



# House of Representatives

General Assembly

**File No. 351**

February Session, 2002

Substitute House Bill No. 5463

*House of Representatives, April 8, 2002*

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING REGISTRATION OF EMPLOYEE ASSISTANCE PROFESSIONALS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2002*) As used in sections 1 to 7,  
2 inclusive, of this act unless the context otherwise requires:

3 (1) "Certified employee assistance professional" means an employee  
4 assistance professional who has been certified by the Employee  
5 Assistance Certification Commission.

6 (2) "Department" means the Department of Consumer Protection.

7 (3) "Employee" or "employee client" means any person, including an  
8 employee's family member or an employee covered by a union-  
9 sponsored employee assistance program, who consults with an  
10 employee assistance professional for assessment or to receive  
11 employee assistance program services.

12 (4) "Employee Assistance Certification Commission" means the  
13 administrative body that provides a nationally recognized program for  
14 certification of employee assistance professionals.

15 (5) "Employee assistance program-related graduate degree" or  
16 "employee assistance-related degree" means a graduate degree in one  
17 of the following areas: Behavioral science; human resources; work  
18 organization; management; administration or health care.

19 (6) "Employee assistance profession" means the provision of  
20 employee assistance program core functions, as set forth in subdivision  
21 (9) of this section, for remuneration, unless such core functions are  
22 provided only incidentally to some other function, provided any  
23 individual who regularly provides any four of the seven core functions  
24 provided in subdivision (9) of this section, shall be deemed an  
25 employee assistance professional, regardless of whether those  
26 functions are provided only incidentally to some other function.

27 (7) "Employee assistance professional" means any practitioner of the  
28 employee assistance profession, including any person who is required  
29 by a job description or employment contract to provide employee  
30 assistance core functions, or who has been hired by an entity to  
31 provide employee assistance program core functions to employees  
32 under a contract between that entity and a work organization for  
33 whom those employees work.

34 (8) "Employee assistance program" means a worksite-based  
35 program designed to assist (A) work organizations in addressing  
36 productivity issues, and (B) employee clients in identifying and  
37 resolving personal concerns including, but not limited to, health,  
38 marital, family, financial, alcohol, drug, gambling, legal, emotional,  
39 stress or other personal issues that may affect job performance.

40 (9) "Employee assistance program core functions" means the  
41 following essential components of the employee assistance profession:

42 (A) Consultation with, training of and assistance to work

43 organization managers seeking to assist employees, enhance the work  
44 environment and improve employee job performance, including  
45 outreach to and education of employees and their family members  
46 about the availability of employee assistance services;

47 (B) Confidential and timely problem identification or assessment  
48 services for employee clients with personal concerns that may affect  
49 job performance;

50 (C) Use of constructive confrontation, motivation and short-term  
51 intervention with employee clients to address problems that affect job  
52 performance;

53 (D) Referral of employee clients for diagnosis, treatment, assistance,  
54 case monitoring and follow-up services;

55 (E) Consultation with work organizations to establish and maintain  
56 effective relations with treatment and other service providers and in  
57 managing provider contracts;

58 (F) Consultation with work organizations to encourage support for  
59 employee access to health benefits covering medical and behavioral  
60 problems including, but not limited to, alcoholism, drug abuse and  
61 mental and emotional disorders; and

62 (G) Identification of the effects of employee assistance professional  
63 services on a work organization and individual job performance.

64 (10) "Registered employee assistance professional" means an  
65 employee assistance professional registered pursuant to sections 1 to 7,  
66 inclusive, of this act.

67 (11) "Professional development hour" means an hour-long unit of  
68 Employee Assistance Certification Commission approved training,  
69 awarded by the Employee Assistance Certification Commission for  
70 training in the seven employee assistance professional core functions.

71 (12) "Work organization" means any employer for which an

72 employee client works, either as an employee or under contract, any  
73 union of which any employee client is a member or any representative  
74 of such an employer or union.

75 Sec. 2. (NEW) (*Effective October 1, 2002*) (a) The Department of  
76 Consumer Protection may:

77 (1) Issue certificates of registration as an employee assistance  
78 professional, as provided in sections 1 to 7, inclusive, of this act, which  
79 permit and authorize individuals to practice the employee assistance  
80 profession and represent themselves to the general public as registered  
81 employee assistance professionals;

82 (2) Adopt and enforce rules of conduct and appropriate sanctions  
83 for registered members of the employee assistance profession;

84 (3) Approve educational programs required for certification as an  
85 employee assistance professional under sections 1 to 7, inclusive, of  
86 this act;

87 (4) Establish and collect fees for certificates of registration as an  
88 employee assistance professional, as provided in sections 1 to 7,  
89 inclusive, of this act;

90 (5) Assess civil penalties, as provided in sections 1 to 7, inclusive, of  
91 this act; and

92 (6) Adopt regulations, in accordance with the provisions of chapter  
93 54 of the general statutes, to carry out sections 1 to 7, inclusive, of this  
94 act.

