethics, including all of the following:
- 27 (i) Ethical standards, legal aspects, cultural competency,
28 professional growth, personal growth, dimensions of recovery,
29 clinical supervision, and consultation.
 - 30 (ii) Community involvement.
 - 31 (iii) Operating a private practice.
- 32 (G) Three semester units, or the equivalent, of supervised
33 fieldwork.
- 34 (5) Has submitted to a state and federal level criminal offender
35 record information search as part of a criminal background check
36 pursuant to Section 1179.84.
- 37 1179.81. (a) For a period not to exceed one year from the date
38 of accepting applications for the license, applicants with 12,000
39 hours experience are not required to meet the requirements of
40 paragraphs (1), (2), and (4) of subdivision (b) of Section 1179.80.

(b) Applicants who do not meet requirements of paragraphs (1), (2), and (4) of subdivision (b) of Section 1179.80 shall sit for the masters level exam required by paragraph (2) of subdivision (b) of Section 1179.80 before the first renewal period and shall provide proof of passing the exam to the certifying organization before one year after the end of the first renewal period.

1179.82. (a) A license for an alcohol and drug counselor shall be valid for two years unless at any time during that period it is revoked or suspended. The license may be renewed prior to the expiration of the two-year period.

(b) To qualify to renew the license, a licensee shall have completed 36 hours of continuing education units approved by the certification organization during the two-year license renewal period, which shall include six hours of ethics and law, six hours of co-occurring disorder, and three hours of cultural competency.

(c) The department may revoke the license of a licensed alcohol and drug counselor who is licensed pursuant to subdivision (b) of Section 1179.80 if either of the following occurs:

(1) The licensee loses his or her credential granted by the certifying organization.

(2) The licensee has been convicted of a felony charge that is substantially related to the qualifications, functions, or duties of a licensed alcohol and drug counselor. A plea of guilty or nolo contendere to a felony charge shall be deemed a conviction for the purposes of this paragraph.

1179.83. The license fee for an original alcohol and drug counselor license and the license renewal fee shall be reasonably related to the State Department of Public Health's actual costs in performing its duties under this part, but shall not exceed two hundred dollars (\$200).

1179.84. (a) Before issuing a license, the State Department of Public Health shall ensure that the state and federal level criminal history of the applicant is reviewed.

(b) (1) The department shall deny, suspend, delay, or set aside a person's license if, at the time of the department's determination, the person has a criminal conviction or criminal charge pending, relating to an offense, the circumstances of which substantially relate to actions as a licensed alcohol and drug counselor. Applicants who have a criminal conviction or pending criminal charge shall request the appropriate authorities to provide

1 information about the conviction or charge directly to the
2 department in sufficient specificity to enable the department to
3 make a determination as to whether the conviction or charge is
4 substantially related to actions as a licensed alcohol and drug
5 counselor.

6 (2) However, after a hearing or review of documentation
7 demonstrating that the applicant meets the specified criteria for a
8 waiver, the department may waive this subdivision if it finds any
9 of the following:

10 (A) For waiver of a felony conviction, more than five years
11 have elapsed since the date of the conviction. At the time of the
12 application, the applicant shall not be incarcerated, on work release,
13 on probation, on parole, or serving any part of a suspended sentence
14 and shall be in substantial compliance with all court orders
15 pertaining to fines, restitution, and community service.

16 (B) For waiver of a misdemeanor conviction or violation, at the
17 time of the application, the applicant shall not be incarcerated, on
18 work release, on probation, on parole, or serving any part of a
19 suspended sentence and shall be in substantial compliance with
20 all court orders pertaining to fines, restitution, and community
21 service.

22 (C) The applicant is capable of practicing licensed alcohol and
23 drug treatment services in a competent and professional manner.

24 (D) The granting of the waiver will not endanger the public
25 health, safety, or welfare.

26 (E) The applicant has not been convicted of a felony sexual
27 offense.

28 CHAPTER 2. POWERS AND DUTIES OF THE DEPARTMENT

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31 1179.85. It is the intent of the Legislature that the administrative
32 and programmatic functions of the State Department of Health
33 Care Services pertaining to alcohol and drug counselor certification
34 and the approval and regulation of certifying organizations be
35 transferred, pursuant to Section 131055.3, to the State Department
36 of Public Health effective July 1, 2017.

37 1179.86. The State Department of Public Health shall oversee
38 the disciplinary actions of certifying organizations it approves by
39 performing the following duties:

1 (a) Require that certifying organizations maintain national
2 accreditation by the Institute for Credentialing Excellence, or
3 another accrediting agency should the institute no longer perform
4 this function to the department's satisfaction.

5 (b) Adopt a uniform code of conduct, uniform disciplinary
6 guidelines, and consumer complaint procedures for alcohol and
7 drug counselors.

8 (c) Withdraw approval and certifying authority of a certifying
9 organization that does not uphold any disciplinary action rendered
10 by the department.

11 (d) Coordinate complaint investigations with certifying
12 organizations in a manner that objectively collects information
13 pertinent to making decisions for the protection of the public.

14 (e) Require that certifying organizations provide updated
15 information for all certified and registered alcohol and drug
16 counselors each quarter and information specific to individual
17 counselors and registrants upon demand.

