



SPONSOR: Sen. Blevins & Sen. Sorenson;
Rep. Maier; Sens. Henry, Peterson;
Reps. Oberle, Spence, Hudson, Keeley

DELAWARE STATE SENATE

142nd GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 86

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO PROFESSIONS AND OCCUPATIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

1 Section 1. Amend Chapter 30, Title 24, Subchapter I by changing “Subchapter I. Board of Professional Counselors
2 of Mental Health” to “Subchapter I. Board of Professional Counselors of Mental Health and Chemical Dependency
3 Professionals”.

4 Section 2. Amend §3001, Chapter 30, Title 24, of the Delaware Code by adding the words “and Chemical
5 Dependency Professionals” after the words “mental health”.

6 Section 3. Amend §3002 (1), Chapter 30, Title 24, of the Delaware Code by adding the words “and Chemical
7 Dependency Professionals” after the words “mental health” and by inserting a new subsection (9) to read as follows:

8 “(9) ‘Substantially related’ means the nature of the criminal conduct, for which the person was convicted, has a direct
9 bearing on the fitness or ability to perform one or more of the duties or responsibilities necessarily related to the practice of
10 professional counseling of mental health and chemical dependency counseling.”

11 Section 4. Amend §3003, Chapter 30, Title 24, of the Delaware Code by adding the words “and Chemical
12 Dependency Professionals” after the words “mental health”.

13 Section 5. Amend §3003 (a), Chapter 30, Title 24, of the Delaware Code by adding the words “and Chemical
14 Dependency Professionals” after the words “mental health”.

15 Section 6. Amend §3003 (b), Chapter 30, Title 24 of the Delaware Code by striking “7 members” and substituting in
16 lieu thereof “10 members including 3 licensed members from the chemical dependency certification field”.

17 Section 7. Amend §3006 (a)(3) and §3006 (a)(7), Chapter 30, Title 24, of the Delaware Code by inserting “and of
18 Chemical Dependency Professionals” after the words “mental health” and by inserting a new paragraph (c) to read as follows:

19 “(c) The Board of Professional Counselors of Mental Health and Chemical Dependency Professionals shall
20 promulgate regulations specifically identifying those crimes which are substantially related to the practice of professional
21 counseling of mental health and chemical dependency counseling.”

22 Section 8. Amend Chapter 30, Title 24, of the Delaware Code by adding a new Subchapter III to read as follows:

23 “Subchapter III. Chemical Dependency Professionals.

24 §3020. Objective.

25 The profession of Chemical Dependency counseling profoundly affects the lives and public safety of the people of
26 Delaware. The public interest requires the establishment of professional licensing standards for chemical dependency
27 counselors to protect the citizens of this state by setting standards of education, ethics, competencies and experience for those
28 persons presently practicing and for those seeking to practice and be licensed as a chemical dependency professional in this
29 state. The licensing of chemical dependency professionals will enable other professionals, health services providers, employers
30 and the general public to recognize qualified practicing chemical dependency professionals. Licensing of chemical
31 dependency professionals will also provide assurances that professionals engaged in chemical dependency counseling meet
32 acceptable standards of education, experience, ethics and competency in practice that will encourage and promote quality
33 treatment and rehabilitation for persons who are chemically dependent.

34 §3021. Definitions.

35 For the purposes of this chapter, definitions of the following terms and phrases shall be as follows:

- 36 1. ‘Chemical Dependency Counseling’ means the professional application of addiction counseling methods which
37 assist an individual or group to develop an understanding of alcohol and drug dependency problems, define goals,
38 and plan action reflecting the individual’s or group’s interest, abilities and needs as affected by addiction
39 problems.
- 40 2. ‘Division’ means the Division of Professional Regulation.
- 41 3. ‘Licensed Chemical Dependency Professional’ means a person who holds a current, valid license issued pursuant
42 to this chapter.
- 43 4. ‘Board’ means the State Board of Professional Counselors established pursuant to Section 3002 of this chapter.
- 44 5. ‘Uncompensated addictions services’ means services offered to chemical dependent individuals free of charge.

