

By: Wells-Smith

To: Public Health and  
Welfare

HOUSE BILL NO. 1205

1 AN ACT TO EXEMPT FAITH-BASED CHEMICAL DEPENDENCY TREATMENT  
2 PROGRAMS FROM LICENSURE OR CERTIFICATION; TO PROVIDE THAT IN ORDER  
3 TO BE EXEMPT UNDER THIS ACT, A CHEMICAL DEPENDENCY TREATMENT  
4 PROGRAM MUST BE ONE THAT IS CONDUCTED BY A RELIGIOUS ORGANIZATION,  
5 IS EXCLUSIVELY RELIGIOUS, SPIRITUAL, OR ECCLESIASTICAL IN NATURE,  
6 DOES NOT TREAT MINORS WITHOUT PARENTAL CONSENT, AND IS REGISTERED  
7 WITH THE STATE DEPARTMENT OF HEALTH UNDER THIS ACT; TO PROVIDE  
8 THAT EXEMPTED CHEMICAL DEPENDENCY TREATMENT PROGRAMS MAY NOT  
9 PROVIDE MEDICAL CARE, MEDICAL DETOXIFICATION, OR MEDICAL  
10 WITHDRAWAL SERVICES; TO REQUIRE EXEMPTED CHEMICAL DEPENDENCY  
11 PROGRAMS TO INCLUDE CERTAIN REPRESENTATIONS IN ANY ADVERTISING OR  
12 LITERATURE THAT PROMOTES OR DESCRIBES THE PROGRAM; TO PROVIDE THAT  
13 EXEMPTED CHEMICAL DEPENDENCY PROGRAMS MAY NOT ADMIT ANY PERSON  
14 UNLESS THE PERSON SIGNS A CERTAIN STATEMENT OF UNDERSTANDING ABOUT  
15 THE NATURE OF THE PROGRAM; TO PROVIDE THAT THE DEPARTMENT OF  
16 HEALTH MAY REVOKE THE EXEMPTION OF A FAITH-BASED CHEMICAL  
17 DEPENDENCY TREATMENT PROGRAM UNDER CERTAIN CIRCUMSTANCES; TO  
18 PROHIBIT STATE AGENCIES FROM DENYING SOCIAL SERVICES TO ANY  
19 INDIVIDUAL ON THE BASIS THAT THE INDIVIDUAL IS PARTICIPATING IN A  
20 FAITH-BASED CHEMICAL DEPENDENCY TREATMENT PROGRAM; TO PROVIDE THAT  
21 EXEMPTED CHEMICAL DEPENDENCY PROGRAMS SHALL NOT BE ELIGIBLE TO  
22 COMPETE AGAINST LICENSED PROGRAMS FOR DIRECT FEDERAL OR STATE  
23 TREATMENT FUNDING; TO AMEND SECTION 73-30-25, MISSISSIPPI CODE OF  
24 1972, TO EXEMPT FROM THE LICENSED PROFESSIONAL COUNSELORS LAW  
25 PERSONS WHO ARE WORKING FOR OR PROVIDING COUNSELING WITH AN  
26 EXEMPTED CHEMICAL DEPENDENCY TREATMENT PROGRAM; AND FOR RELATED  
27 PURPOSES.

28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

29 SECTION 1. As used in this act:

30 (a) "Chemical dependency" means:

31 (i) Abuse of alcohol or a controlled substance;

32 (ii) Psychological or physical dependence on  
33 alcohol or a controlled substance; or

34 (iii) Addiction to alcohol or a controlled  
35 substance.

36 (b) "Department" means the State Department of Health.

37 (c) "Religious organization" means a church, synagogue,  
38 mosque, or other religious institution:

39 (i) The purpose of which is the propagation of  
40 religious beliefs; and

41 (ii) That is exempt from federal income tax under  
42 Section 501(a) of the Internal Revenue Code of 1986 (26 USCS  
43 Section 501(a)) by being listed as an exempt organization under  
44 Section 501(c) of that code (26 USCS Section 501(c)).

45 (d) "Treatment" means a planned, structured, and  
46 organized program designed to initiate and promote a person's  
47 chemical-free status or to maintain the person free of illegal  
48 drugs.

49 (e) "Treatment facility" means:

50 (i) Public or private hospital;

51 (ii) A detoxification facility;

52 (iii) A primary care facility;

53 (iv) An intensive care facility;

54 (v) A long-term care facility;

55 (vi) An outpatient care facility;

56 (vii) A community mental health center;

57 (viii) A health maintenance organization;

58 (ix) A recovery center;

59 (x) A halfway house;

60 (xi) An ambulatory care facility; or

61 (xii) Any other facility that offers or purports  
62 to offer treatment.

63 SECTION 2. (1) A chemical dependency treatment program  
64 shall be exempt from licensure by the department and certification  
65 by the State Department of Mental Health if the program:

66 (a) Is conducted by a religious organization;

67 (b) Is exclusively religious, spiritual, or  
68 ecclesiastical in nature;

69 (c) Does not treat minors without parental consent; and

70 (d) Is registered under Section 3 of this act.

71 (2) The department may not prohibit a chemical dependency

72 treatment program exempted under this act from using the term  
73 "counseling," "treatment," or "rehabilitation."

74 SECTION 3. The department shall establish by rule or  
75 regulation a simple procedure for a faith-based chemical  
76 dependency treatment program to register the program's exemption  
77 under Section 2 of this act.

78 SECTION 4. A chemical dependency treatment program exempted  
79 under this act may not provide medical care, medical  
80 detoxification, or medical withdrawal services.

