

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1101

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 amended, 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~~, *Health Care Services* 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

This 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. The bill would also require the department to oversee the disciplinary actions of certifying organizations it approves, as provided.

~~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:

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

3

4 PART 6.5. REGULATION OF ALCOHOL AND DRUG
5 COUNSELING PROFESSIONALS

6

7 CHAPTER 1. LICENSING

8

9 1179.80. (a) ~~For purposes of this part, "department" means~~
10 *the State Department of Health Care Services.*

11 (b) A person shall not use the title of licensed alcohol and drug
12 counselor unless the person has applied for and obtained a license
13 from the ~~State Department of Public Health.~~ *department.*

14 ~~(b)~~

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

4 (1) Has earned a master of arts, master of science, or doctoral
5 degree in addiction counseling, psychology, social work,
6 counseling, marriage and family therapy, counseling psychology,
7 clinical psychology, or other clinically focused major that requires
8 no less than 21 semester units, or equivalent, of addiction specific
9 education approved by a certifying organization recognized by the
10 department, from an institution of higher learning accredited by a
11 regional accrediting agency, or a board for private postsecondary
12 education.

13 (2) Has demonstrated competence by passing a master's level
14 exam accepted by a certifying organization approved by the
15 department.

16 (3) Is currently credentialed as an advanced alcohol and drug
17 counselor and in good standing with a certification organization
18 recognized by the ~~Department of Health Care Services~~ *department*
19 pursuant to Section 13035 of Title 9 of the California Code of
20 Regulations, as it read on January 1, 2017, and has no history of
21 revocation by a certifying organization, licensure board, or
22 certifying entity.

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

25 (A) Three semester units, or the equivalent, of
26 psychopharmacology and physiology of addiction, including any
27 of the following areas:

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

30 (ii) Damage to the body and behaviors.

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

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

33 (v) Physiological differences between males and females.

34 (vi) Disease model, including neurobiological signs and
35 symptoms.

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

38 (i) Initial interviewing process.

39 (ii) Biopsychosocial assessment.

40 (iii) Differential diagnosis.

- 1 (iv) Diagnostic summaries.
- 2 (v) ~~Co-occurring~~ *Cooccurring* disorders, referral processes, and
- 3 the evaluation of clients using placement criteria, including the
- 4 American Society of Addiction Medicine (ASAM) patient
- 5 placement criteria or other validated clinical tools, to determine
- 6 the most appropriate level of care for the client and eligibility for
- 7 admission to a particular alcohol and other drug abuse treatment
- 8 program.
- 9 (C) Three semester units, or the equivalent, of
- 10 counseling/psychotherapy for addiction, including all of the
- 11 following areas:
 - 12 (i) Introduction to counseling.
 - 13 (ii) Introduction to techniques and approaches.
 - 14 (iii) Crisis intervention.
 - 15 (iv) Individual counseling focused on addiction.
 - 16 (v) Group counseling.
 - 17 (vi) Family counseling as it pertains to addiction treatment.
- 18 (D) Three semester units, or the equivalent, in case management,
- 19 including all of the following areas:
 - 20 (i) Community resources.
 - 21 (ii) Consultation.
 - 22 (iii) Documentation.
 - 23 (iv) HIV-positive resources.
- 24 (E) Three semester units, or the equivalent, of client education,
- 25 including all of the following areas:
 - 26 (i) Addiction recovery.
 - 27 (ii) Psychological client education.
 - 28 (iii) Biochemical and medical client education.
 - 29 (iv) Sociocultural client education.
 - 30 (v) Addiction recovery and psychological family education.
 - 31 (vi) Biomedical and sociocultural family education.
 - 32 (vii) Community and professional education.
- 33 (F) Three semester units, or the equivalent, of professional
- 34 responsibility law and ethics, including all of the following:
 - 35 (i) Ethical standards, legal aspects, cultural competency,
 - 36 professional growth, personal growth, dimensions of recovery,
 - 37 clinical supervision, and consultation.
 - 38 (ii) Community involvement.
 - 39 (iii) Operating a private practice.

1 (G) Three semester units, or the equivalent, of supervised
2 fieldwork.

3 (5) Has submitted to a state and federal level criminal offender
4 record information search as part of a criminal background check
5 pursuant to Section 1179.84.

6 1179.81. (a) For a period not to exceed one year from the date
7 of accepting applications for the license, applicants with 12,000
8 hours experience are not required to meet the requirements of
9 paragraphs (1), (2), and (4) of subdivision~~(b)~~ (c) of Section
10 1179.80.

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

17 1179.82. (a) A license for an alcohol and drug counselor shall
18 be valid for two years unless at any time during that period it is
19 revoked or suspended. The license may be renewed prior to the
20 expiration of the two-year period.

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

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

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

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

37 1179.83. The license fee for an original alcohol and drug
38 counselor license and the license renewal fee shall be reasonably
39 related to the ~~State Department of Public Health's~~ *department's*

1 actual costs in performing its duties under this part, but shall not
2 exceed two hundred dollars (\$200).