- 45 6. 'Clinical experience' shall be defined as a formal, systematic process that focuses on skill development and
46 integration of knowledge related to addiction counseling.
- 47 7. 'Official Graduate Transcript' shall be defined as the official academic record of an individual provided by a
48 regionally accredited educational institution of higher learning.
- 49 8. 'Professional Counseling Experience' shall be defined as the accumulation of hours spent providing chemical
50 dependency counseling services in a substance abuse clinical counseling setting, including face-to-face
51 interaction with clients and other services directly related to the treatment of clients.
- 52 9. 'Clinical Experience' shall be the accumulation of hours spent providing substance abuse counseling services
53 while under the supervision of an approved clinical supervisor. The experiences shall consist of 1,600 hours of
54 clinical experience, directly supervised by a Licensed Chemical Dependency Professional. Where direct
55 supervision by a Licensed Chemical Dependency Professional is not available, a licensed clinical social worker,
56 licensed psychologist, licensed professional counselor of mental health or licensed physician specializing in
57 chemical dependency treatment may supervise the applicant.
- 58 10. 'Direct Supervision' for purposes related to this chapter, shall mean supervision overseeing the supervisee's
59 application of clinical counseling principles, methods or procedures to assist clients in achieving more effective
60 personal and social adjustment. At least 100 of the required 1,600 hours of supervision shall consist of face-to-
61 face consultation between the supervisor and the supervisee. Direct supervision may take place in individual
62 and/or group settings, defined as follows:
- 63 (a) Individual Supervision – Individual supervision shall consist of one-to-one, face-to-face meetings between
64 supervisor and supervisee.
- 65 (b) Group Supervision – Group supervision shall consist of face-to-face meetings between supervisor and no
66 more than six (6) supervisees.
- 67 (c) Supervisory Setting – No more than forty (40) hours of group supervision shall be acceptable toward the 100-
68 hour requirement. The entire 100-hour requirement may be fulfilled by individual supervision.
- 69 §3022. License requirements; professional designation.
- 70 1. No person shall hold himself or herself out to the public as a Licensed Chemical Dependency Professional or
71 present, call or represent himself as a Licensed Chemical Dependency Professional unless licensed under this act.

- 72 2. No person shall assume, represent himself as or use the title of Chemical Dependency Professional, or any of the
73 abbreviations for the above title unless licensed under this act and unless the title of designation corresponds to
74 the license held by the person pursuant to this act.
- 75 3. A Licensed Chemical Dependency Professional pursuant to the provisions of this act, or his employee, shall not
76 disclose any confidential information that the counselor, or his employee, may have acquired while performing
77 alcohol and drug counseling services for a patient unless in accordance with the federal regulation regarding the
78 Confidentiality of Alcohol and Drug Patient Record pursuant to 42 C.F.R. 2.1. et seq.

79 §3023. Applicability of subchapter.

- 80 1. Nothing in this chapter shall be construed to prevent a person from engaging in or offering any addiction services
81 such as self-help, sponsorship through Alcoholics Anonymous, Narcotics Anonymous or other uncompensated
82 addictions services.
- 83 2. Nothing in this act shall be construed to apply to a designated employee or other agency of a private employer
84 who has been designated to provide chemical dependency counseling under the jurisdiction of that company, or
85 an employee or other agent of a recognized academic institution, a federal, state, county or local government
86 institution, agency or facility, or school district if the individual is performing solely with the company or agency,
87 as the case may be, or under the jurisdiction of that company or agency and if a license granted under this chapter
88 is not a requirement for employment.
- 89 3. Nothing in this act shall be construed to apply to a rabbi, priest, minister, or clergyman of any religious
90 denomination or sect, when performing within the scope of the person's regular or specialized ministerial duties
91 and for which no separate charge is made, for or under the auspices or sponsorship, individually or in conjunction
92 with others, of an established and legal cognizable church, denomination, or sect, and when the person rendering
93 services remains accountable to the established authority thereof.
- 94 4. Nothing in this act shall be construed to apply to a student, intern or trainee in chemical dependency counseling
95 pursuing a course of study in counseling in a regionally accredited institution, if performed under supervision and
96 constitute a part of the supervised course of study.
- 97 5. Nothing in this act shall be construed to apply to a person licensed in the state to practice medicine and surgery,
98 psychology, social work, clinical social work, licensed professional counselor of mental health or any other
99 person's profession or occupation and doing work of a nature consistent with a person's training, if the person
100 doesn't hold himself out to the public as possessing a license issued pursuant to this act.

