



## Professional Licensing and Certification Guidance Letter

<b>Number:</b> GL 20-5004
<b>Title:</b> Criminal Convictions and Licensure Eligibility for Licensed Chemical Dependency Counselors and Counselor Interns (HB 1342-86R)
<b>Provider Types:</b> Licensed Chemical Dependency Counselors and Counselor Interns
<b>Date Issued:</b> January 22, 2021

### 1.0 Subject and Purpose

The Texas Health and Human Services Commission (HHSC) provides guidance to certain licensed professionals on legislation passed during previous Texas legislative sessions. House Bill (HB) 1342, concerning eligibility for an occupational license and related administrative penalties, took effect September 1, 2019.

This letter provides information on HB 1342 to licensed chemical dependency counselors (LCDCs), counselor interns (CIs), and applicants.

### 2.0 Policy Details & Provider Responsibilities

HB 1342 amended Texas Occupations Code (TOC) Chapter 53.<sup>1</sup> Under this chapter, a licensing authority may disqualify a person from receiving an occupational license, suspend a license, or revoke a license on the grounds that the person has been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation, an offense for which the person is ineligible for community supervision as listed in [Texas Code of Criminal Procedure \(TCCP\) Article 42A.054](#), or a sexually violent offense as defined in [TCCP Article 62.001](#).<sup>2</sup>

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<sup>1</sup> [TOC Chapter 53](#).

<sup>2</sup> [TOC §53.021\(a\)](#).

HB 1342 amended TOC Chapter 53 to:

- remove a conviction for an offense that does not directly relate to the duties and responsibilities of the licensed occupation and that was committed less than five years before the date the person applies for the applicable license as grounds for disqualification for an occupational license.<sup>3</sup>
- require the state auditor, in collaboration with licensing authorities, to develop a best practice guide for an applicant with a prior conviction to use when applying for a license and publish the guide on the state auditor's website.<sup>4</sup>
- require a licensing authority to:
  - consider any correlation between a crime and the duties and responsibilities of the licensed occupation as a factor when determining whether an offense directly relates to the licensed occupation;<sup>5</sup>
  - consider evidence of the person's compliance with community supervision, parole, or mandatory supervision conditions as a factor when considering whether to disqualify a person from receiving a license or suspending or revoking their license for an offense directly related to the licensed occupation;<sup>6</sup>
  - provide written notice and allow a person to submit relevant information to the authority before the authority may deny the person a license or the opportunity to be examined for a license based on the person's prior conviction of an offense;<sup>7</sup>
  - include the statutory factors the licensing authority determined were the basis for a license suspension, revocation, denial, or disqualification or potential ineligibility in the written notice to a licensee or applicant required under [TOC §53.051](#) or letter to a person requesting a criminal history evaluation required under [TOC §53.104](#);<sup>8</sup> and

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<sup>3</sup> [TOC §53.021\(a\)](#).

<sup>4</sup> [TOC §53.026\(a\)](#).

<sup>5</sup> [TOC §53.022\(5\)](#).

<sup>6</sup> [TOC §53.023\(a\)\(6\)](#).

<sup>7</sup> [TOC §53.0231](#).

<sup>8</sup> [TOC §53.051\(1\)](#); [TOC §53.104\(b\)](#).

- publish the link to the state auditor's best practices guide on the licensing authority's website and include the link in each written notice under TOC §53.051 or letter under TOC §53.104.<sup>9</sup>

## 2.1 State Auditor's Office Best Practices Guide

In August 2020, the State Auditor's Office (SAO), in collaboration with occupational licensing authorities, developed [a best practices guide](#) to provide an overview of the occupational licensing application process for a person with a criminal conviction or deferred adjudication for a felony or misdemeanor offense, in accordance with TOC §53.026.<sup>10</sup>

[Click here for the SAO's summary analysis of the best practices guide.](#)

In accordance with TOC §53.026(b), the link to the SAO's best practices guide is available on the [HHSC Professional Licensing, Certification and Compliance webpage](#).

## 3.0 Background/History

The Legislature with HB 1342 amended the TOC to define and revise guidelines regarding the eligibility for certain occupational licenses for a person who has been convicted of an offense and outline the responsibilities of HHSC and other government entities regarding these guidelines. The purpose of this bill was to reduce barriers to eligibility for an occupational license faced by individuals with a criminal conviction or deferred adjudication for a felony or misdemeanor offense within five years of applying for a license.

## 4.0 Resources

View Texas Occupations Code Chapter 53 at:

<https://statutes.capitol.texas.gov/Docs/OC/htm/OC.53.htm>.

View HB 1342 at:

<https://capitol.texas.gov/tlodocs/86R/billtext/pdf/HB01342F.pdf>.

View the SAO's Best Practices Guide: Applying for an Occupational License After Conviction or Deferred Adjudication (Report 20-327) at:

<https://sao.texas.gov/reports/main/20-327.pdf>.

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<sup>9</sup> [TOC §53.026\(b\)](#).

<sup>10</sup> [TOC §53.026](#).

View the SAO's summary of the report at:

<https://sao.texas.gov/SAOReports/ReportNumber?id=20-327>.

View the HHSC Professional Licensing, Certification and Compliance webpage

at: <https://hhs.texas.gov/doing-business-hhs/licensing-credentialing-regulation/professional-licensing-certification-compliance>.

To receive future updates, sign up for GovDelivery at:

<https://service.govdelivery.com/accounts/TXHHSC/subscriber/new>.

## **5.0 Contact Information**

If you have any questions about this letter, please contact the Policy, Rules, and Training unit by email at: [HCR\\_PRT@hhs.texas.gov](mailto:HCR_PRT@hhs.texas.gov).

For specific questions on licensure as an LCDC, please contact the Professional Licensing unit by email at: [lcdc@hhs.texas.gov](mailto:lcdc@hhs.texas.gov).