



House of Representatives

General Assembly

File No. 517

February Session, 2006

Substitute House Bill No. 5671

House of Representatives, April 13, 2006

The Committee on Public Health reported through REP. SAYERS of the 60th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE REGISTRATION OF HYPNOTISTS.

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

1 Section 1. (NEW) (*Effective October 1, 2006*) (a) No person shall
2 practice hypnosis or hold himself or herself out as a hypnotist in this
3 state without first registering with the Department of Consumer
4 Protection pursuant to subsection (b) of this section.

5 (b) Each person who practices hypnosis in this state shall, upon
6 payment of an application fee of fifty dollars, register with the
7 Department of Consumer Protection on a form provided by the
8 department with such information and attestation as the
9 Commissioner of Consumer Protection deems necessary, including,
10 but not limited to, (1) such person's name in full, (2) such person's
11 residential and business addresses, and (3) a representation, in writing,
12 that such person is not subject to the registration requirements of
13 chapter 969 of the general statutes. Each such person shall notify the
14 department, in writing, not later than thirty days after the date of any
15 change in such person's name, residential address or business address

16 or if such person becomes subject to the registration requirements of
17 chapter 969 of the general statutes. A registration shall expire annually
18 and may be renewed upon payment of a renewal fee of fifty dollars.

19 (c) The Commissioner of Consumer Protection may deny
20 registration as a hypnotist to an individual who has been the subject of
21 a finding rendered pursuant to subsection (d) of this section. The
22 registry shall contain information concerning any individual who has
23 been denied said registration, as well as any brief statement disputing
24 such denial by such individual.

25 (d) The Department of Consumer Protection shall receive and
26 investigate complaints against individuals who are practicing or have
27 practiced hypnosis in this state and may cause a prosecution to be
28 instigated based on such investigation. The grounds for complaint
29 shall include physical or sexual abuse, misappropriation of property,
30 and fraud or deceit in obtaining or attempting to obtain registration as
31 a hypnotist. A hypnotist shall be given written notice by certified mail
32 by the commissioner of any complaint against him or her. A hypnotist
33 who wishes to appeal a complaint against him or her shall, not later
34 than thirty days after the date of the mailing, file with the department
35 a request in writing for a hearing to contest the complaint. Any such
36 hearing shall be conducted pursuant to chapter 54 of the general
37 statutes. The commissioner shall render a finding on such complaint
38 and enter such finding on the registry. The commissioner shall have
39 the authority to render a finding and enter such finding on the registry
40 against an individual who is practicing or has practiced hypnosis in
41 this state, without regard to whether such individual is on the registry
42 or has obtained registration as a hypnotist from the department.

43 (e) A hypnotist may petition the Commissioner of Consumer
44 Protection to have the finding removed from the registry upon a
45 determination by the commissioner that: (1) The employment and
46 personal history of the hypnotist does not reflect a pattern of abusive,
47 deceitful or fraudulent behavior; and (2) the conduct involved in the
48 original finding was a singular occurrence. In no case shall a

49 determination on a petition submitted under this subsection be made
50 prior to the expiration of a one-year period beginning on the date on
51 which the finding was added to the registry pursuant to subsection (d)
52 of this section.

53 (f) The Commissioner of Consumer Protection may, after notice and
54 hearing, in accordance with the provisions of chapter 54 of the general
55 statutes, assess a civil penalty of not more than one hundred dollars
56 against any person who has practiced hypnosis in this state without
57 first registering with the department pursuant to subsection (b) of this
58 section.

59 (g) The Commissioner of Consumer Protection shall revoke the
60 registration of a person under this section after notice and hearing in
61 accordance with the provisions of chapter 54 of the general statutes if
62 such person becomes subject to the registration requirements of
63 chapter 969 of the general statutes.

64 (h) The provisions of this section do not apply to any person
65 licensed in this state to provide medical, dental, nursing, counseling or
66 other health care, substance abuse or mental health services.

67 (i) The Commissioner of Consumer Protection, in consultation with
68 the Commissioner of Public Health, may adopt regulations, in
69 accordance with chapter 54 of the general statutes, to implement the
70 provisions of this section.

71 (j) For purposes of this section, "hypnosis" means an artificially
72 induced altered state of consciousness, characterized by heightened
73 suggestibility and receptivity to direction.

74 Sec. 2. Subdivision (9) of section 53a-65 of the general statutes is
75 repealed and the following is substituted in lieu thereof (*Effective*
76 *October 1, 2006*):

77 (9) "Psychotherapist" means a physician, psychologist, nurse,
78 substance abuse counselor, social worker, clergyman, marital and
79 family therapist, mental health service provider, hypnotist or other

80 person, whether or not licensed or certified by the state, who performs
81 or purports to perform psychotherapy.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2006</i>	New section
Sec. 2	<i>October 1, 2006</i>	53a-65(9)

PH *Joint Favorable Subst.*

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:

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Consumer Protection, Dept.	GF - Cost	120,362	113,532
Comptroller Misc. Accounts (Fringe Benefits)	GF - Cost	27,989	61,978
Consumer Protection, Dept.	GF - Revenue Gain	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill requires anyone practicing hypnosis to register with the Department of Consumer Protection (DCP). DCP would need one additional Licensing & Applications Specialist (annual salary of \$55,103) and one Special Investigator (annual salary of \$51,205) to handle the processing of the registration applications and to investigate claims of persons who are practicing hypnosis without having first registered with DCP. The fringe benefit costs for these two positions would be paid out of the Comptroller's Miscellaneous Accounts.¹ The agency would also incur costs in Other Expenses in FY 07 and FY 08 related to office supplies, software and training and a one-time cost in FY 07 for computer hardware. All of these costs are detailed below.