95 Sec. 3. (NEW) (*Effective October 1, 2002*) (a) A person is qualified to  
96 be registered as an employee assistance professional and the  
97 Department of Consumer Protection shall issue a certificate of  
98 registration authorizing such person to practice as an employee  
99 assistance professional to any applicant who:

100 (1) Has been certified by the Employee Assistance Certification

101 Commission as a certified employee assistance professional and has  
102 submitted proof that such certification is in good standing dated not  
103 more than thirty days prior to the date of application for a certificate of  
104 registration as an employee assistance professional, provided, during  
105 the period from October 1, 2002, to October 1, 2003, the department  
106 may adopt a rule waiving the requirements of this subdivision for any  
107 individual who (A) is able to demonstrate that such individual  
108 practiced as an employee assistance professional prior to October 1,  
109 2002, and (B) meets the professional development hour requirements  
110 for certification by the Employee Assistance Certification Commission;

111 (2) (A) Holds an employee assistance professional-related graduate  
112 degree and has completed two thousand hours of employee assistance  
113 professional work experience within a two to seven-year period, or (B)  
114 does not hold an employee assistance professional-related graduate  
115 degree, but has completed three thousand hours of employee  
116 assistance professional work experience within a two to seven-year  
117 period, provided during the period from October 1, 2002, to October 1,  
118 2003, the department shall waive the requirements of subparagraphs  
119 (A) and (B) of this subdivision for any individual who has practiced in  
120 the employee assistance profession for at least four years prior to  
121 October 1, 2002, and continues to practice such profession;

122 (3) Has met such other requirements as the department may deem  
123 appropriate for registration as an employee assistance professional;

124 (4) Has completed a written application on forms prepared and  
125 furnished by the department. Each application shall (A) contain proof  
126 of the qualifications required of the applicant, (B) provide the details of  
127 the applicant's training and experience in the practice of the employee  
128 assistance profession, and (C) be signed by the applicant under penalty  
129 of false statement; and

130 (5) Has submitted a nonrefundable application fee in the amount of  
131 one hundred fifty dollars.

132 (b) The department shall issue a certificate of registration as an

133 employee assistance professional to any applicant who:

134 (1) Is registered as an employee assistance professional in any other  
135 state, territory or foreign jurisdiction whose employee assistance  
136 professional registration requirements are substantially equivalent to  
137 the requirements set forth in this section and include certification by  
138 the Employee Assistance Certification Commission;

139 (2) Has completed a written application on forms prepared and  
140 furnished by the department. Each application shall (A) contain proof  
141 of the qualifications required of the applicant, (B) provide details of the  
142 applicant's training and experience in the practice of the employee  
143 assistance profession, and (C) be signed by the applicant under penalty  
144 of false statement; and

145 (3) Has submitted a nonrefundable application fee in the amount of  
146 one hundred fifty dollars.

147 (c) (1) No person shall represent that such person is registered as an  
148 employee assistance professional in this state unless such person is  
149 duly registered in accordance with sections 1 to 7, inclusive, of this act.

150 (2) No person shall hold out to the public by any title or provide any  
151 description of services offered which incorporates the terms  
152 "registered employee assistance professional" in this state unless such  
153 person is duly registered in accordance with sections 1 to 7, inclusive,  
154 of this act.

155 (d) The department may establish policies to permit waiver of the  
156 qualifications for registration set forth in this section in cases involving  
157 extreme hardship, including full-time service in the armed forces of the  
158 United States, incapacitating illness, physical inability to travel to  
159 training or other extenuating circumstances.

160 (e) (1) A certificate of registration as an employee assistance  
161 professional issued by the department under sections 1 to 7, inclusive,  
162 of this act shall be valid for a period of two years from the date of  
163 issuance.

164 (2) A certificate holder who seeks to renew a certificate of  
165 registration as an employee assistance professional shall file a written  
166 application for renewal on forms prepared and furnished by the  
167 department prior to the expiration of such certificate and submit a  
168 renewal fee in the amount of one hundred dollars. Renewal shall  
169 require proof of current and, when applicable, continuing certification  
170 as an employee assistance professional in good standing.

