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Bill Analysis

Legislative Service Commission

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Reps. Peterson, Clancy, Britton, Carmichael, Evans, Fedor, Hagan, Hollister, Latta, McGregor, R. Miller, Redfern, Reinhard, Rhine, Schmidt, Schuring, Setzer, Webster, Willamowski, Olman, Fessler

BILL SUMMARY

- Provides for the Ohio Department of Alcohol and Drug Addiction Services to continue to administer a process for the certification or credentialing of chemical dependency professionals for the purpose of Medicare and Medicaid reimbursement until the earlier of (1) the date on which a new board the bill creates, the Chemical Dependency Professionals Board, is to assume the Department's certification duties or (2) June 30, 2004.
- Provides for the Board, when it assumes the Department's certification duties, to issue different types of licenses and certificates for two professions: (1) chemical dependency counseling and (2) alcohol and other drug prevention services.
- Prohibits, with certain exceptions, a person from engaging in chemical dependency counseling for a fee, salary, or other consideration without the appropriate license or certificate from the Board.
- Prohibits a person from using chemical dependency counseling or alcohol and other drug prevention services titles without the appropriate license or certificate from the Board.
- Provides that the types of licenses for chemical dependency counseling are independent chemical dependency counselor, chemical dependency counselor III, and chemical dependency counselor II.

- Provides that the types of certificates for chemical dependency counseling are chemical dependency counselor I and chemical dependency counselor assistant.
- Provides that the Board may not issue an initial chemical dependency counselor I certificate but may renew, until June 30, 2008, such a certificate that on June 30, 2002, is accepted under current law as authority to practice as a chemical dependency counselor I.
- Provides that no person is permitted to represent to the public that the person engages in chemical dependency counseling as a chemical dependency counselor I on or after June 30, 2008.
- Provides that the types of certificates for alcohol and other drug prevention services are prevention specialist II, prevention specialist I, and registered applicant.
- Requires an individual issued a registered applicant certificate to submit to the Board, not later than four years after the certificate's effective date, documentation showing that the individual has completed the requirements to take an examination administered for the purpose of obtaining a prevention specialist II or prevention specialist I certificate.
- Requires such an individual to take the examination not later than one year after the Board notifies the individual that the individual meets the requirements to take the examination and, if the individual fails the examination, to retake the examination at least two times per year until the individual passes the examination and, not later than two years after the date of the first examination, to renew the certificate and complete 40 hours of prevention-related education.
- Requires the Board to revoke such an individual's registered applicant certificate if the individual fails to meet any of these requirements and provides that the individual may not apply for a new registered applicant certificate earlier than a period of time the Board is to determine in accordance with rules.
- Requires that the Board determine, as part of the review process of a license or certificate applicant who has obtained the applicant's education, experience, or both outside the United States, whether the

applicant's command of the English language and education or experience meet the requirements for the license or certificate.

- Requires that the Board prepare and grade examinations to determine the competence of individuals seeking an independent chemical dependency counselor license, chemical dependency counselor III license, chemical dependency counselor II license, prevention specialist II certificate, or prevention specialist I certificate.
- Permits the Board to enter into a reciprocal agreement with any state that regulates individuals practicing in the same capacities as those the Board regulates if the Board finds that the state has requirements substantially equivalent to Ohio's requirements for receiving a license or certificate and permits the Board to become a member of a national reciprocity organization that requires its members to have requirements substantially equivalent to the requirements of this state.
- Permits the Board to issue, by endorsement, the appropriate license or certificate to a resident of a state with which the Board does not have a reciprocal agreement if the Board finds that the state has requirements substantially equivalent to the requirements of this state and the individual submits satisfactory proof of being currently authorized to practice by that state.
- Requires, with certain exceptions, that each individual who holds a license or certificate issued by the Board complete, as a condition of renewal, not less than 40 clock hours of continuing education.
- Requires, with certain exceptions, that each individual seeking restoration of an expired license complete a number of hours of continuing education the Board is to specify in rules.
- Provides that a license or certificate issued by the Board, other than a registered applicant certificate, expires two years after it is issued and may be renewed in accordance with the standard renewal procedure.
- Provides that a license or certificate issued by the Board, other than a registered applicant certificate, that has expired may be restored if the individual seeking restoration applies for restoration not later than two years after the license or certificate expires.

- Authorizes the Board to refuse to issue or renew, or to suspend, revoke, or otherwise restrict a license or certificate or to reprimand a license or certificate holder for certain reasons.
- Requires that the Board establish codes of ethical practice and professional conduct for those who hold a license or certificate issued by the Board.
- Provides that the bill neither authorizes an individual to engage in the practice of psychology, professional counseling, or social work, except to the extent of providing services authorized by the bill, nor authorizes an individual who holds a license or certificate issued by the Board to admit a patient to a hospital or require a hospital to allow any such individual to admit a patient.
- Provides that an individual who holds a license or certificate issued by the Board has testimonial privilege concerning a communication made to the individual by a client or consumer in that relation, the individual's advice to the client or consumer, and a communication made to the individual by a licensed health professional in regard to a client or consumer, except as permitted by federal law or regulation.
- Provides that the Board is to consist of twelve voting members appointed by the Governor with the advice and consent of the Senate and one ex officio member appointed by the Director of Alcohol Drug Addiction Services to represent the Department.
- Provides that, except for the initial appointees, voting members of the Board are to serve three-year terms and the ex officio member is to serve at the pleasure of the Director of Alcohol and Drug Addiction Services.
- Provides that the voting members are to receive, for each day employed in the discharge of their official duties, an amount established by the Director of Administrative Services pursuant to the pay schedules for public employees exempt from the collective bargaining law.
- Provides that the voting members are also to be reimbursed for their necessary and actual expenses incurred in the performance of their official duties.