¹ The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The estimated first year fringe benefit rate as a percentage of payroll is 23.6%, effective July 1, 2005. The first year fringe benefit costs for new positions do not include pension costs. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System (SERS). The SERS 2005-06 fringe benefit rate is 34.7%, which when combined with the non pension fringe benefit rate would total 58.3%.

Description	FY 07	FY 08
Personal Services	\$106,308	\$106,308
Other Expenses	8,434	7,224
Equipment	5,620	
Total	120,362	113,532

The bill requires applicants to pay a \$50 application fee and \$50 renewal fee. Additionally under the bill, the DCP commissioner may impose a civil penalty of up to \$100. Both of these provisions would result in a minimal revenue gain.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 5671*****AN ACT CONCERNING THE REGISTRATION OF HYPNOTISTS.*****SUMMARY:**

This bill makes it sexual assault for a hypnotist to have consensual sexual intercourse or contact with a client or former client under the same circumstances that currently apply to people performing or purporting to perform psychotherapy.

In addition, the bill requires anyone practicing hypnosis, or holding himself out to be a hypnotist, to register with the Department of Consumer Protection (DCP). It defines "hypnosis" as an artificially induced altered state of consciousness characterized by heightened suggestibility and receptivity to direction.

The bill requires a registration applicant to state that he is not required to register as a sexual offender and requires the DCP commissioner to revoke, after notice and hearing, the registration of anyone required to register as one. It sets application, complaint handling, and disciplinary procedures. It authorizes the DCP commissioner to impose a civil penalty of up to \$100 for practicing hypnosis without being registered and to adopt regulations in consultation with the public health commissioner.

EFFECTIVE DATE: October 1, 2006

HYPNOTIST REGISTRATION***Applications***

The application must be on a DCP-provided form with information and attestation required by the DCP commissioner that must include the applicant's full name, business and residential addresses, and a written representation that the applicant is not a sexual offender under

Connecticut law or registered as one under the laws of another state. The bill requires registrants to notify the commissioner of any change in these facts within 30 days after they occur. The application and annual renewal fees are \$50.

Complaints and Discipline

Under the bill, DCP receives and investigates complaints about hypnotists and may cause a prosecution to begin based on its investigation. Grounds for complaints include physical or sexual abuse; misappropriation of property; and fraud or deceit in obtaining, or attempting to obtain, a registration as a hypnotist. The bill requires DCP to give a hypnotist a written notice by certified mail of a complaint. A hypnotist who wants to appeal must file a request for a hearing within 30 days after DCP's notice is mailed. Hearings must be conducted in accordance with the Uniform Administrative Procedure Act. The DCP commissioner must make a finding on the complaint and enter it in the registry. He may do so regardless of whether the individual is already on the registry or has obtained a registration as a hypnotist.

The bill gives the DCP commissioner the authority to deny a registration to, but not revoke the registration of, a hypnotist who has been the subject of a finding. The bill requires the registry to include information about anyone denied a registration and a brief statement by the individual disputing the denial, if any.

A hypnotist may ask the commissioner to have a finding removed from the registry if the commissioner determines that the hypnotist's employment and personal history does not reflect a pattern of abusive, deceitful, or fraudulent behavior, and the conduct involved in the original finding was a singular occurrence. The bill prohibits removing a finding less than one year after it was entered.

Exemptions

The bill exempts anyone licensed in this state to provide medical, dental, nursing, counseling, or other health care, substance abuse, or

mental health services from its hypnotist registration provisions.

SEXUAL ASSAULT BY A HYPNOTIST

Sexual assault by a hypnotist is 2nd-degree sexual assault when it involves sexual intercourse:

1. with a client during a treatment session for a mental or emotional illness, symptom, or condition;
2. the hypnotist represents to be for legitimate treatment purposes;
or
3. with a client or former client the hypnotist has reason to know is unable to withhold consent because of her emotional dependence on him.

By law, people convicted of this crime are subject to lifetime sex offender registration.

The bill also makes it 4th-degree sexual assault to have sexual contact with a client or former client under the circumstances listed above. By law, people convicted of this crime are subject to 10-year sex offender registration.

The table below lists penalties and fines for 2nd- and 4th-degree sexual assault.

Offense	Classification	Range of Sanctions
2 nd -degree sexual assault; victim under age 16	Class B felony	At least 9 months and up to 20 years imprisonment, a fine of up to \$20,000, or both
2 nd -degree sexual assault; victim at least age 16	Class C felony	At least 9 months and up to 10 years imprisonment, a fine of up to \$10,000, or both
4 th -degree sexual	Class D felony	Up to 5 years

assault; victim under age 16		imprisonment, a fine of up to \$5,000, or both
4 th -degree sexual assault; victim at least age 16	Class A misdemeanor	Up to 1 year imprisonment, a fine of up to \$2,000, or both

BACKGROUND

Related Bill

HB 5215 (File 171), which the House passed on April 5, consists of an identical provision concerning sexual assault by a hypnotist.

Legislative History

The bill (File 124) was referred by the House to the Public Health Committee on March 28. Public Health reported a substitute version, which (1) adds the criminal penalty for sexual assault by a hypnotist; (2) requires annual, rather than one-time, registration; (3) creates a complaint and discipline procedure; and (4) revises the exemption provision.

COMMITTEE ACTION

General Law Committee

Joint Favorable

Yea 15 Nay 0 (03/09/2006)

Public Health Committee

Joint Favorable Substitute

Yea 18 Nay 3 (04/05/2006)