101 §3024. Qualifications of applicant.

102 Applicants for Chemical Dependency Professional licensure by certification shall fulfill the following requirements:

- 103 1. Received a master's degree from a regionally accredited institution of higher education with a minimum of
104 18 graduate semester hours in counseling or counseling closely related subjects and;
- 105 2. Successfully completed all the requirements to be a Certified Alcohol and Drug Counselor or other nationally
106 recognized credentials in chemical dependency counseling pursuant to §3024(3) of this chapter. This
107 includes supervision and clinical experience as defined in §3021.
- 108 3. Certification - The applicant shall be certified by the National Association for Addictions Professionals
109 (NAADAC) as a National Certified Addictions Counselor (NCAC or MAC), by DCB (DCB Inc.) as a
110 Certified Alcohol and Drug Counselor, or by a certifying organization acceptable to the Board.

111 §3025. Fees.

112 The amount to be charged for each fee imposed under this chapter shall approximate and reasonably reflect all costs
113 necessary to defray the expenses of the Board, as well as the proportional expenses incurred by the Division of
114 Professional Regulation in its service on behalf of the Board. There shall be a separate fee charged for each service or
115 activity, but no fee shall be charged for a purpose not specified in this chapter. The application fee shall not be combined
116 with any other fee or charge. At the beginning of each licensure biennium, the Division of Professional Regulation, or any
117 other state agency acting in its behalf, shall compute, for each separate service or activity, the appropriate Board fees for
118 the licensure biennium.

119 §3026. Issuance and renewal of license.

- 120 1. The Board shall issue a license to each applicant who meets the requirements of this chapter for licensure as
121 a licensed chemical dependency professional and who pays the fee established pursuant to §3025 of this
122 chapter.
- 123 2. Each license shall be renewed biennially, in such manner as is determined by the Division of Professional
124 Regulation, and upon payment of the appropriate fee and submission of a renewal form provided by the
125 Division, and proof that the licensee has met the continuing education requirements established by the Board.
126 In addition each licensee shall submit proof of the following:

- 127 (a) Current certification in good standing as of the date of licensure renewal in NAADAC, DCB Inc. or other
128 certifying organizations acceptable to the Board. This certification shall be verified by the appropriate
129 ‘Verification of Certification Form’, submitted directly to the Board by the certifying organization.
- 130 (b) It shall be the responsibility of all licensees to keep the Division informed of any change of address. Renewal
131 applications will be sent to the last address on file with the Division.

132 §3027. Grounds for discipline.

- 133 (a) A person licensed under this chapter shall be subject to disciplinary sanctions set forth in §3032 of this title, if
134 after a hearing, the Board finds that the licensee:
- 135 (1) Has employed or knowingly cooperated in fraud or material deception in order to acquire a license as a
136 professional counselor of mental health or associate counselor of mental health or chemical dependency
137 professional; has impersonated another person holding a license, or allowed another person to use his or
138 her license, or aided and abetted a person not licensed as a professional counselor of mental health or
139 associate counselor of mental health or chemical dependency professional to represent himself or herself
140 as a licensed professional counselor of mental health or associate counselor of mental health, or chemical
141 dependency professional.
 - 142 (2) Has been convicted of a crime that is substantially related to the practice of professional counseling of
143 mental health or chemical dependency counseling. A copy of the record of conviction certified by the
144 clerk of the court entering the conviction shall be conclusive evidence thereof.
 - 145 (3) Has excessively used or abused drugs either in the past 3 years or currently.
 - 146 (4) Has engaged in an act of consumer fraud or deception; engaged in the restraint of competition; or
147 participated in price-fixing activities.
 - 148 (5) Has violated a lawful provision of this chapter, or any lawful regulation established thereunder.
 - 149 (6) Has had his or her license as a professional counselor of mental health, associate counselor of mental
150 health, or chemical dependency professional suspended or revoked, or other disciplinary action taken by
151 the appropriate licensing authority in another jurisdiction; provided, however, that the underlying
152 grounds for such action in another jurisdiction have been presented to the Board by certified record; and
153 the Board has determined that the facts found by the appropriate authority in the other jurisdiction
154 constitute 1 or more of the acts defined in this chapter. Every person licensed as a professional
155 counselor of mental health, associate counselor of mental health, or chemical dependency professional in

156 this State shall be deemed to have given consent to the release of this information by the Board of
157 Professional Counselors or other comparable agencies in another jurisdiction and to waive all objections
158 to the admissibility of previously adjudicated evidence of such acts or offenses; or,

159 (7) Has failed to notify the Board that his or her license as a professional counselor of mental health,
160 associate counselor of mental health, or chemical dependency professional in another state has been
161 subject to discipline, or has been surrendered, suspended or revoked. A certified copy of the record of
162 disciplinary action, surrender, suspension or revocation shall be conclusive evidence thereof.

