

Alcohol Drug Counselor Licensure Legislation Draft
January 7, 2019

(a) The Legislature finds and declares all of the following:

(1) Substance use disorder is ranked in the top five clinically preventable burdens on health care spending.

(2) The level of health care services used by people diagnosed with addiction before receiving treatment is more than double that of people without a diagnosis for addiction. It has been shown that after 12 months of treatment of substance use disorders, the levels of health care services used returns to almost average.

(3) There are an estimated 3.5 million persons with diagnosable substance use disorders in California and a limited number of available practitioners to treat addiction in California.

(4) In 2016, there were 2,012 opioid-related overdose deaths in California, a rate of 4.9 deaths per 100,000 persons.

(5) Substance use disorder can be treated in a cost-effective manner in its earliest stages in a private practice environment.

(6) The federal Patient Protection and Affordable Care Act (Public Law 111-148) mandates substance disorder treatment as an essential benefit.

(7) The need for qualified, competent substance disorder treatment professionals will continue to rise throughout the next decade.

(b) Therefore, it is the intent of the Legislature in enacting this act to establish a license and a career ladder for alcohol and drug counselors so that all of the following may occur:

(1) Access to substance use disorder treatment services can be expanded.

(2) Opioid use disorder can be treated in its earliest stages, in a private practice setting, thereby reducing opioid deaths in California.

(3) Additional licensed professionals needed to successfully implement the federal Patient Protection and Affordable Care Act (Public Law 111-148) can expand the workforce.

(4) Those seeking treatment for substance use disorders in California will find a coordinated system of care in which "no wrong door" is found in response to accessing this care.

(5) The state can establish a career ladder for addiction counselors that reflects the model put forward by the Substance Abuse and Mental Health Services Agency as a comprehensive career path for the entire profession in California.

(6) The combination of the state license category and the progressive levels of certification offered by approved certifying organizations will serve to complete the career ladder from entry level volunteers to licensed counselors practicing without supervision, making access to care greater throughout the continuum of care.

SECTION 1.

Chapter 9.7 (commencing with Section 4450) is added to Division 2 of the Business and Professions Code, to read:

CHAPTER 9.7. Alcohol and Drug Counseling Professionals

Article 1. Administration

4450.

For purposes of this chapter the following definitions apply:

(a) An “approved certifying organization” means an entity approved by the Department of Health Care Services to certify alcohol drug counselors on or before January 1, 2020, pursuant to Section 13035 of Title 9 of the California Code of Regulations, which is in good standing upon implementation of this Chapter.

(b) “Bureau” means the Alcohol and Drug Counseling Professional Bureau established pursuant to Section 4451.

(c) “Department” means the Department of Consumer Affairs.

(d) “Director” means the Director of Consumer Affairs.

4451.

(a) (1) There is established within the department the Alcohol and Drug Counseling Professional Bureau, under the supervision and control of the director.

(2) (A) The duties of enforcing and administering this chapter is vested in the chief of the bureau and he or she is responsible to the director for performing those duties.

(B) The chief shall serve at the pleasure of director.

(3) Every power granted or duty imposed upon the director pursuant to this chapter may be exercised or performed in the name of the director by a deputy director or by the chief, subject to the conditions and limitations that the director may prescribe.

(b) Notwithstanding any other law, the powers and duties of the bureau pursuant to this chapter are subject to review by the appropriate policy committee of the Legislature.

4452.

Protection of the public is the highest priority for the bureau in exercising its licensing, regulatory, and disciplinary functions. If the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

4453.

The bureau may adopt necessary rules and regulations for the administration and enforcement of this chapter and the laws subject to its jurisdiction and prescribe the form of statements and reports provided for in this chapter. The rules and regulations shall be adopted, amended, or repealed in accordance with the provisions of the Administrative Procedure Act (Chapter 3.5 commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

4454.

The director may employ and appoint all employees necessary to properly administer the duties of the bureau in accordance with civil service regulations.

Article 2. Licensing

4455.

(a) No person shall use the title of licensed alcohol and drug counselor unless the person has applied for and obtained a license from the bureau.

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

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

(2) Has demonstrated competence by passing the Advanced Alcohol and Drug Counselor Exam or the Master of Addiction Counseling Exam, or equivalent, national master's level exam accepted by an approved certifying organization and the Bureau.