- Requires the Board to employ an executive director and permits the Board to employ and prescribe the powers and duties of employees and consultants as are necessary to carry out its duties.
- Prohibits the Board from discriminating against any licensee, certificate holder, or applicant for a license or certificate because of the individual's race, color, religion, gender, national origin, disability, or age.
- Requires that the Board establish fees for examinations, issuing and renewing licenses and certificates, approving continuing education courses, and doing anything else it determines necessary to administer the bill.
- Creates the Chemical Dependency Professionals Board Fund and requires all of the Board's receipts to be deposited in the state treasury to the credit of the fund.
- Provides that money credited to the Department's Credentialing Fund be transferred to the new fund at the earlier of (1) the date on which the Board is to assume the Department's certification duties and (2) June 30, 2004.
- Makes an appropriation.

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CONTENT AND OPERATION

Background

Under current law that sunsets July 1, 2002, the Ohio Department of Alcohol and Drug Addiction Services must establish and administer a process for the certification or credentialing of chemical dependency professionals for the purpose of qualifying their services for reimbursement under Medicare or Medicaid. The process must be made available to any individual who is a member of the profession of alcoholism counseling, drug abuse counseling, or chemical dependency counseling or any individual who is an alcoholism or drug abuse prevention consultant or specialist. Certification or credentialing is not required for services not reimbursed by Medicare or Medicaid.

This law is to change July 1 when the Department is, instead, to accept certification or credentialing from the Ohio Credentialing Board for Chemical Dependency Professionals, unless the Director of Alcohol and Drug Addiction Services finds that this does not serve the public interest. If it accepts certification or credentialing by the Credentialing Board, the Department, in cooperation with the Ohio Department of Job and Family Services and the Credentialing Board, must prepare and submit to the federal agency responsible for administration of Medicare and Medicaid a request that the federal agency accept for the purpose of Medicare or Medicaid reimbursement certification and credentialing by the Credentialing Board. If the request is denied, the Department of Alcohol and Drug Addiction Services is to assist the Credentialing Board in any actions it takes to establish standards acceptable to the federal agency and, in cooperation with the Department of Job and Family Services, submit additional requests to the federal agency for approval of the credentialing board's standards. If that board changes

its standards to obtain the federal agency's approval, the changes are to apply only to certifications made and credentials issued after the change's effective date and do not affect the validity of certifications made or credentials issued prior to that date.

If the Director finds that the public interest is not served in accepting certification or credentialing by the Credentialing Board, the Director is to make a written request to the Council on Alcohol and Drug Addiction Services for authority for the Department to establish a certification or credentialing program or accept certifications or credentials from an entity designated by the Department. The Council is required, if it determines there is substantial evidence to support the Director's finding, to authorize by resolution the Department to take either or both of these actions.¹

Department to issue certificates or credentials until new board takes over

(sec. 3793.07; Sections 3 and 6)

The bill repeals the law that is to take effect July 1 and provides instead that the Department of Alcohol and Drug Addiction Services is to continue to administer its certifying or credentialing process until the earlier of (1) the date on which a new board the bill creates, the Chemical Dependency Professionals Board, is to assume the Department's certification duties or (2) June 30, 2004.² The date the new Board is to assume the certification duties is to be specified in an agreement between the Department and the Board. The Department is required to work with the Board to enable the orderly transition from the Department's issuance of certificates and credentials to the Board's issuance of certificates and licenses.

While it continues to administer the process, the Department is to certify or credential chemical dependency counselors, rather than chemical dependency professionals, and in addition, is to certify or credential alcohol and other drug abuse prevention specialists. The bill retains the provision under which the

¹ *The law that is to take effect July 1, 2002, is the same as the law in effect prior to February 12, 2001, when the current law went into effect. In other words, on July 1, the law will revert to the way it was prior to February 12, 2001.*

² *The references to June 30 of different years in this analysis are based on Section 5 of the bill, which provides that Sections 1 to 4 of the bill take effect June 30, 2002. For this to happen, the bill must be signed by the Governor and filed with the Secretary of State by March 31, 2002. If that does not happen, the bill's effective date will be later and the June 30 references will be inaccurate. This is because the bill exempts only the appropriation from the referendum.*

process is to be made available to any individual who is a member of the profession of drug abuse counseling or chemical dependency counseling but eliminates the inclusion of the profession of alcoholism counseling. The bill also provides that the procedure is to be available to any individual who is an alcohol and other drug abuse prevention specialist, rather than an alcoholism or drug abuse prevention consultant or specialist. The Department is not to issue an initial certificate or credential to practice as a chemical dependency counselor I unless the application for certification or credentialing is submitted prior to June 30, 2002. The Department may renew chemical dependency counselor I certificates or credentials until it ceases to administer the certification or credentialing process.

Professions for which the Board is to issue licenses or certificates

(secs. 4758.01, 4758.02, 4758.15, 4758.19, 4758.22, 4758.45, 4758.46, 4758.47, 4758.48, 4758.49, 4758.50, 4758.51, 4758.60, and 4758.99)

The bill establishes different types of licenses and certificates the Board is to issue when it assumes the Department's certification duties. The types relate to two different professions: chemical dependency counseling and alcohol and other drug prevention services.

