

Model Employee Assistance
Professionals Act

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Model Employee Assistance Professionals Act

Policy Statement

Employee assistance programs (EAPs) play an integral role in linking the identification of alcohol and other drug problems with workplace programs to assess the extent of the problems and direct the employee to treatment and rehabilitation. Aside from the many benefits that employee assistance programs bring to workforce health, safety, and well-being, EAPs also prove cost effective for employers. Cost-benefit analyses of EAPs have found a 4:1 return or better on investment in the programs due to lower health care and workers' compensation utilization costs and higher worker productivity.

The rapid increase in employee assistance programs and employee assistance professionals during the previous few decades has led to concerns about the nature and quality of services being offered and the qualifications of some employee assistance professionals. The Employee Assistance Professionals Association has sought to remedy some of the industry's growing pains by certifying employee assistance professionals through the Employee Assistance Certification Commission. However, not all employee assistance professionals have submitted to this certification process and many counselors advertising employee assistance services are not trained or experienced in actual employee assistance program service delivery.

This Act developed out of a desire by certified employee assistance professionals to maintain acceptable standards of their industry. It serves as a consumer protection bill. State legislatures with concerns about the quality of services being offered by employee assistance professionals are urged to consider this legislation.

With the inclusion of employee assistance programs in many facets of its proposed legislation, the Commission wishes to insure that public and private employers contract only with qualified employee assistance professionals. This will guarantee an acceptable level of services and professionalism for employees who access employee assistance programs. Adoption of this legislation will signal a state's willingness to impose such acceptable standards.

This legislation was drafted with the assistance of the Employee Assistance Professionals Association. The legislation establishes a state entity to license certified employee assistance professionals to practice in the state. It also establishes the professional standards to which those employee assistance professionals should be held.

Highlights of the Model Employee Assistance Professionals Act

ASSUMPTIONS AND REMEDIAL GOALS

- Recognizes the role of employee assistance programs (EAPs) and rehabilitation resources in the workplace, linking the identification of employee substance abuse problems with the employer's workplace program to assess and refer those employees to treatment and rehabilitation.
- Recognizes the cost-benefit of EAPs to business in terms of lower overall health care and workers' compensation utilization costs, higher worker productivity, lower rates of absenteeism, reduced alcohol and other drug problems among employees, and reduced disciplinary problems.
- Recognizes that the dramatic growth of the employee assistance field points to the need for certification and licensure of all employee assistance professionals.
- Recognizes that the certification and licensure of employee assistance professionals practicing in the state would indicate an acceptable level of competency among employee assistance professionals and would insure consumer protection for companies that hire or contract with such professionals to deliver EAP services.

SPECIFIC RECOMMENDATIONS

- Provides three options to the legislature for the development of a process by which certified employee assistance professionals must apply for and obtain a license to practice in the state. The first option establishes a [state Board of Employee Assistance Professionals Licensure] to handle such licensure. The second option designates the [single state authority on alcohol and other drugs] as the state licensing agency. The third option designates the [department of state or other appropriate agency] as the state licensing agency.

- Provides processes through which employee assistance professionals must apply for and renew an employee assistance professional license or have such license reinstated.
- Provides that licensure fees collected by the state licensing agency be used to fund the licensing agency's activity and staff.
- Describes the circumstances under which the state may deny, suspend, or revoke any employee assistance professional license.
- Provides for employee assistance programs or rehabilitation resources where an employer conducts substance abuse testing as part of any workplace substance abuse program and establishes employee notification requirements to facilitate access to such services.
- Provides annual employee education programs where an employer conducts substance abuse testing as part of any workplace substance abuse program. The annual employee education programs must educate employees on alcohol and other drug abuse, its effects on the workplace, and the employer's policies and procedures regarding alcohol and other drug abuse in the workplace and how employees may access rehabilitation resources.
- Provides annual supervisor substance abuse training where an employer conducts substance abuse testing as part of any workplace substance abuse program. The annual supervisor substance abuse training must enable supervisors to better recognize, document, and corroborate employee alcohol and other drug abuse and to refer alcohol and other drug abusing employees to the proper treatment providers. Also provides supervisors with information concerning the benefits of referring employees to treatment programs and explains employee health insurance or HMO coverage for alcohol and other drug problems.

- Provides that all information, interviews, reports, statements, memoranda, and test results received by the employer through a substance abuse testing program are confidential communications as they pertain to the employee only and establishes strict confidentiality standards and procedures regarding those communications.
- Provides that the state licensing agency develop and issue guidelines to assist employers to evaluate the efficacy of employee assistance programs.
- Provides an employee assistance program tax credit equal to ten percent of the qualified employee assistance program expenditures for each taxable year.
- Provides for the establishment of an Employee Assistance Consortia Demonstration Program to design and implement effective mechanisms for delivering employee assistance program services to employers and employees of small businesses presently not providing or receiving such services.

Model Employee Assistance Professionals Act

Section 1. Short Title.

This [Act] shall be known and may be cited as the “Model Employee Assistance Professionals Act.”

Section 2. Legislative Findings.

(a) Employee assistance programs and rehabilitation resources in the workplace link the identification of substance abuse with the employer’s program to assess the extent of the problem and to direct the employee to treatment and rehabilitation. Employee assistance programs also reintegrate rehabilitated employees back into the workplace and monitor compliance of the employer’s substance abuse program.