163 (b) Subject to the provisions of Subchapter IV of Chapter 101 of Title 29, no license shall be restricted, suspended or
164 revoked by the Board and no licensee's right to hold himself or herself out as a licensed professional counselor of
165 mental health, licensed associate counselor of mental health, or licensed chemical dependency professional shall
166 be limited by the Board until such licensee has been given notice and an opportunity to be heard, in accordance
167 with the Administrative Procedures Act.

168 §3028. Failure to renew License.

169 Notwithstanding the fact that a licensee has failed to renew his or her license on or before the renewal date, such
170 licensee shall be granted a 60-day period to renew his or her license. The Division shall set the fee for late renewal. A person
171 who fails to renew his or her license before the expiration of the 60-day grace period, shall be required to reapply as new a
172 applicant, pay a fee set by the Division, and submit proof of fulfillment of continuing education requirements and the
173 membership requirements of the National Association for Addictions professionals (NAADAC), the Delaware Certification
174 Board (DCB) or other certifying organizations acceptable to the Board, in accordance with the Board's rules and regulations.

175 §3029. Reinstatement of a suspended license, removal from probationary status, replacement of license.

- 176 1. As a condition to reinstatement of a suspended license or removal from probationary status, the Board may
177 reinstate such license if after a hearing, the Board is satisfied that the licensee has taken the prescribed
178 corrective actions and otherwise satisfied all of the conditions of the suspension and/or the probation.
- 179 2. Applicants for reinstatement must pay the appropriate fees and submit documentation required by the Board as
180 evidence that all the conditions of a suspension and/or probation have been met. Proof that the applicant has
181 met the continuing education requirements of this chapter shall also be required, as appropriate.
- 182 3. A new license to replace any license lost, destroyed or mutilated may be issued subject to the rules of the
183 Board. The Division shall establish a charge for such issuance.

184 §3030. Reciprocity.

- 185 1. Upon payment of the appropriate fee and submission and acceptance of a written application on forms provided
186 by the Board, the Board shall grant a license to each applicant, who shall present proof of current licensure in
187 good standing in another state, the District of Columbia or territory of the United States, whose standards for
188 licensure are substantially similar to those of this State and shall present proof that his or her license is in good
189 standing as defined in this chapter.
- 190 2. An applicant who is licensed in a jurisdiction whose standards are not substantially similar to those of this State
191 shall have had a license in good standing for a minimum of 5 years after licensure in the jurisdiction from which
192 he or she is applying for reciprocal licensure and is certified by the National Association for Addictions
193 Professionals (NAADAC), or the Delaware Certification Board (DCB), or other national certifying organization
194 acceptable to the Board; provided, however, that he or she meets all other qualifications for reciprocity in this
195 subsection.

196 §3031. Complaints.

- 197 1. All complaints shall be received and investigated by the Division of Professional Regulation in accordance with
198 §8807 of Title 29 and the Division shall be responsible for issuing a final written report at the conclusion of its
199 investigation.
- 200 2. When it is determined that an individual is using the title ‘licensed chemical dependency professional’ or ‘certified
201 drug and alcohol counselor’ or holding himself or herself out to the public as a ‘licensed chemical dependency
202 professional’ or ‘certified drug and alcohol counselor’ and is not licensed under the laws of this State, the Board
203 shall apply to the Office of the Attorney General to issue a cease and desist order.

204 §3032. Disciplinary sanctions.

- 205 1. The Board may impose any of the following sanctions, singly or in combination, when it finds that one of the
206 conditions or violations set forth in §3027 of this title applies to a person regulated by this chapter:
- 207 (a) Issue a letter of reprimand.
- 208 (b) Censure a licensee.
- 209 (c) Place a licensee on probationary status, and require the licensee to:
- 210 i. Report regularly to the Board upon the matters which are the basis of the probation;
- 211 ii. Limit all professional activities to those areas prescribed by the Board.
- 212 (d) Suspend any licensee's license.