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19 CHAPTER 3. CONSTRUCTION OF PART
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21 1179.87. (a) This part shall not be construed to constrict, limit,
22 or prohibit state licensed or certified facilities or programs, county
23 contracted alcohol and drug treatment facilities or programs, or
24 driving-under-the-influence programs from employing or
25 contracting with alcohol and drug counselors certified by a
26 certifying organization accredited and state approved under Chapter
27 8 (commencing with Section 13000) of Division 4 of Title 9 of
28 the California Code of Regulations as it read on January 1, 2017.

29 (b) This part shall not be construed to constrict, limit, or prohibit
30 state licensed or certified facilities or programs, county contracted
31 alcohol and drug treatment facilities or programs, or
32 driving-under-the-influence programs from employing or
33 contracting with licensed advanced alcohol and drug counselors
34 (LAADCs) or advanced alcohol and drug counselor interns
35 (AADCIs) when stipulating that licensed professionals be
36 employed or contracted with.

37 (c) This part shall not be construed to mandate the use of
38 LAADCs or AADCIs in state licensed or certified facilities or
39 programs, county operated or contracted alcohol and drug treatment
40 programs or facilities, or driving-under-the-influence programs.

1 SEC. 2. Section 11751.1 is added to the Health and Safety
2 Code, to read:

3 11751.1. Effective July 1, 2017, the State Department of Public
4 Health shall succeed to and be vested with all the duties, powers,
5 purposes, functions, responsibilities, and jurisdiction of the State
6 Department of Health Care Services, pursuant to Section 131055.3,
7 as they relate to the certification of alcohol and drug counselors
8 and the approval and regulation of certifying organizations.

9 SEC. 3. Section 131055.3 is added to the Health and Safety
10 Code, to read:

11 131055.3. (a) Effective July 1, 2017, the State Department of
12 Public Health shall succeed to and be vested with all the duties,
13 powers, purposes, functions, responsibilities, and jurisdiction of
14 the State Department of Health Care Services as they relate to the
15 certification of alcohol and drug counselors and the approval and
16 regulation of certifying organizations.

17 (b) Notwithstanding any other law, any reference in statute,
18 regulation, or contract to the State Department of Health Care
19 Services shall be construed to refer to the State Department of
20 Public Health when it relates to the transfer of duties, powers,
21 purposes, functions, responsibilities, and jurisdiction made pursuant
22 to this section.

23 (c) All fees collected, unexpended balances of appropriations,
24 and other funds available for use by the State Department of Health
25 Care Services in connection with any function or the administration
26 of any law transferred to the State Department of Public Health
27 pursuant to the act that added this section shall be available for
28 use by the State Department of Public Health for the purpose for
29 which the fees were collected, the appropriation was originally
30 made, or the funds were originally available.

31 (d) No contract, lease, license, or any other agreement to which
32 the State Department of Health Care Services is a party shall be
33 made void or voidable by reason of this section, but shall continue
34 in full force and effect with the State Department of Public Health
35 assuming all of the rights, obligations, and duties of the State
36 Department of Health Care Services with respect to the transfer
37 of duties, powers, purposes, functions, responsibilities, and
38 jurisdiction made pursuant to this section.

39 (e) All books, documents, forms, records, data systems, and
40 property of the State Department of Health Care Services with

1 respect to the transfer of duties, powers, purposes, functions,
2 responsibilities, and jurisdiction made pursuant to this section shall
3 be transferred to the State Department of Public Health.

4 (f) (1) Positions filled by appointment by the Governor in the
5 State Department of Health Care Services whose principal
6 assignment was to perform functions transferred pursuant to this
7 section shall be transferred to the State Department of Public
8 Health.

9 (2) All employees serving in state civil service, other than
10 temporary employees, who are engaged in the performance of
11 functions transferred pursuant to this section, are transferred to the
12 State Department of Public Health pursuant to the provisions of
13 Section 19050.9 of the Government Code. The status, positions,
14 and rights of those persons shall not be affected by their transfer
15 and shall continue to be retained by them pursuant to the State
16 Civil Service Act (Part 2 (commencing with Section 18500) of
17 Division 5 of Title 2 of the Government Code), except as to
18 positions the duties of which are vested in a position exempt from
19 civil service. The personnel records of all employees transferred
20 pursuant to this section shall be transferred to the State Department
21 of Public Health.

22 (g) Any regulation, order, or other action adopted, prescribed,
23 taken, or performed by an agency or officer in the administration
24 of a program or the performance of a duty, power, purpose,
25 function, or responsibility related to the certification of alcohol
26 and drug counselors and the approval and regulation of certifying
27 organizations in effect prior to July 1, 2017, shall remain in effect
28 unless or until amended, readopted, or repealed, or until they expire
29 by their own terms, and shall be deemed to be a regulation or action
30 of the agency to which or officer to whom the program, duty,
31 power, purpose, function, responsibility, or jurisdiction is assigned
32 pursuant to this section.

33 (h) No suit, action, or other proceeding lawfully commenced
34 by or against any agency or other officer of the state, in relation
35 to the administration of any program or the discharge of any duty,
36 power, purpose, function, or responsibility transferred pursuant to
37 this section, shall abate by reason of the transfer of the program,
38 duty, power, purpose, function, or responsibility under this section.

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