In contrast to current law, which requires the Department certification or credentialing only of services reimbursed by Medicare or Medicaid, the bill prohibits, with certain exceptions, a person from engaging in chemical dependency counseling for a fee, salary, or other consideration without the appropriate license or certificate issued by the Board.³ A first violation of the prohibition is a misdemeanor of the fourth degree. Subsequent violations are a misdemeanor of

³ *The prohibition against engaging in chemical dependency counseling consideration without the appropriate license or certificate does not apply to (1) individuals who are licensed or registered or hold a certificate issued by another state professional regulatory entity while performing services within the recognized scope, standards, and ethics of their respective professions, (2) an individual who is a rabbi, priest, Christian Science practitioner, clergy, or member of a religious order and other individuals participating with them in pastoral counseling when the chemical dependency counseling activities are within the scope of the performance of their regular or specialized ministerial duties and are performed under the auspices or sponsorship of an established and legally cognizable church, denomination, or sect or an integrated auxiliary of a church and the individual rendering the service remains accountable to the established authority of that church, denomination, sect, or integrated auxiliary, or (3) a student in an accredited educational institution while carrying out activities that are part of the student's prescribed course of study if the activities are supervised as required by the educational institution and the student is not represented as an individual who holds a license or certificate issued by the Board.*

the third degree.⁴ The bill does not prohibit engaging in alcohol and other drug prevention services without certification by the Board but does prohibit using prevention services titles without certification. Using chemical dependency counseling titles without a license or certificate is also prohibited.⁵

Chemical dependency counseling

Under the bill, chemical dependency counseling is rendering or offering to render to individuals, groups, or the public a counseling service involving the application of alcohol and other drug clinical counseling principles, methods, or procedures to assist individuals who are abusing or dependent on alcohol or other drugs. Alcohol and other drug clinical counseling principles, methods, or procedures are an approach to counseling that emphasizes the counselor's role in systematically assisting clients through (1) assessing and analyzing background and current information, (2) exploring possible solutions, (3) developing and providing a treatment plan, and (4) diagnosing chemical dependency conditions. The principles, methods, or procedures include counseling, assessing, consulting, and referral.

The types of licenses for chemical dependency counseling that the bill establishes are independent chemical dependency counselor, chemical dependency counselor III, and chemical dependency counselor II.⁶ An individual holding one of these licenses may perform assessment, crisis intervention, individual and group counseling, case management, and education services as they relate to abuse of and dependency on alcohol and other drugs. Licensed independent chemical dependency counselors and chemical dependency counselors III may also perform treatment planning as they relate to such abuse and dependency. They may diagnose and treat chemical dependency conditions too.⁷ A chemical dependency

⁴ *The prohibition against engaging in chemical dependency counseling for consideration without the appropriate license or certificate goes into effect at the same time as the bill's other provisions, including the creation of the Board. This means the Board will not have any time to establish the license and certification process before the requirement to have the license or certificate is in effect. The bill needs an amendment to deal with this.*

⁵ See "**Prohibition against unauthorized use of titles**" below.

⁶ *The element of alcohol and other drug clinical counseling principles, methods, or procedures regarding diagnosing chemical dependency conditions applies only to independent chemical dependency counselors and chemical dependency counselor IIIs.*

⁷ *Chemical dependency conditions are those conditions relating to the abuse of or dependency on alcohol or other drugs that are classified in accepted nosologies, including the International Classification of Diseases, and in editions of those nosologies published after June 30, 2002. A nosology is a classification of diseases.*

counselor III must be supervised by one of the following when diagnosing chemical dependency conditions: an independent chemical dependency counselor, an individual authorized to practice medicine and surgery or osteopathic medicine and surgery, a psychologist, or, to the extent the supervision is consistent with the professional's scope of practice, a registered nurse, professional clinical counselor, or independent social worker.

In addition to the licenses, the bill establishes two chemical dependency counselor certificates: chemical dependency counselor I and chemical dependency counselor assistant. An individual who holds either certificate is permitted to perform assessment, crisis intervention, individual and group counseling, case management, and education services as they relate to abuse or dependency on alcohol and other drugs. A chemical dependency counselor assistant must work under the supervision of a chemical dependency counselor III or an individual authorized to supervise a chemical dependency counselor III diagnose chemical dependency conditions. The authority of chemical dependency counselors I to perform these tasks ends June 30, 2008. The Board may not issue an initial chemical dependency counselor I certificate but may renew a certificate that on June 30, 2002, is accepted under current law as authority to practice as a chemical dependency counselor I. The Board may not renew or restore, after June 30, 2008, a chemical dependency counselor I certificate. No person is permitted to represent to the public that the person engages in chemical dependency counseling as a chemical dependency counselor I on or after that date.

The bill authorizes an independent chemical dependency counselor, chemical dependency counselor III, chemical dependency counselor II, and chemical dependency counselor I to practice as a member of a partnership or group practice or at an alcohol and drug addiction program certified by the Department of Alcohol and Drug Addiction Services. An independent chemical dependency counselor may also practice as an individual practitioner. None of the other license or certificate holders may practice as an independent practitioner.

Alcohol and other drug prevention services

The types of certificates for alcohol and other drug prevention services that the bill establishes are prevention specialist II, prevention specialist I, and registered applicant. Prevention specialists II and I and registered applicants are permitted to render or offer to render to individuals, groups, or the public services involving approaches and activities designed to preclude the onset of alcohol and

other drug problems, addiction, or both.⁸ A registered applicant must operate under the supervision of a prevention specialist II or I.

An individual issued a registered applicant certificate is required, not later than four years after the certificate's effective date, to submit to the Board documentation showing completion of the requirements to take an examination administered for the purpose of obtaining a prevention specialist II or prevention specialist I certificate. The Board is to adopt rules specifying the documentation that must be submitted and establishing the requirements that must be met to take the examination. The Board is required to notify an individual who submits the required documentation within the required time that the individual meets the requirements to take the examination. The individual must take the examination not later than one year after the notice. An individual who fails the examination must retake it at least two times per year until passing and, not later than two years after the date of the first examination, renew the certificate and complete 40 hours of prevention-related education that meets requirements the Board is to specify in rules. The Board must revoke the certificate if the individual fails to meet any of these requirements. The individual may not apply for a new registered applicant certificate earlier than a period of time the Board is to determine in accordance with rules it is to adopt.