81 SECTION 5. A chemical dependency treatment program exempted  
82 under this act shall conspicuously include in any advertisement or  
83 literature that promotes or describes the program or the program's  
84 chemical dependency treatment services the following statement:

85 "The treatment and recovery services at (name of program) are  
86 exclusively religious in nature and are not subject to licensure  
87 or regulation by the State Department of Health or the State  
88 Department of Mental Health. This program offers only nonmedical  
89 treatment and recovery methods such as prayer, moral guidance,  
90 spiritual counseling, and scriptural study."

91 SECTION 6. (1) A chemical dependency treatment program  
92 exempted under this act may not admit a person unless the person  
93 signs the following statement on admission:

94 "DECLARATION:

95 I understand that:

96 (1) The treatment and recovery services at (name of program)  
97 are exclusively religious in nature and are not subject to  
98 licensure or regulation by the State Department of Health or the  
99 State Department of Mental Health; and

100 (2) (Name of program) offers only nonmedical treatment and  
101 recovery methods, such as prayer, moral guidance, spiritual  
102 counseling, and scriptural study.

103 Signed \_\_\_\_\_ Date \_\_\_\_\_"

104 (2) The chemical dependency treatment program shall:

- 105           (a) Keep the original signed statement on file; and  
106           (b) Provide a copy of the signed statement to the  
107 person admitted.

108           SECTION 7. The department may revoke the exemption of a  
109 chemical dependency treatment program after notice and hearing if:

110           (a) The organization conducting the program fails to  
111 timely inform the department of any material change in the  
112 program's registration information;

113           (b) Any program advertisement or literature fails to  
114 include the statements required by Section 5 of this act; or

115           (c) The organization violates this act or a rule or  
116 regulation of the department adopted under this act.

117           SECTION 8. A state agency may not deny to an individual a  
118 state or federal social service benefit on the basis that the  
119 individual is participating in a faith-based residential chemical  
120 dependency treatment program exempted under this act.

121           SECTION 9. This act is not intended to aid religion. This  
122 act is intended to aid chemically dependent persons by supporting  
123 programs that serve the valid public purpose of combating chemical  
124 dependency, regardless of whether the programs are religious,  
125 spiritual, or ecclesiastical in nature. The exemption of  
126 faith-based chemical dependency treatment programs from licensure,  
127 certification and regulation is not an endorsement or sponsorship  
128 by the state of the religious character, expression, beliefs,  
129 doctrines, or practices of the treatment programs.

130           SECTION 10. A chemical dependency treatment program exempted  
131 under this act is not eligible to compete against a licensed  
132 program for direct federal or state treatment funding.

133           SECTION 11. This act does not affect the authority of a  
134 local, regional, or state health department official, the state  
135 fire marshal, or a local fire prevention official to inspect a  
136 facility used by a chemical dependency treatment program exempted  
137 under this act.

138 SECTION 12. Section 73-30-25, Mississippi Code of 1972, is  
139 amended as follows:

140 73-30-25. It is not the intent of this chapter to regulate  
141 against members of other duly regulated professions in this state  
142 who do counseling in the normal course of the practice of their  
143 own profession. This chapter does not apply to:

144 (a) Any person registered, certified or licensed by the  
145 state to practice any other occupation or profession while  
146 rendering counseling services in the performance of the occupation  
147 or profession for which he is registered, certified or licensed;

148 (b) Certified school counselors when they are  
149 practicing counseling within the scope of their employment;

150 (c) Certified vocational counselors when they are  
151 practicing vocational counseling within the scope of their  
152 employment;

153 (d) Counselors in post-secondary institutions when they  
154 are practicing within the scope of their employment;

155 (e) Student interns or trainees in counseling pursuing  
156 a course of study in counseling in a regionally or nationally  
157 accredited institution of higher learning or training institution  
158 if activities and services constitute a part of the supervised  
159 course of study, provided that such persons be designated a  
160 counselor intern;

161 (f) Professionals employed by regionally or nationally  
162 accredited post-secondary institutions as counselor educators when  
163 they are practicing counseling within the scope of their  
164 employment;

165 (g) Professionals registered, certified or licensed by  
166 a recognized state or national professional association that has a  
167 published code of ethics and requires adherence to same;

168 (h) Duly ordained ministers or clergy while functioning  
169 in their ministerial capacity and duly accredited Christian  
170 Science practitioners;

171           (i) Professional employees of regional mental health  
172 centers, state mental hospitals, vocational rehabilitation  
173 institutions, youth court counselors and employees of the  
174 Mississippi Employment Security Commission or other governmental  
175 agency so long as they practice within the scope of their  
176 employment;

177           (j) Professional employees of alcohol or drug abuse  
178 centers or treatment facilities, whether privately or publicly  
179 funded, so long as they practice within the scope of their  
180 employment;

181           (k) Persons who are working for or providing counseling  
182 with a chemical dependency treatment program exempted under  
183 Sections 1 through 11 of this act;

184           (l) Private employment counselors;

185           (m) Any nonresident temporarily employed in this state  
186 to render counseling services for not more than thirty (30) days  
187 in any year, if in the opinion of the board the person would  
188 qualify for a license under this chapter and if the person holds  
189 any license required for counselors in his home state or country;  
190 and

191           (n) Any social workers holding a master's degree in  
192 social work from a school accredited by the Council on Social Work  
193 Education and who do counseling in the normal course of the  
194 practice of their own profession.

195           SECTION 13. This act shall take effect and be in force from  
196 and after July 1, 2000.