171 (f) Failure to timely apply for renewal of a certificate of registration  
172 as an employee assistance professional shall result in the suspension of  
173 such certificate. The effective date of the suspension shall be the last  
174 day of the two-year period following the date of issuance of such  
175 certificate. Any certificate holder whose certificate as an employee  
176 assistance professional has been suspended may make written  
177 application for reinstatement of such certificate not later than sixty  
178 days after the date such certificate expires. Reinstatement of a  
179 certificate of registration as an employee assistance professional shall  
180 be granted on the same terms as renewal of such certificate. Any  
181 person whose certificate of registration has been suspended for more  
182 than one year shall reapply to the department for registration as an  
183 employee assistance professional.

184 (g) An applicant or certificate holder shall notify the department of  
185 any change in the information provided in the application for  
186 certification as an employee assistance professional under sections 1 to  
187 7, inclusive, of this act, including any lapse in certification by the  
188 Employee Assistance Certification Commission, not later than sixty  
189 calendar days after any such change occurs.

190 (h) The department shall act upon a completed application for  
191 certification, renewal, reinstatement or reapplication for registration as  
192 an employee assistance professional not later than three months after  
193 the submission of such application.

194 Sec. 4. (NEW) (*Effective October 1, 2002*) (a) The Department of  
195 Consumer Protection shall withhold, deny, suspend or revoke a  
196 certificate of registration as an employee assistance professional upon

197 finding that the applicant or certificate holder:

198 (1) Has fraudulently obtained or attempted to obtain a certificate of  
199 registration as an employee assistance professional;

200 (2) Has violated any provision of sections 1 to 7, inclusive, of this act  
201 or any rule or regulation of the department relating to employee  
202 assistance professionals, or has allowed or encouraged an employee,  
203 agent, contractor or person under the certificate holder's supervision to  
204 engage in such violation;

205 (3) Has violated the code of professional conduct for certified  
206 employee assistance professionals adopted by the Employee  
207 Assistance Certification Commission or any additional ethical  
208 requirements adopted by the department;

209 (4) Has had a certificate of registration as an employee assistance  
210 professional denied, suspended or revoked for cause by any other  
211 state, territory or foreign jurisdiction; or

212 (5) Has had a certification suspended or revoked by the Employee  
213 Assistance Certification Commission for unethical conduct, provided  
214 the department determines that the rules under which that suspension  
215 or revocation occurred were sound and the procedures employed were  
216 fair and consistent with due process of law.

217 (b) Any individual who provides information to the department  
218 that the individual believes, in good faith, indicates a certificate holder  
219 is or may be in violation of sections 1 to 7, inclusive, of this act shall be  
220 immune from any civil or criminal liability for taking such action.

221 (c) If the department concludes that any matter before it involves  
222 probable violation of law, the department shall refer the matter to the  
223 appropriate state or federal law enforcement authority for possible  
224 additional civil or criminal action.

225 Sec. 5. (NEW) (*Effective October 1, 2002*) Nothing in sections 1 to 7,  
226 inclusive, of this act shall preclude any professional registered,

227 licensed or certified in another related profession from practicing any  
228 such profession consistent with accepted professional standards for its  
229 practice.

230 Sec. 6. (NEW) (*Effective October 1, 2002*) (a) No employee shall be  
231 required to disclose any information or records concerning or  
232 confirming the employee's participation in an employee assistance  
233 program.

234 (b) No employee assistance program, by itself or its agents or  
235 representatives, shall disclose any information or records concerning  
236 or confirming an employee's participation in such program without  
237 the prior written consent of the employee or the employee's  
238 representative, unless disclosure of such information or records is  
239 made: (1) Pursuant to a lawfully issued administrative summons or  
240 judicial order, including a search warrant or subpoena, or in response  
241 to a government audit; (2) in response to an apparent medical  
242 emergency; or (3) to comply with federal, state or local laws or  
243 regulations.

244 Sec. 7. (NEW) (*Effective October 1, 2002*) (a) Any person who wilfully  
245 misrepresents that such person is a registered employee assistance  
246 professional shall be subject to a civil penalty of not more than one  
247 thousand dollars.