Rules governing supervision duties

The Board is required to adopt rules specifying the duties of an individual who supervises a chemical dependency counselor III, chemical dependency counselor II, chemical dependency counselor I, chemical dependency counselor assistant, or registered applicant. The duties may differ.

Prohibition against unauthorized use of titles

(secs. 4758.02 and 4758.99)

The bill prohibits any person from using the title "licensed independent chemical dependency counselor," "LICDC," "licensed chemical dependency counselor III," "LCDC III," "licensed chemical dependency counselor II," "LCDC II," "certified chemical dependency counselor I," "CCDC I," "chemical dependency counselor assistant," "CDCA," or any other title or description incorporating the word "chemical dependency counselor" or any other initials used to identify persons acting in those capacities unless currently authorized to act in

⁸ *Although the requirements to obtain a prevention specialist II certificate are higher than the requirements for a prevention specialist I, the bill authorizes a prevention specialist I to perform the same duties as a prevention specialist II.*

the capacity indicated by the title or initials. Persons are prohibited from using the title "certified prevention specialist II," "CPS II," "certified prevention specialist I," "CPS I," "registered applicant," or any other title, description, or initials used to identify persons acting in those capacities unless currently authorized to act in the capacity indicated by the title or initials. The bill also prohibits any person from representing to the public that the person is a registered applicant unless the person holds a valid registered applicant certificate. A first violation of these prohibitions is a misdemeanor of the fourth degree. A second or subsequent violation is a misdemeanor of the third degree.

Applications

(secs. 4758.15, 4758.30, and 4758.31)

The bill requires an individual seeking a license or certificate to file with the Board a written application on a form the Board prescribes. Each form must state that a false statement made on the form is the crime of falsification.

The Board must require one or more of its employees to receive and review all applications the Board receives and submit to the Board all applications the employees recommend the Board review based on criteria the Board is to establish in rules.

The Board is required to review all applications the employees submit to it. As part of the review process of an applicant who has obtained the applicant's education, experience in chemical dependency counseling or alcohol and other drug prevention services, or education and experience outside the United States, the Board must determine whether the applicant's command of the English language and education or experience meet the requirements for the license or certificate.

Requirements for license

(secs. 4758.15, 4758.19, 4758.33, 4758.34, 4758.35, 4758.36, 4758.37, and 4758.38)

The bill establishes general and specific requirements for obtaining a license or certificate. An individual meets the general requirements if he or she (1) has a good moral character as determined in accordance with rules the Board is to adopt, (2) submits a properly completed application and all other documentation specified in rules the Board is to adopt, and (3) pays the fee for the license or certificate.⁹ The specific requirements are applicable to the particular license or

⁹ See "**Fees**" below.

certificate an individual seeks and include requirements the bill details and additional requirements the Board is to specify in rules.¹⁰ The additional requirements specified in rules may include preceptorships. The specific requirements that the bill details include alternatives an individual may meet until the date the Department ceases to administer its certification and credentialing process.

An individual seeking an independent chemical dependency counselor or chemical dependency counselor III license must hold from an accredited educational institution a degree in behavioral sciences that meets the course requirements specified in rules the Board is to adopt. If the individual seeks an independent chemical dependency counselor license, the degree must be a master's. A bachelor's degree is needed for a chemical dependency counselor III license. In addition, the individual must (1) have not less than 4,000 hours of compensated work experience in the field of counseling, not less than 800 hours of which are in chemical dependency counseling, (2) have a minimum of 270 hours of training in chemical dependency counseling that meets requirements specified in rules the Board is to adopt, and (3) pass one or more examinations administered for the purpose of determining competence to practice as an independent chemical dependency counselor or chemical dependency counselor III, as appropriate.¹¹

Under the alternative requirements for an independent chemical dependency counselor license, an individual must (1) hold, on June 30, 2002, a certificate or credentials accepted under current law as authority to practice as a certified chemical dependency counselor III or certified chemical dependency counselor III-E and (2) either (a) hold from an accredited educational institution a master's degree in behavioral sciences that meets the course requirements specified in rules the Board is to adopt or (b) have held a chemical dependency counselor III, II, or I certificate for at least eight consecutive years and have at least 30 hours of training approved by the Board in behavioral health diagnosis.

The bill includes two alternative requirements for a chemical dependency counselor III license. Under the first alternative, an individual must (1) hold, on June 30, 2002, a certificate or credentials accepted under current law as authority to practice as a certified chemical dependency counselor III or certified chemical dependency counselor III-E and (2) have not less than 30 hours of approved training in behavioral health diagnosis. Under the second alternative, an

¹⁰ *The bill does not detail specific requirements for a registered applicant certificate.*

¹¹ *The bill defines "accredited educational institution" as an educational institution accredited by an accrediting agency accepted by the Ohio Board of Regents. See "Examinations" below.*

individual must (1) hold a bachelor's degree in a behavioral science, (2) hold, on June 30, 2002, a certificate or credentials accepted under current law as authority to practice as a certified chemical dependency counselor II, and (3) have not less than 30 hours of approved training in diagnosis of chemical dependency conditions.

