

## **BILL ANALYSIS**

Senate Research Center  
82R22836 AJZ-D

H.B. 3146  
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Health & Human Services  
5/6/2011  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

H.B. 3146 will modify consent to treatment provisions under facility licensure statutes to allow psychologists, social workers, professional counselors, or chemical dependency counselors to obtain a patient's consent for treatment for chemical dependency, thus simplifying a complicated process that currently is not observed by practitioners at chemical dependency treatment facilities.

This legislation would also modify in-service training requirements for persons conducting intake and assessment at chemical dependency treatment facilities so that the training is required before that person conducts an intake or assessment rather than requiring annual training.

Currently, the Health and Safety Code requires that a physician gain consent to treatment for an individual prior to treatment for chemical dependency, even if the treatment is performed by a non-physician. In practice, the Department of State Health Services (DSHS) statute requiring physician approval has gone unenforced because DSHS itself was unaware of the statute's provision. It was recently discovered during a review of DSHS rules.

Annual in-service training for individuals conducting intake and assessments, a basic and routine task, is unnecessary, and consumes eight hours of valuable employee time with no discernable benefit to patient safety or quality of care. This bill will modify current training practice for intake and assessment counselors, mandating that they receive training previous to beginning this work and canceling the requirement that they receive eight hours annual training in conducting intake and assessment. This will save eight work hours from being wasted on unnecessary training each year for each employee.

H.B. 3146 amends current law relating to consent for treatment for chemical dependency in a treatment facility and required training for the facility's intake personnel.

[**Note:** While the statutory reference in this bill is to the Texas Commission on Alcohol and Drug Abuse (TCADA), the following amendments affect the Department State Health Services as the successor to TCADA.]

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Department of State Health Services [Texas Commission on Alcohol and Drug Abuse] in SECTION 3 (Section 462.025, Health and Safety Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 462.009(e) and (g), Health and Safety Code, as follows:

(e) Provides that consent given by a patient or by a person authorized by law to consent to treatment on the patient's behalf for the administration of a medication, therapy, or treatment is valid only if:

(1) for consent to therapy or treatment:

(A) the consent is given voluntarily and without coercive or undue influence; and

(B) before administration of the therapy or treatment, rather than before administration of the medication, therapy, or treatment, the treating physician or the psychologist, social worker, professional counselor, or chemical dependency counselor explains to the patient and to the person giving consent, in simple, nontechnical language:

(i) the specific condition to be treated;

(ii) the beneficial effects on that condition expected from the therapy or treatment, rather than expected from the medication, therapy, or treatment; and

(iii)-(vi) Makes conforming changes.

Makes nonsubstantive changes.

(2) for consent to the administration of medication:

(A) the consent is given voluntarily and without coercive or undue influence; and

(B) the treating physician provides each explanation required by Subdivision (1)(B) to the patient and to the person giving consent in simple, nontechnical language; and

(3) for consent to medication, therapy, or treatment, the informed consent is evidenced in the patient's clinical record by a signed form prescribed by Texas Commission on Alcohol and Drug Abuse (TCADA) for this purpose or by a statement of the treating physician or the psychologist, social worker, professional counselor, or chemical dependency counselor who obtained the consent that documents that consent was given by the appropriate person and the circumstances under which the consent was obtained.

(g) Provides that consent given by a patient or by a person authorized by law to consent to treatment on the patient's behalf applies to a series of doses of medication or to multiple therapies or treatments for which consent was previously granted. Requires the physician or the psychologist, social worker, professional counselor, or chemical dependency counselor, if the treating physician or the psychologist, social worker, professional counselor, or chemical dependency counselor obtains new information relating to a therapy or treatment for which consent was previously obtained, to explain the new information and obtain new consent. Requires the physician, if the treating physician obtains new information relating to a medication for which consent was previously obtained, to explain the new information and obtain new consent. Makes a conforming and a nonsubstantive change.

SECTION 2. Amends the heading to Section 462.025, Health and Safety Code, to read as follows:

Sec. 462.025. INTAKE, SCREENING, ASSESSMENT, AND ADMISSION.

SECTION 3. Amends Section 462.025, Health and Safety Code, by amending Subsections (a) and (e) and adding Subsection (b-1), as follows:

(a) Requires TCADA to adopt rules governing the voluntary admission of a patient to a treatment facility, including rules governing the intake, screening, and assessment procedures of the admission process.

(b-1) Requires that the rules governing the screening process establish minimum standards for determining whether a prospective patient presents sufficient signs, symptoms, or behaviors indicating a potential chemical dependency disorder to warrant a more in-depth assessment by a qualified professional. Requires that the screening be reviewed and approved by a qualified professional.

(e) Requires a treatment facility, in accordance with TCADA rule, to provide annually a minimum of two hours of inservice training regarding intake and screening for persons who will be conducting an intake or screening for the facility, rather than provide annually a minimum of eight hours of inservice training regarding intake and assessment for persons who will be conducting an intake or assessment for the facility. Prohibits a person from conducting intake or screenings, rather than intake or assessments, without having completed the initial and applicable annual inservice training.

SECTION 4. Amends Section 462.025(h), Health and Safety Code, to redefine "assessment" and define "screening."

SECTION 5. Effective date: September 1, 2011.