(3) Is currently credentialed as an advanced alcohol and drug counselor recognized by, and in good standing with an approved certification organization.

(4) Has documented to the certifying organization that the applicant has completed all of the following courses:

(A) Three semester units, or the equivalent, of psychopharmacology and physiology of addiction, including any of the following subjects:

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

(ii) Damage to the body and behaviors.

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

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

(v) Physiological differences between males and females.

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

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

(i) Initial interviewing process.

(ii) Biopsychosocial assessment.

(iii) Differential diagnosis.

(iv) Diagnostic summaries.

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

(C) Three semester units, or the equivalent, of counseling psychotherapy for addiction, including all of the following subjects:

(i) Introduction to counseling.

(ii) Introduction to techniques and approaches.

(iii) Crisis intervention.

(iv) Individual counseling focused on addiction.

(v) Group counseling.

(vi) Family counseling as it pertains to addiction treatment.

(D) Three semester units, or the equivalent, in case management, including all of the following subjects:

(i) Community resources.

(ii) Consultation.

(iii) Documentation.

(iv) Resources for persons who are HIV positive.

(E) Three semester units, or the equivalent, of client education, including all of the following subjects:

(i) Addiction recovery.

(ii) Psychological client education.

(iii) Biochemical and medical client education.

(iv) Sociocultural client education.

(v) Addiction recovery and psychological family education.

(vi) Biomedical and sociocultural family education.

(vii) Community and professional education.

(F) Three semester units, or the equivalent, of professional responsibility law and ethics, including all of the following subjects:

(i) Ethical standards, legal aspects, cultural competency, professional growth, personal growth, dimensions of recovery, clinical supervision, and consultation.

(ii) Community involvement.

(iii) Operating a private practice.

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

(5) Has submitted to both a state and federal level criminal offender record information search pursuant to Section 4459.

4456.

(a) For a period not to exceed one year, as determined by the bureau, from the date the bureau commences accepting applications for an initial license, an applicant who has a minimum of 12,000 hours experience is not required to meet the requirements of paragraphs (1), (2), and (4) of subdivision (b) of Section 4455.

(b) Applicants who do not meet the requirements of paragraphs (1), (2), and (4) of subdivision (b) of Section 4455 shall sit for the masters level exam required by paragraph (2) of subdivision (b) of Section 4455 within one year from the date the bureau commences accepting applications for an initial license, and shall provide proof of passing the exam to the certifying organization before two years from the date the bureau commences accepting applications for an initial license.

(c) No license shall be issued to an applicant as provided in (a) and (b) until proof of a passing score on the master's level exam required by paragraph (2) of subdivision (b) of Section 4455 is received by the bureau from an approved certifying organization.

(d) For a period not to exceed one year from the date the bureau commences accepting applications for an initial license, an applicant who is licensed under the Medical Practice Act (Chapter 5 (commencing with Section 2000)), the Psychology Licensing Law (Chapter 6.6 (commencing with Section 2900)), the Licensed Marriage and Family Therapist Act (Chapter 13(commencing with Section 4980)), the Clinical Social Worker Practice Act (Chapter 14 (commencing with Section 4991)), or the Licensed Professional Clinical Counselor Act (Chapter 16 (commencing with Section 4999.10)), is not required to meet the requirements of paragraphs of subdivision (b) of Section 4455 if any of the following are met:

(1) Documentation to an approved certifying organization 6,000 hours experience treating addiction.

(2) Confirmation from an approved certifying organization that a passing score for the exam requirement in (b) (2) has been achieved.

(3) The applicant documents current certification as an advanced alcohol drug counselor with an approved certifying organization.

(e) No license shall be issued to an applicant as provided in (d) until proof of (1), (2), or (3) is received by the bureau from an approved certifying organization.

4457. If not renewed, a license issued under the provisions of this article, unless specifically excepted, expires at 12 midnight two years from the day of its issuance. To renew an unexpired license, the licensee shall, before the time at which the license would otherwise expire, apply for renewal on a form prescribed by the bureau and pay the renewal fee prescribed by this article.

4458. (a) Except as otherwise provided in this article, an expired license may be renewed at any time within five years after its expiration by filing an application for renewal on a form prescribed by the bureau, payment of all accrued renewal and delinquency fees, and documentation of necessary continuing education hours. If the license is renewed after its expiration, the licensee, as a condition precedent of renewal, shall also pay the delinquency fee prescribed by the bureau. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect until the expiration date provided in Section 4457 that next occurs after the effective date of the renewal.