An individual seeking a chemical dependency counselor II license must (1) hold from an accredited educational institution an associate's degree in a behavioral science or a bachelor's degree in any field, (2) have, if the individual holds an associate's degree, not less than 5,000 hours compensated or volunteer work experience in counseling, not less than 1,000 hours of which are in chemical dependency counseling, (3) have, if the individual holds a bachelor's degree, not less than 6,000 of compensated or volunteer work experience in counseling, not less than 1,200 hours of which are in chemical dependency counseling, (4) have a minimum of 270 hours of chemical dependency counseling training that meets the requirements specified in rules the Board is to adopt, and (5) pass one or more examinations administered for the purpose of determining competence to practice as a chemical dependency counselor II. Under the alternative requirements, an individual must (1) hold from an accredited educational institution an associate's degree in a behavioral science or a bachelor's degree in any field and (2) hold, on June 30, 2002, a certificate or credentials accepted under current law as authority to practice as a certified chemical dependency counselor II.

The requirement for a chemical dependency counselor assistant certificate is at least 40 hours of chemical dependency counseling training that meets the requirements specified in rules the Board is to adopt. The alternative requirement is to hold, on June 30, 2002, a certificate or credentials accepted under current law as authority to practice as a registered candidate.

An individual seeking a prevention specialist II certificate must (1) have compensated work experience in which not less than 50% of the individual's time was devoted to planning, coordinating, or delivering alcohol and other drug prevention services, (2) have either (a) a bachelor's degree in a behavioral science and at least 6,000 hours of compensated work experience in alcohol and other drug prevention services or (b) a master's or doctoral degree in a behavioral science and at least 4,000 hours of compensated work experience in alcohol and other drug prevention services, (3) have at least 270 hours of prevention-related education that meets the requirements specified in rules the Board is to adopt, (4) obtain a registered applicant certificate and comply with the bill's requirements regarding registered applicants, and (5) pass an examination administered for the purpose of determining competence to practice as a prevention specialist II. Under the alternative requirements, the individual must (1) hold, on June 30, 2002, a certificate or credentials accepted under current law as authority to practice as a

certified prevention specialist II and (2) have either (a) a bachelor's degree in a behavioral science and at least 6,000 hours of compensated work experience in alcohol and other drug prevention services or (b) a master's or doctoral degree in a behavioral science and at least 4,000 hours of compensated work experience in alcohol and other drug prevention services.

An individual who seeks a prevention specialist I certificate must (1) have compensated or volunteer work experience in which not less than 20% of the individual's time was devoted to planning or delivering alcohol and other drug prevention services, (2) have either (a) at least 6,000 hours of compensated or volunteer work experience in alcohol and other drug prevention services, (b) an associate's degree in a behavioral science and at least 4,000 hours of compensated or volunteer work experience in alcohol and other drug prevention services, or (c) a bachelor's, master's, or doctoral degree in a behavioral science and at least 2,000 hours of compensated or volunteer work experience in alcohol and other drug prevention services, (3) have at least 180 hours of prevention-related education that meets the requirements specified in rules the Board is to adopt, (4) obtain a registered applicant certificate and comply with the bill's requirements for registered applicants, and (5) pass an examination administered for the purpose of determining competence to practice as a prevention specialist I. Under the alternative requirements, an individual must (1) hold, on June 30, 2002 a certificate or credentials accepted under current law as authority to practice as a certified prevention specialist I and (2) have either (a) at least 6,000 hours of compensated or volunteer work experience in alcohol and other drug prevention services, (b) an associate's degree in a behavioral science and at least 4,000 hours of compensated or volunteer work experience in alcohol and other drug prevention services, or (c) a bachelor's, master's, or doctoral degree in a behavioral science and at least 2,000 hours of compensated or volunteer work experience in alcohol and other drug prevention services.

Examinations

(sec. 4758.17)

The Board is required to prepare, cause to be prepared, or procure the use of, and grade, cause to be graded, or procure the grading of, examinations to determine the competence of individuals seeking an independent chemical dependency counselor license, chemical dependency counselor III license, chemical dependency counselor II license, prevention specialist II certificate, or prevention specialist I certificate. The Board may develop the examinations or use examinations prepared by state or national organizations that represent the interests of those involved in chemical dependency counseling or alcohol and other drug prevention services. The Board is required to conduct examinations at

least twice each year and determine the level of competence necessary for a passing score.

An individual is not permitted to sit for an examination unless the individual meets the requirements to obtain the license or certificate the individual seeks, other than the requirement to have passed the examination, and pays the examination fee.¹² An individual denied admission to the examination is permitted to appeal in accordance with the Administrative Procedure Act (Revised Code Chapter 119.).

License by reciprocity or endorsement

(sec. 4758.20)

The Board is permitted to enter into a reciprocal agreement with any state that regulates individuals practicing in the same capacities as those the Board regulates if the Board finds that the state has requirements substantially equivalent to Ohio's requirements for receiving a license or certificate. The Board may also become a member of a national reciprocity organization that requires its members to have requirements substantially equivalent to the requirements of this state. If the Board becomes a member of such an organization, it must consider itself to have a reciprocal agreement with the other states that are also members of the organization.

The bill authorizes the Board to issue, by endorsement, the appropriate license or certificate to a resident of a state with which the Board does not have a reciprocal agreement if the Board finds that the state has requirements substantially equivalent to the requirements of this state and the individual submits satisfactory proof of being currently authorized to practice by that state.

A license or certificate obtained by reciprocity or endorsement may be renewed or restored by the Board if the individual holding the license or certificate satisfies the renewal or restoration requirements.¹³ An individual holding a license or certificate obtained by reciprocity or endorsement is permitted to obtain a different license or certificate from the Board if the individual meets all of the requirements.

¹² See "**Fees**" below.

¹³ See "**Renewals and restorations**" below.