3 1179.84. (a) Before issuing a license, the ~~State Department of~~
4 ~~Public Health~~ *department* shall ensure that the state and federal
5 level criminal history of the applicant is reviewed.

6 (b) (1) The department shall deny, suspend, delay, or set aside
7 a person's license if, at the time of the department's determination,
8 the person has a criminal conviction or criminal charge pending,
9 relating to an offense, the circumstances of which substantially
10 relate to actions as a licensed alcohol and drug counselor.
11 Applicants who have a criminal conviction or pending criminal
12 charge shall request the appropriate authorities to provide
13 information about the conviction or charge directly to the
14 department in sufficient specificity to enable the department to
15 make a determination as to whether the conviction or charge is
16 substantially related to actions as a licensed alcohol and drug
17 counselor.

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

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

28 (B) For waiver of a misdemeanor conviction or violation, at the
29 time of the application, the applicant shall not be incarcerated, on
30 work release, on probation, on parole, or serving any part of a
31 suspended sentence and shall be in substantial compliance with
32 all court orders pertaining to fines, restitution, and community
33 service.

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

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

38 (E) The applicant has not been convicted of a felony sexual
39 offense.

CHAPTER 2. POWERS AND DUTIES OF THE DEPARTMENT

~~1179.85. It is the intent of the Legislature that 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 be transferred, pursuant to Section 131055.3, to the State Department of Public Health effective July 1, 2017.~~

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

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

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

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

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

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

CHAPTER 3. CONSTRUCTION OF PART

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

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

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

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

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

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

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

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

~~(c) All fees collected, unexpended balances of appropriations, and other funds available for use by the State Department of Health Care Services in connection with any function or the administration of any law transferred to the State Department of Public Health pursuant to the act that added this section shall be available for use by the State Department of Public Health for the purpose for~~

1 which the fees were collected, the appropriation was originally
2 made, or the funds were originally available.

3 (d) ~~No contract, lease, license, or any other agreement to which~~
4 ~~the State Department of Health Care Services is a party shall be~~
5 ~~made void or voidable by reason of this section, but shall continue~~
6 ~~in full force and effect with the State Department of Public Health~~
7 ~~assuming all of the rights, obligations, and duties of the State~~
8 ~~Department of Health Care Services with respect to the transfer~~
9 ~~of duties, powers, purposes, functions, responsibilities, and~~
10 ~~jurisdiction made pursuant to this section.~~

11 (e) ~~All books, documents, forms, records, data systems, and~~
12 ~~property of the State Department of Health Care Services with~~
13 ~~respect to the transfer of duties, powers, purposes, functions,~~
14 ~~responsibilities, and jurisdiction made pursuant to this section shall~~
15 ~~be transferred to the State Department of Public Health.~~

16 (f) (1) ~~Positions filled by appointment by the Governor in the~~
17 ~~State Department of Health Care Services whose principal~~
18 ~~assignment was to perform functions transferred pursuant to this~~
19 ~~section shall be transferred to the State Department of Public~~
20 ~~Health.~~

21 (2) ~~All employees serving in state civil service, other than~~
22 ~~temporary employees, who are engaged in the performance of~~
23 ~~functions transferred pursuant to this section, are transferred to the~~
24 ~~State Department of Public Health pursuant to the provisions of~~
25 ~~Section 19050.9 of the Government Code. The status, positions,~~
26 ~~and rights of those persons shall not be affected by their transfer~~
27 ~~and shall continue to be retained by them pursuant to the State~~
28 ~~Civil Service Act (Part 2 (commencing with Section 18500) of~~
29 ~~Division 5 of Title 2 of the Government Code), except as to~~
30 ~~positions the duties of which are vested in a position exempt from~~
31 ~~civil service. The personnel records of all employees transferred~~
32 ~~pursuant to this section shall be transferred to the State Department~~
33 ~~of Public Health.~~

34 (g) ~~Any regulation, order, or other action adopted, prescribed,~~
35 ~~taken, or performed by an agency or officer in the administration~~
36 ~~of a program or the performance of a duty, power, purpose,~~
37 ~~function, or responsibility related to the certification of alcohol~~
38 ~~and drug counselors and the approval and regulation of certifying~~
39 ~~organizations in effect prior to July 1, 2017, shall remain in effect~~
40 ~~unless or until amended, readopted, or repealed, or until they expire~~

1 by their own terms, and shall be deemed to be a regulation or action
2 of the agency to which or officer to whom the program, duty,
3 power, purpose, function, responsibility, or jurisdiction is assigned
4 pursuant to this section.
5 (h) No suit, action, or other proceeding lawfully commenced
6 by or against any agency or other officer of the state, in relation
7 to the administration of any program or the discharge of any duty,
8 power, purpose, function, or responsibility transferred pursuant to
9 this section, shall abate by reason of the transfer of the program,
10 duty, power, purpose, function, or responsibility under this section.