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

(c) The bureau may revoke a license issued pursuant to this chapter if either of the following occurs:

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

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

4459. Scope of Practice

(a) (1) For the purposes of this chapter, "alcohol and drug counseling" means a process involving a psychotherapeutic relationship between a client who is experiencing addiction, dependence, abuse of alcohol or other drugs, or other symptoms that relate to substance use and a counselor or therapist trained to provide that help to address that addiction, dependence, or abuse.

(2) Addiction counseling includes the professional and ethical application of basic tasks and responsibilities, including all of the following:

(A) Screening, this is the process by which a client is determined to be eligible for admission to a particular alcohol and drug treatment program.

(B) Initial intake, which is the administrative and initial assessment procedures for admission to an alcohol and drug treatment program.

(C) Orientation, which is the act of describing to the client the general nature and goals of the alcohol and drug treatment program, including rules governing client conduct and infractions that can lead to disciplinary action or discharge from the program.

(D) Alcohol and drug abuse counseling, including individual, group, and significant others. The utilization of special skills to assist individuals, families, or groups in achieving objectives through exploration of a problem and its ramifications, examination of attitudes and feelings,

considerations of alternative solutions, and decision making as each relates to substance use. Counseling shall be limited to assisting a client in learning more about himself or herself for the purposes of understanding how to effectuate clearly perceived and realistically defined goals related to abstinence. Counseling is limited to assisting the client to learn or acquire new skills that will enable the client to cope and adjust to life situations without the use of substances.

(E) Case management, which is the activities that bring services, agencies, resources, or individuals together within a planned framework of action toward achievement of established goals. Case management may involve liaison activities and collateral contacts.

(F) Crisis intervention, which is providing services that respond to an alcohol or drug user's needs during acute emotional or physical distress, including, but not limited to, referrals for assessment of the client's need for additional psychological or medical treatment for client behaviors that signal risk or prolonged distress.

(G) Assessment, which is the use of procedures by which a counselor or program identifies and evaluates an individual's strengths, weaknesses, problems, and needs for the development of the alcohol and drug treatment plan.

(H) Treatment planning, which is the process by which the counselor and the client identify and rank problems needing resolution, establish agreed-upon immediate and long-term goals, and decide on a treatment process and the resources to be utilized.

(I) Client education, which is providing information to individuals and groups concerning alcohol and drug use and the services and resources available.

(J) Referral, which is identifying the needs of the client that cannot be met by the counselor or agency, as well as assisting the client in utilizing the support systems and community resources available.

(K) Reports and recordkeeping, which is the documentation of the client's progress in achieving his or her goals.

(L) Consultation with other professionals with regard to client treatment or services and communicating with other professionals to ensure comprehensive, quality care for the client.

(b) (1) During the course of the screening and intake process, a licensed alcohol and drug counselor, working within the scope of his or her practice, shall determine the level of care most appropriate for the client and the need for integrated treatment in the presence of medical, emotional, and behavioral conditions.

(2) The licensee shall maintain current referral information for services beyond the scope of practice in this section. The licensee shall inform clients, in writing, that referral for medical and behavioral conditions is available.

(3) The bureau may suspend or revoke the license of an alcohol and drug counselor for failing to make appropriate referrals to mental health professionals or for treating clients for disorders beyond the scope of practice provided for in this chapter.

4460.

The bureau shall establish the fees for an initial alcohol and drug counselor license or a renewal license in an amount reasonably related to the department's actual costs in performing its duties under this chapter not to exceed two hundred dollars (\$200).

4461.

(a) Before issuing a license, the bureau shall review both the state and federal level criminal history of the applicant.

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

(B) An applicant who has a criminal conviction or pending criminal charge shall request the appropriate authorities to provide information about the conviction or charge directly to the department in sufficient specificity to enable the department to make a determination as to whether the conviction or charge is substantially related to actions as a licensed alcohol and drug counselor.

(2) However, after a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the department may waive the requirements of this subdivision if the department finds either (A) or (B), and (C) and (D) of the following:

(A) For waiver of a felony conviction, more than five years has elapsed since the date of the conviction. At the time of the application, the applicant is not incarcerated, on work release, on probation, on parole, on post-release community supervision, or serving any part of a suspended sentence and the applicant is in substantial compliance with all court orders pertaining to fines, restitution, or community service.