Posting licenses and certificates in prominent place

(secs. 4758.13 and 4758.40)

The bill requires an individual who holds a license or certificate issued by the Board to post it in a prominent place at the individual's place of employment. The Board must include its address and telephone number on each license and certificate.

Continuing education requirements

(secs. 4758.15, 4758.23, and 4758.41)

Each individual who holds a license or certificate issued by the Board is required, as a condition of renewal, to complete during the period that the license or certificate is in effect not less than 40 clock hours of continuing education. The continuing education must be completed in accordance with rules the Board is to adopt. To have an expired license or certificate restored, an individual must complete the number of hours of continuing education specified in rules the Board is to adopt. The Board may waive the continuing education requirement for individuals who are unable to fulfill them because of military service, illness, residence outside the United States, or any other reason the Board considers acceptable.

The bill requires that the Board approve continuing education courses of study in accordance with rules the Board is to adopt. Approval is subject to payment of a fee.¹⁴

Renewals and restorations

(secs. 4758.15, 4758.21, and 4758.22; ancillary section: 4745.01)

A license or certificate issued by the Board, other than a registered applicant certificate, expires two years after it is issued and may be renewed in accordance with the standard renewal procedure. The Board must renew a license or certificate, other than a registered applicant certificate, if the individual seeking the renewal pays the renewal fee and satisfies continuing education requirements.¹⁵

¹⁴ See "**Fees**" below.

¹⁵ See "**Fees**" below and "**Continuing education requirements**" above.

A license or certificate issued by the Board, other than a registered applicant certificate, that has expired may be restored if the individual seeking restoration applies for restoration not later than two years after the license or certificate expires. The Board must issue the restored license or certificate if the individual pays the renewal fee and satisfies continuing education requirements for restoration.¹⁶ The Board may not require the individual to take an examination as a condition restoration.

As discussed above under the heading "*Professions for which the Board is to issue licenses or certificates*," the Board may not renew or restore a chemical dependency counselor I certificate after June 30, 2008. The Board has special rule making authority for renewals of chemical dependency counselor I certificates.

Disciplinary actions

(secs. 4758.15, 4758.24, 4758.25, 4758.26, and 4758.27)

The bill authorizes the Board to refuse to issue or renew, or suspend, revoke, or otherwise restrict, a license or certificate or to reprimand a license or certificate holder for one or more of the following reasons:

- (1) Violating any provision of the bill or the Board's rules;
- (2) Knowingly making a false statement on an application for a license or certificate or for renewal, restoration, or reinstatement of a license or certificate;
- (3) Accepting a commission or rebate for referring an individual to a person who holds a license or certificate issued by, or who is registered with, an entity of state government, including persons practicing chemical dependency counseling, alcohol and other drug prevention services, or fields related to chemical dependency counseling or alcohol and other drug prevention services;
- (4) Conviction in this or any other state of any crime that is a felony in this state;
- (5) Conviction in this or any state of a misdemeanor committed in the course of practice as an independent chemical dependency counselor, chemical dependency counselor III, chemical dependency counselor II, chemical dependency counselor I, chemical dependency counselor assistant, prevention specialist II, prevention specialist I, or registered applicant;

¹⁶ See "*Fees*" below and "*Continuing education requirements*" above.

(6) Inability to practice due to abuse of or dependency on alcohol or other drugs or other physical or mental condition;¹⁷

(7) Practicing outside the individual's scope of practice;¹⁸

(8) Practicing without complying with supervision requirements;

(9) Violating the code of ethical practice and professional conduct for chemical dependency counseling or alcohol and other drug prevention services the Board is to adopt;¹⁹

(10) Revocation or voluntary surrender of a license or certificate in another state or jurisdiction for an offense that would be a violation of the bill.

These actions are to be taken in accordance with the Administrative Procedure Act. An individual whose license or certificate is suspended or revoked is permitted to apply to the Board for reinstatement after an amount of time the Board is to determine in accordance with rules it is to adopt. The Board may accept or refuse an application for reinstatement and may require an examination for reinstatement.

The Board is required to investigate alleged violations of the bill or its rules and alleged irregularities in the delivery of chemical dependency counseling services or alcohol and other drug prevention services by individuals who hold a license or certificate issued by the Board. As part of an investigation, the Board is authorized to issue subpoenas, examine witnesses, and administer oaths. To the extent necessary to conduct an investigation, the Board may receive any information obtained in accordance with federal laws and regulations. The bill provides that, if the Board is investigating the provision of chemical dependency counseling services to a couple or group, it is not necessary for both members of the couple or all members of the group to consent to the release of information relevant to the investigation. The Board is required to ensure, in accordance with rules it is to adopt, that all records it holds pertaining to an investigation remain

¹⁷ *The Board is required to adopt rules providing for the intervention and treatment of an individual holding a license or certificate issued by the Board whose abilities to practice are impaired due to abuse of or dependency on alcohol or other drugs or other physical or mental condition.*

¹⁸ *The bill defines "scope of practice" as the services, methods, and techniques in which and the areas for which a person who holds a license or certificate issued by the Board is trained and qualified.*

¹⁹ *See "Code of ethical practice and professional conduct" below.*

confidential during the investigation. After the investigation, the records are public records except as otherwise provided by federal or state law.

If the Board receives a notice from a child support enforcement agency that a court or agency has determined that an individual who holds or has applied for a license or certificate is in default under a child support order or has failed to comply with a warrant or subpoena issued by a court or agency with respect to a proceeding to enforce a child support order, the Board is required to comply with the section of current law that authorizes the child support enforcement agency to send such notices to licensing boards.²⁰

The Board is permitted to appoint, for any hearing it conducts, one of its voting members to act on its behalf. The member appointed does not have to be an attorney. The appointment must be made in writing. The member's finding or order is a finding or order of the Board when the Board confirms it.