248 (b) Any person aggrieved as a result of a violation of any provision  
249 of sections 1 to 7, inclusive, of this act or any regulation adopted by the  
250 Department of Consumer Protection under sections 1 to 7, inclusive, of  
251 this act may bring a civil action in the superior court for the judicial  
252 district of Hartford against the offender to obtain appropriate relief,  
253 including actual and punitive damages, equitable relief, reasonable  
254 attorneys' fees and court costs.

|  |                        |
|--|------------------------|
| This act shall take effect as follows: |                        |
| Section 1                              | <i>October 1, 2002</i> |
| Sec. 2                                 | <i>October 1, 2002</i> |

|        |                        |
|--------|------------------------|
| Sec. 3 | <i>October 1, 2002</i> |
| Sec. 4 | <i>October 1, 2002</i> |
| Sec. 5 | <i>October 1, 2002</i> |
| Sec. 6 | <i>October 1, 2002</i> |
| Sec. 7 | <i>October 1, 2002</i> |

**LAB**      *Joint Favorable Subst. C/R*

JUD

**JUD**      *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

---

**OFA Fiscal Note**

**State Impact:**

| <b>Fund-Type</b>    | <b>Agency Affected</b>     | <b>Current FY \$</b> | <b>FY 03 \$</b> | <b>FY 04 \$</b> |
|---------------------|----------------------------|----------------------|-----------------|-----------------|
| GF - Potential Cost | Consumer Protection, Dept. | -                    | 78,402          | 102,639         |
| GF - Revenue Gain   | Consumer Protection, Dept. | -                    | Indeterminate   | Indeterminate   |

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

**Department of Consumer Protection**

This bill allows the Commissioner of Consumer Protection to issue registrations for employee assistance professionals, adopt and enforce rules of conduct with appropriate sanctions for registrants, approve educational programs required for registration, establish and collect registration fees, assess civil penalties, and adopt regulations. However, it also requires the department to register employee assistance professionals who meet certain established requirements.

The number of individuals who would actually register with the Department of Consumer Protection (DCP) as employee assistance professionals is currently unknown. However, most major businesses, federal, state and municipal agencies have Employee Assistance Programs (EAPs). According to the Department of Labor, the workforce in the state is 1.7 million. The U.S. Department of Labor estimates that 65% of workers nationally have access to an EAP program.

Depending on the number of registrants, the DCP could require the

services of a Processing Technician and an Office Assistant. Below are the detailed costs for the two (2) staff persons. FY 03 costs reflect three-quarter year funding; FY 04 costs have been annualized.

|                              | <b>FY 03</b>     | <b>FY 04</b>     |
|------------------------------|------------------|------------------|
| Personal Services            | \$ 49,120        | \$ 69,255        |
| Fringe Benefits <sup>1</sup> | 21,122           | 29,780           |
| Other Expenses <sup>2</sup>  | 1,750            | 3,605            |
| Equipment <sup>3</sup>       | 6,410            | - 0 -            |
| <b>Total</b>                 | <b>\$ 78,402</b> | <b>\$102,640</b> |

The revenue gain from the biennial registration fees or from the assessment of civil penalties is at present indeterminate.

### ***Judicial Department***

Anyone aggrieved by a violation of the bill or related DCP regulations to file a civil suit in the Hartford Superior Court. The Judicial Department would be able to absorb any increase in civil cases resulting from the bill within available appropriations.

---

<sup>1</sup> Fringe benefit costs are not included in the agency's operating budget. Instead, they are part of funds appropriated for this purpose under Miscellaneous Appropriations Administered by the Comptroller.

<sup>2</sup> Other Expenses includes office supplies, data processing and software materials, and annual phone service costs.

<sup>3</sup> Equipment costs include personal computers, desks, chairs, phones, etc. These are one-time costs.

---

**OLR Bill Analysis**

sHB 5463

**AN ACT CONCERNING REGISTRATION OF EMPLOYEE ASSISTANCE PROFESSIONALS****SUMMARY:**

This bill allows the Department of Consumer Protection (DCP) to register employee assistance professionals (EAP), allowing them to practice this profession and represent themselves to the public as being registered. It establishes registration requirements and allows DCP to:

1. assess civil and other penalties,
2. set and collect registration fees,
3. adopt and enforce rules of conduct and appropriate sanctions for registrants,
4. approve educational programs required for registration, and
5. adopt implementing regulations.

The bill bars anyone who is not registered from (1) representing that he is registered or (2) using the term "registered employee assistance professional" as his title or in describing his services.

The bill does not preclude someone registered, licensed, or certified in a related profession from practicing that profession in accordance with its accepted professional standards.

Under the bill, employees cannot be required to disclose information about their participation in an employee assistance program. Programs can provide information about participants only under limited circumstances.

Anyone aggrieved by a violation of the bill or related DCP regulations can file a civil suit in the Hartford Superior Court against the offender and seek appropriate relief, including actual and punitive damages, equitable relief, reasonable attorney's fees, and court costs.