(B) For waiver of a misdemeanor conviction or violation, at the time of the application, the applicant is not incarcerated, on work release, on probation, on parole, on post-release community supervision, or serving any part of a suspended sentence and the applicant is in substantial compliance with all court orders pertaining to fines, restitution, or community service.

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

(D) Granting the waiver will not endanger the public health, safety, or welfare.

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

(3) Notwithstanding the foregoing, no past criminal conviction shall serve as an automatic exclusion for licensure. The bureau shall evaluate the circumstances leading to conviction and determine if the person meets the conditions in (3)(C) and (D) of this section in determining approval or denial of the application.

Article 3. Certification

CHAPTER 1. Powers and Duties of the Bureau

4462.

(a) (1) The bureau shall commence oversight of approved certifying organizations beginning January 1, 2020. It shall oversee the disciplinary actions of certifying organizations it approves by performing the following duties:

(1) Approve, rescind, or deny disciplinary actions imposed by approved certifying organizations.

(2) 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 bureau's satisfaction.

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

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

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

(6) 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.

(7) Require that approved certifying organizations develop a uniform addiction counselor career ladder that defines minimum standards for education and experience for each certification level included in the ladder within 12 months of chapter of this statute or by January 1, 2021, whichever is first. Combined with the licensing provisions of this section, the career ladder shall encompass the full spectrum of counselor qualifications from entry level to advanced practice.

Any future revision of the minimum standards must be implemented by all certifying organizations approved by the state.

(8) Require that if not renewed, a certification issued by an approved certifying organization, unless specifically excepted, expires at 12 midnight two years from the day of its issuance. To renew an unexpired certification, the certificate holder shall, before the time at which the certificate would otherwise expire, apply for renewal on a form prescribed by the certifying organization, document required continuing education requirements of the certifying organization and pay the renewal fee required by the certifying organization.

(9) Require that an expired certification may be renewed at any time within five years after its expiration by filing an application for renewal on a form prescribed by the certifying organization, payment of all accrued renewal and delinquency fees, and documentation of necessary continuing education hours. If the certification is renewed after its expiration, the certified counselor, as a condition precedent of renewal, shall also pay the delinquency fee prescribed by the certifying organization. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the certification shall continue in effect until the expiration date provided in Section (8) that next occurs after the effective date of the renewal.

(10) Require that if not renewed, a registration issued by an approved certifying organization, unless specifically excepted, expires at 12 midnight one year from the day of its issuance. To renew an unexpired registration, the registrant shall, before the time at which the registration would otherwise expire, apply for renewal on a form prescribed by the certifying organization, document required continuing education requirements of the certifying organization and pay the renewal fee required by the certifying organization.

(11) Require that an expired registration may be renewed at any time within one year after its expiration by filing an application for renewal on a form prescribed by the certifying organization, payment of all accrued renewal and delinquency fees, and documentation of necessary continuing education hours. If the registration is renewed after its expiration, the registrant, as a condition precedent of renewal, shall also pay the delinquency fee prescribed by the certifying organization. Renewal under this section shall be effective on the date on which the application

is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the registration shall continue in effect until the expiration date provided in Section (10) that next occurs after the effective date of the renewal.

(12) Require that certifying organizations document 40 hours of continuing education units approved by the certification organization during the two-year certification renewal period, which shall include six hours of ethics and law, six hours of cooccurring disorder, and three hours of cultural competency.

(13) Require that certifying organizations document 20 hours of continuing education units approved by the certification organization during the one-year registration renewal period, which shall include six hours of ethics and law.

(14) Require that certifying organizations document progress toward certification during the one-year registration renewal period, which shall reasonably result in obtaining certification within five years.

(15) Require that certification organizations provide leave of absence policies and hardship appeals that do not ban registrants and certified counselors from returning to pursuing careers in alcohol and drug counseling.

(16) Require that prior to registering or certifying an individual, certifying organizations determine whether other bureau-approved certifying organizations have ever revoked the applicant's registration or certification.

(17) If a counselor's registration or certification has been previously revoked, the certifying organization shall deny the request for registration or certification and shall send the counselor a written notice of denial. The notice shall specify the counselor's right to appeal the denial in accordance with applicable statutes and regulations.

(b) The bureau shall audit certifying organizations yearly to determine compliance with all applicable laws and regulations, including subdivision (a), and to take actions for noncompliance, including suspension of the bureau's approval until corrective actions are implemented when the safety of the public is at risk.