Codes of ethical practice and professional conduct

(secs. 4758.15 and 4758.18)

The bill requires that the Board establish, in rules it is to adopt, codes of ethical practice and professional conduct for those who hold a license or certificate to practice chemical dependency counseling and those who hold a certificate to practice alcohol and other drug prevention services. The codes for chemical dependency counseling must define unprofessional conduct, which is to include (1) engaging in a dual relationship with a client, former client, consumer, or former consumer, (2) committing an act of sexual abuse, misconduct, or exploitation of a client, former client, consumer, or former consumer, and (3) violating, except as permitted by law, client or consumer confidentiality. The codes for chemical dependency counseling may be based on any codes of ethical practice and professional conduct developed by national associations or other organizations representing the interests of those involved in chemical dependency counseling. The codes for alcohol and other drug prevention services may be based on any codes of ethical practice and professional conduct developed by national associations or other organizations representing the interests of those

²⁰ *This provision of the bill contains a drafting error; an incorrect cross reference is used. The bill should not direct the Board to comply with the section of state law under which a child support enforcement agency notifies a licensing board that an individual is in default of a child support order, but rather should direct the Board to comply with the provisions of state law requiring licensing boards to determine whether an individual named in a notice holds or has applied for a license from the Board and, under certain circumstances, refuse to issue the individual a license or suspend or refuse to renew the individual's license.*

involved in alcohol and other drug prevention services. The Board is permitted to establish standards in the codes that are more stringent than those established by the national associations or other organizations.

Limits on practice

(secs. 4758.61 and 4758.62)

The bill provides that it does not authorize any individual to engage in the practice of psychology, professional counseling, or social work, except to the extent of providing services authorized by the bill.²¹ It also provides that it does not authorize an individual who holds a license or certificate issued by the Board to admit a patient to a hospital or require a hospital to allow any such individual to admit a patient.

Exemption from counselor and social worker law

(sec. 4758.41)

Current law provides that individuals who have certification or credentials accepted by the Department of Alcohol and Drug Addiction Services and act within the scope of their certification or credentials as members of the profession of alcoholism counseling, drug abuse counseling, or chemical dependency counseling or as alcoholism or drug abuse prevention consultants or specialists are not subject to the law that prohibits an individual from engaging in the practice of professional counseling or social work for a fee, salary, or other consideration

²¹ *Law unchanged by the bill defines "the practice of psychology" as rendering or offering to render to individuals, groups, organizations, or the public any service involving the application of psychological procedures to assessment, diagnosis, prevention, treatment, or amelioration of psychological problems or emotional or mental disorders of individuals or groups; or to the assessment or improvement of psychological adjustment or functioning of individuals or groups, whether or not there is a diagnosable pre-existing psychological problem. [Revised Code § 4732.01 (not in the bill).] "Practice of professional counseling" is rendering or offering to render to individuals, groups, organizations, or the general public a counseling service involving the application of clinical counseling principles, methods, or procedures to assist individuals in achieving more effective personal, social, educational, or career development and adjustment, including the diagnosis and treatment of mental and emotional disorders. "Practice of social work" is the application of specialized knowledge of human development and behavior and social, economic, and cultural systems in directly assisting individuals, families, and groups in a clinical setting to improve or restore their capacity for social functioning, including counseling, the use of psychosocial interventions, and the use of social psychotherapy, which includes the diagnosis and treatment of mental and emotional disorders. [R.C. 4757.01 (not in the bill).]*

without a license from the Counselor and Social Worker Board. The bill provides instead that individuals who have certification or credentials accepted by the Department and act within the scope of their certification or credentials as members of the profession of chemical dependency counseling or as alcohol and other drug prevention specialists are not subject to that law until the date the Department ceases to administer its certification or credentialing process. Additionally, the bill provides that individuals who hold a license or certificate issued by the Board and act within the scope of their license or certificate as members of the profession of chemical dependency counseling or alcohol and other drug prevention services are also exempt from that law.

Privileged communications

(sec. 2317.02)

The bill provides that an individual who holds a license or certificate issued by the Board has testimonial privilege concerning a communication made to the individual by a client or consumer in that relation, the individual's advice to the client or consumer, and a communication made to the individual by a licensed health professional regarding a client or consumer, except as permitted by federal law or regulation. The bill states that the testimonial privilege does not limit any immunity or privilege granted under federal law or regulation.

Chemical Dependency Professionals Board membership

(sec. 4758.04; Section 4)

The Board is to consist of 12 voting members appointed by the Governor with the advice and consent of the Senate and one ex officio member appointed by the Director of Alcohol and Drug Addiction Services to represent the Department.²² Except for certain of the initial ones, the voting members are to consist of the following:

(1) Four individuals who hold a valid independent chemical dependency counselor license, including at least two of whom have received at least a master's degree in a field related to chemical dependency counseling from an accredited educational institution;

(2) Two individuals who hold a valid chemical dependency counselor III license;

²² *The Governor and Director must make their initial appointments not later than 90 days after June 30, 2002.*

(3) One individual who holds a valid chemical dependency counseling II license;

(4) Two individuals who hold a valid prevention specialist II certificate or prevention specialist I certificate;

(5) One individual who is or has been authorized to practice medicine and surgery or osteopathic medicine and surgery and has experience practicing in a field related to chemical dependency counseling;

(6) Two individuals who represent the public and have not practiced chemical dependency counseling or alcohol and other drug prevention services and have not been involved in the delivery of chemical dependency counseling services or alcohol and other drug prevention services. At least one of the public members must be at least 60. During their terms, the public members may not practice chemical dependency counseling or alcohol and other drug prevention services or be involved in the delivery of chemical dependency counseling services or alcohol and other drug prevention services.