EFFECTIVE DATE: October 1, 2002

**REGISTRATION REQUIREMENTS**

**Initial Registration**

To be eligible for registration as an EAP, an applicant must:

1. hold a graduate degree in behavioral science, human resources, work organizations, management, administration, or health care, and have 2,000 hours of professional work experience within a two-to seven-year period or, if he does not have such a degree, 3,000 hours of professional work experience in the same period;
2. have a certificate from a commission that provides a nationally recognized program for certifying EAPs and submit proof dated no more than 30 days before applying for registration that the certificate is in good standing; and
3. meet other requirements DCP considers appropriate for registration.

DCP must waive the first requirement for anyone who has practiced as an EAP for at least four years before October 1, 2002 and continues to practice.

DCP may adopt a rule waiving the second requirement during October 1, 2002 to October 1, 2003 for anyone who can demonstrate that he practiced as an EAP before October 1, 2002, and meets the professional development hour requirements in order to be certified. (The professional development hours are awarded by the commission and address the seven core functions of employee assistance programs, discussed below.)

The bill defines an EAP as one who (1) is required by a job description or employment contract to provide the core functions of the profession or (2) has been hired by an entity to provide these functions to employees under a contract between the entity and the employees' union or employers.

The bill identifies the core functions as:

4. helping managers seeking to assist their employees and unions, enhance the work environment, and improve job performance, including outreach about the availability of employee assistance;
5. identifying problems and assessing services for employees with personal concerns that may affect their job performance;

6. using various intervention techniques to help employees address these problems;
7. referring employees for diagnosis and other services;
8. consulting with employers and unions to establish effective relations with service providers;
9. consulting with employers and unions to encourage support for employee access to health benefits covering medical and behavioral problems such as alcoholism and drug abuse; and
10. identifying the effects of employee assistance services on individual job performance and the employer or union.

A person who performs four or more of these functions is considered an EAP.

The applicant must complete forms developed and furnished by DCP. The application must contain (1) proof of the applicant's qualifications, (2) provide details of the applicant's training and experience, and (3) be signed under penalty of false statement. The nonrefundable application fee is \$150.

DCP must also register someone registered in another state, territory, or foreign jurisdiction whose registration requirements are substantially equivalent to those described above, including certification by the commission. Such applicants must fill out the forms and pay the \$150 fee.

DCP may establish policies allowing waiver of the registration qualifications for extreme hardship, including full-time military service, incapacitating illness, physical inability to travel to training sites, or other extenuating circumstances.

### **Renewals**

The registration is valid for two years. A person who wants to renew his registration must file an application on DCP forms. The renewal fee is \$100. The applicant must demonstrate current, and where applicable, continuing certification as an EAP in good standing.

If the person does not apply for renewal before his registration expires, DCP must suspend his registration from its expiration. He can apply for reinstatement within 60 days of the expiration. To be reinstated, he must meet the same conditions as for a renewal. If a registration has

been suspended for more than one year, the person must apply to DCP for registration.

DCP must act on a completed application for registration, renewal, reinstatement, or reapplication within three months after its submission.

An applicant or registrant must notify DCP of any change in his application, including any lapse in his certification, within 60 days of its occurrence.

## **PENALTIES**

Under the bill, anyone who willfully represents himself as a registered EAP is subject to a civil penalty of up to \$1,000.

DCP must withhold, deny, suspend, or revoke a registration if the individual has:

11. fraudulently obtained or attempted to obtain a registration;
12. violated the bill or DCP rule or regulation related to the profession, or allowed his employee, agent, contractor, or supervisee to violate these provisions;
13. violated the professional code of conduct adopted by the commission or other ethical requirements adopted by DCP;
14. had a registration denied, suspended, or revoked for cause in another jurisdiction; or
15. had a registration revoked by the commission, if DCP determines the commission's rules sound and its procedures fair and consistent with due process.

Anyone who, in good faith, alleges to DCP that a registrant has violated the bill is immune from civil or criminal liability.

If DCP concludes that any matter before it is a probable legal violation, it must report the matter to the appropriate state or federal agency for possible civil or criminal action.

## **DISCLOSURE**

Under the bill, employees cannot be required to disclose any information or records about their participation in an employee

assistance program or confirming participation in a program. A program must be based at the work-site and designed to help (1) employers and unions address productivity issues and (2) employees address personal concerns such as health, family, and other issues that may affect job performance.

No program, directly or indirectly, may disclose any information or records concerning an employee's participation in a program without the written consent of the employee or his representative. This requirement does not apply to disclosures made:

- 16. under a lawfully issued summons or judicial order or in response to a government audit;
- 17. in response to an apparent medical emergency; or
- 18. to comply with federal, state, or local laws or regulations.

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute Change of Reference

Yea 14    Nay 0

Judiciary Committee

Joint Favorable Report

Yea 40    Nay 0