213 (e) Revoke any licensee's license.

214 (f) Impose a monetary penalty not to exceed \$500 for each violation.

215 i. The Board may withdraw or reduce conditions of probation when it finds that the
216 deficiencies which required such action have been remedied.

217 ii. As a condition to reinstatement of a suspended license or removal from probationary status,
218 the Board may impose such disciplinary or corrective measures as are authorized under this
219 chapter.

220 §3033. Hearing procedures.

221 1. If a complaint is filed with the Board pursuant to §8807 of Title 29, alleging violation of §3027 of this title,
222 the Board shall set a time and place to conduct a hearing on the complaint. Notice of the hearing shall be
223 given and the hearing shall be conducted in accordance with the Administrative Procedures Act, Chapter 101
224 of Title 29.

225 2. All hearings shall be informal, without use of rules of evidence. If the Board finds, by a majority vote of all
226 Board members, that the complaint has merit, the Board shall take such action permitted under this chapter as
227 it deems necessary. The Board's decision shall be in writing and shall include its reasons for such decision.
228 The Board's decision shall be mailed immediately to the licensee.

229 3. Where the licensee is in disagreement with the action of the Board, he or she may appeal the Board's decision
230 to the Superior Court within 30 days of service or of the postmarked date of the copy of the decision mailed to
231 him or her. Upon such appeal the Court shall hear the evidence on the record. Stays shall be granted in
232 accordance with §10144 of Title 29.

233 4. All decisions of the Board regarding suspension or revocation of a license shall be made public by the
234 Division in a news release to major media outlets in this State. The release may include any information
235 deemed public under the Delaware Freedom of Information Act and shall include a telephone contact number
236 for the Division for further information.

237 §3034. Penalty.

238 A person not currently licensed as chemical dependency professional or certified drug and alcohol counselor
239 under this chapter, when guilty of using in connection with his or her name, or otherwise assuming or using any

240 title or description conveying or tending to convey the impression that he or she is qualified as a licensed chemical
241 dependency professional or certified drug and alcohol counselor, shall be guilty of a misdemeanor. Upon the first
242 offense, he or she shall be fined not less than \$500 dollars nor more than \$1,000 dollars for each offense. For a
243 second or subsequent conviction, the fine shall be not less than \$1,000 nor more than \$2,000 for each offense.
244 Justice of the Peace Courts shall have jurisdiction over all violations of this chapter.
245 §3035. Privileged communications.
246 Communications between a chemical dependency professional or certified drug and alcohol counselor and
247 client shall be considered confidential to the same extent as provided by Delaware Rule of Evidence 503.”

SYNOPSIS

This bill expands the responsibilities of the current Board of Professional Counselors of Mental Health to include the oversight of activities associated with licensing of Chemical Dependency Professionals. The current Board will be renamed the Board of Professional Counselors of Mental Health and Chemical Dependency Professionals.

A chemical dependency counselor provides information, guidance and assistance to alcoholics or other drug dependent persons, and to those persons affected by problems related to the abuse of alcohol, other drugs, or both. Only Licensed Chemical Dependency Professionals may engage in alcohol and drug counseling for a fee.

Only persons licensed under this bill may provide chemical dependency counseling or use any title, designation or abbreviation indicating such a service. The provisions of this bill would not apply to: a health care or other professional licensed in this state when performing within the scope of the persons profession or occupation; a member of the clergy practicing under the auspices of a church; a person providing chemical dependency services through uncompensated counseling assistance such as 12 step support groups; a designated employee or agent of a private or public sector employer or recognized academic institution involved in the evaluation, treatment or referral for counseling of employees’ or a student, intern or trainee performing chemical dependency counseling activities or services as part of a course of study in counseling at a college or university or training institution.

The provisions of the uniform enforcement powers and procedures regarding disciplinary and remedial authority of professional boards, applies to the State Board of Professional Counselors of Mental Health and Chemical Dependency. The bill specifies numerous other prohibited services by Licensed Chemical Dependency Professionals. The bill also requires that license fees established shall be sufficient to cover administrative cost. The provisions of this bill take effect immediately.

Author: Senator Blevins