No initial voting member is required, at the time of appointment, to hold an independent chemical dependency counselor license, chemical dependency counselor III license, prevention specialist II certificate, or prevention specialist I certificate. However, those appointed must possess at the time of appointment any education, work experience, and training standards needed to obtain such a license or certificate. The member may remain on the Board only if the member obtains the appropriate license or certificate not later than June 30, 2003.²³

Not more than half of the voting members may be of the same gender or members of the same political party. At least two voting members must be of African, Native American, Hispanic, or Asian descent.

Length of terms of office

(sec. 4758.05)

Except for the initial appointees, voting members of the Board are to serve three-year terms. Four of the initial voting members are to serve terms ending June 30, 2003, four are to serve terms ending June 30, 2004, and the other four are to serve terms ending June 30, 2005. The member appointed by the Director of Alcohol and Drug Addiction Services is to serve at the pleasure of the Director.

²³ *This will be a problem if the Board does not assume certification duties by that date. Under the bill, it may be up to two years before the Board assumes those duties.*

A voting member is to hold office from the date of appointment until the end of the term for which the member was appointed. A voting member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed is to hold office for the remainder of that term. A voting member is to continue in office after the expiration date of the member's term until the member's successor takes office or until a period of 60 days has elapsed, whichever occurs first. Voting members may be reappointed, except that an individual who has held office for two consecutive terms may not be reappointed sooner than one year after the expiration of the second full term.

Compensation of members

(sec. 4758.06)

The bill provides that the voting members of the Board are to receive, for each day employed in the discharge of their official duties as members, an amount established by the Director of Administrative Services pursuant to the pay schedules listed in current law for public employees exempt from the collective bargaining law. The voting members are also to be reimbursed for their necessary and actual expenses incurred in the performance of their official duties.

Meetings

(sec. 4758.07)

The Board is required to meet to discuss matters relating to its administration and operation and the regulation of the practices of chemical dependency counseling and alcohol and other drug prevention services. It must hold at least one regular meeting every three months. Additional meetings may be held at such times as it determines, on the call of the chairperson, or on the written request to the Board's executive director of three or more voting members.²⁴ If three or more voting members request a meeting, the executive director is required to call a meeting, which must be held not later than seven days after the request is received.

The bill provides that seven voting members constitute a quorum to conduct business. No action may be taken without the concurrence of at least a quorum.²⁵

²⁴ See "**Executive director and other staff**" below.

²⁵ This does not apply to a hearing conducted by one member appointed by the Board. See "**Disciplinary actions**" above.

The Board is required to elect a chairperson from among its voting members at its first meeting each year. No member may serve more than two consecutive terms as chairperson.

The bill requires that the Board keep any records and minutes necessary to fulfill its duties.

Executive director and other staff

(sec. 4758.09)

The Board is required to employ an executive director and is permitted to employ and prescribe the powers and duties of employees and consultants as are necessary for the Board to carry out its duties.

Board not to discriminate on certain grounds

(sec. 4758.11)

The bill prohibits the Board from discriminating against any licensee, certificate holder, or applicant for a license or certificate because of the individual's race, color, religion, gender, national origin, disability, or age.²⁶ The Board is required to afford a hearing to any individual who files with it a statement alleging discrimination for any of those reasons.

Board to adopt a seal

(sec. 4758.12)

The Board is required to adopt a seal to authenticate its records and proceedings. A statement, signed by the executive director to which is affixed the official seal, to the effect that an individual specified in the statement does not currently hold a license or certificate or that a license or certificate has been revoked or suspended, is to be received as prima-facie evidence of a record of the Board in any court or before any officer of the state.

²⁶ Current law defines "disability" as a physical or mental impairment that substantially limits one or more major life activities, including the functions of caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working; a record of a physical or mental impairment; or being regarded as having a physical or mental impairment.

Fees

(sec. 4758.16)

The bill requires that the Board establish fees to be charged for admitting an individual to an examination an individual must pass to obtain a license or certificate, issuing a license or certificate, renewing a license or certificate, approving continuing education courses, and doing anything else the Board determines necessary to administer the bill. The Board is permitted to adjust its fees from time to time.

The Board's fees are nonrefundable and must be in amounts sufficient to cover its necessary expenses. A renewal fee may not be less than the initial fee for the license or certificate. The fees for a license or certificate and the renewal of a license or certificate may differ for the various types of licenses and certificates.

Fund

(secs. 3793.07 and 4758.16)

All of the Board's receipts are to be deposited in the state treasury to the credit of the Chemical Dependency Professionals Board Fund, which the bill creates. Under current law, the fees that the Department collects for its certification and credentialing process are credited to the Credentialing Fund. The bill provides that money credited to the Credentialing Fund are to be transferred to the new fund at the earlier of (1) the date on which the Board is to assume the Department's certification duties or (2) June 30, 2004.

Vouchers

(sec. 4758.16)

The bill provides that all vouchers are to be approved by the chairperson or executive director, or both, as the Board authorizes.

Rules

(sec. 4758.15)

In addition to the rules discussed elsewhere in the analysis, the Board is to adopt rules providing for anything else necessary to administer the bill. All the rules are to be adopted in accordance with the Administrative Procedure Act and any applicable federal laws and regulations. Initial rules must be adopted not later than nine months after June 30, 2002. When it adopts rules, the Board is permitted to consider standards established by any national association or other organization

representing the interests of those involved in chemical dependency counseling or alcohol and other drug prevention services.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-05-02	p. 1361

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