(c) The bureau shall adopt regulations to implement this subdivision and to amend current Department of Health Care Services Counselor Certification Regulations to reflect advances in consumer protection and technology that have occurred since their original adoption by December 31, 2020, in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Article 3. Construction of Chapter

4460.

(a) This chapter does not constrict, limit, or prohibit a facility or program that is licensed or certified by this state, a county-contracted alcohol and drug treatment facility or program, or a driving-under-the-influence program from employing or contracting with an alcohol and drug counselor who is certified by a certifying organization accredited and approved by this state pursuant to Chapter 8 (commencing with Section 13000) of Division 4 of Title 9 of the California Code of Regulations as that chapter read on January 1, 2017.

(b) This chapter shall not be construed to constrict, limit, or prohibit state licensed, certified, or county contracted alcohol and drug treatment facilities or programs, or DUI programs from employing or contracting with licensed alcohol and drug counselors when stipulating that licensed professionals be employed or contracted with.

(c) This chapter shall not be construed to mandate the use of licensed alcohol and drug counselors in state licensed or certified, or county operated or contracted alcohol and drug treatment programs or facilities, or DUI programs.

(d) This chapter shall not be construed to constrict, limit, or withdraw the Medical Practice Act (Chapter 5 (commencing with Section 2000)), the Psychology Licensing Law (Chapter 6.6 (commencing with Section 2900)), the Licensed Marriage and Family Therapist Act (Chapter 13(commencing with Section 4980)), the Clinical Social Worker Practice Act (Chapter 14 (commencing with Section 4991)), or the Licensed Professional Clinical Counselor Act (Chapter 16 (commencing with Section 4999.10)).

Article 4. Transfer of Administration for Certification Oversight

4461. On or before January 1, 2019 The Department of Health Care Services shall transfer all administration for oversight of substance use disorder counselors to the Bureau.

HEALTH AND SAFETY CODE - HSC

DIVISION 10.5. ALCOHOL AND DRUG PROGRAMS [11750 - 11975]

(Heading of Division 10.5 amended by Stats. 2013, Ch. 22, Sec. 18.)

PART 2. STATE GOVERNMENT'S ROLE TO ALLEVIATE PROBLEMS RELATED TO THE INAPPROPRIATE USE OF ALCOHOLIC BEVERAGES AND OTHER DRUG USE [11760 - 11856.5]

(Heading of Part 2 amended by Stats. 2004, Ch. 862, Sec. 43.)

CHAPTER 7. Quality Assurance [11830 - 11833]

(Chapter 7 repealed and added by Stats. 1984, Ch. 1328, Sec. 64.)

11833.

(a) The department shall have the sole authority in state government to determine the ~~qualifications, including the~~ appropriate **level of registration, certification, or licensure skills, education, training, and experience** of personnel working within alcoholism or drug abuse recovery and treatment programs licensed, certified, or funded under this part.

(b) (1) Except for licensed professionals, as defined by the department, the department shall require that an individual providing counseling services working within a program described in subdivision (a) be registered with or certified by a certifying organization approved by the ~~department~~ **Alcohol and Drug Counseling Professional Bureau** to register and certify counselors.

(c) The Department shall add Licensed Alcohol Drug Counselors to its regulations when specifying "Licensed Practitioner of the Healing Arts (LPHA)" for purposes of designating

personnel who may treat substance use disorder and determine medical necessity for services in certified and licensed treatment programs.

~~(2) The department shall not approve a certifying organization that does not, prior to registering or certifying an individual, contact other department-approved certifying organizations to determine whether the individual has ever had his or her registration or certification revoked.~~

~~(c) If a counselor's registration or certification has been previously revoked, the certifying organization shall deny the request for registration and shall send the counselor a written notice of denial. The notice shall specify the counselor's right to appeal the denial in accordance with applicable statutes and regulations.~~

~~(d) The department shall have the authority to conduct periodic reviews of certifying organizations to determine compliance with all applicable laws and regulations, including subdivision (c), and to take actions for noncompliance, including revocation of the department's approval.~~

~~(e) (1) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department, without taking any further regulatory action, shall implement, interpret, or make specific this section by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions until the time that regulations are adopted.~~

~~(2) The department shall adopt regulations by December 31, 2017, in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.~~