(b) Cost-benefit analyses of EAPs consistently have found a 4:1 return or higher on investment in the programs due to lower overall health care and workers’ compensation utilization costs, higher worker productivity, lower rates of absenteeism, reduced employee alcohol and other drug problems, and reduced employee disciplinary problems.

(c) The employee assistance field has expanded dramatically in the past few decades. In the 1950s, fewer than 50 employee assistance programs could be found in businesses around the country. Today, over 10,000 employee assistance programs exist.

(d) Such rapid growth in the field of employee assistance points to the need for certification and licensure of all employee assistance professionals. As part of a relatively new field, employee assistance professionals have, at present, no standardized educational prerequisites for their work, but come from highly diverse educational and professional backgrounds. Certification and licensure would establish an acceptable level of knowledge no matter what the educational level of the practitioner.

(e) By requiring that only certified and licensed employee assistance professionals practice in this state, the state legislature demands an acceptable level of

competency among employee assistance professionals. This requirement also insures consumer protection for companies that hire or contract with employee assistance professionals to deliver employee assistance program services.

COMMENT

This [Act] is a consumer protection bill. The rapid increase in employee assistance programs and professionals during the previous few decades has led to concerns about the nature and quality of services being offered and the qualifications of some employee assistance professionals. The Employee Assistance Professionals Association has sought to remedy some of the industry’s growing pains by certifying employee assistance professionals through the Employee Assistance Certification Commission. However, not all employee assistance professionals have submitted to this certification process and many counselors advertising employee assistance services are not trained or experienced in actual employee assistance program service delivery.

This [Act], then, grew out of a desire by certified employee assistance professionals to maintain acceptable standards of their industry. State legislatures with concerns about the quality of services being offered by employee assistance professionals are urged to consider this legislation.

With the inclusion of employee assistance programs in many facets of its proposed legislation, the Commission wishes to insure that public and private sector employers contract only with qualified employee assistance professionals, which in turn will guarantee an acceptable level of services and professionalism for employees who access employee assistance programs. Adoption of this model legislation will signal a state’s willingness to impose such acceptable standards.

The Commission includes this model legislation on employee assistance professionals because of the integral role that they play in connecting the identification of alcohol and other drug problems with workplace

programs for assessing the extent of the problems and directing the employee to treatment and rehabilitation. The implementation and maintenance of an effective employee assistance program is the most helpful action that an employer can take to comprehensively address the problems of alcohol and other drugs in the workplace.

Section 3. Purpose.

This [Act] is intended to [create a state Board of Employee Assistance Professionals Licensure][require the single state authority on alcohol and other drugs to license employee assistance professionals][require the state department of state or other appropriate state agency to license employee assistance professional]. [This Board][The single state authority on alcohol and other drugs][The department of state or other appropriate agency] shall implement a process by which certified employee assistance professionals must apply for and obtain a license to practice as an employee assistance professional in the state. In addition to establishing licensing requirements, the [Board][single state authority on alcohol and other drugs][department of state] must also establish guidelines for evaluating the efficacy of employee assistance programs (EAPs). The [Act] also establishes the confidentiality of certain records of employee assistance programs, employee assistance professional supervision requirements, a tax credit for employer expenditures for certain employee assistance programs, and a state employee assistance consortia demonstration grant.

COMMENT

This legislation describes the development of a state entity to license certified employee assistance professionals to practice in the state. The Commission offers three alternative structures through which this licensure should occur.

One option creates a Board of Employee Assistance Professionals Licensure. This Board, an independent entity attached to the [state department of labor], would be responsible for licensing certified employee assistance professionals to practice in the state. Another option would establish the [single state authority on alcohol and other drugs], in consultation with the [state department of labor], as the state agency that shall license certified employee assistance professionals to practice in the state. The third option would establish the [department of state or other appropriate state licensing agency], in consultation with the [single state authority

on alcohol and other drugs], as the state licensing agency for employee assistance professionals.

The Commission offers the three options to accommodate differences in state governments and philosophies. The Board allows states a process through which they may establish an independent state agency to implement and monitor the licensing of employee assistance professionals. However, many states are currently downsizing government operations, eliminating many independent regulating agencies. For those states, the use of an already existing and related entity may be more appropriate for particular state budgetary and political conditions.

Subsequent references in this legislation to such state regulating entity will reflect all three options.

Section 4. Definitions. As used in this [Act]:

- (a) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.
- (b) "Certified employee assistance professional" means an employee assistance professional certified by the Employee Assistance Certification Commission (EACC) who has the necessary professional qualifications to provide employee assistance program services that can be work-site based and are designed to assist in the identification and resolution of productivity problems associated with employees impaired by personal concerns. The specific core activities of employee assistance professionals include:
 - (1) Expert consultation and training of appropriate persons in the identification and resolution of job-performance issues related to the aforementioned employee personal concerns;
 - (2) Confidential, appropriate and timely problem-assessment services;
 - (3) Referrals for appropriate diagnosis, treatment and assistance;
 - (4) Establishment of linkages between workplace and community resources that provide such services; and
 - (5) Follow-up services for employees who use those services.
- (c) "Consortium" means an entity composed of two or more small businesses that collaborate to provide

employee assistance program services for their employees and the family members of such employees.

(d) “Conviction” means a finding of guilt, including a plea of nolo contendere or imposition of sentence or both, by any judicial body charged with the responsibility to determine violations of federal or state criminal law.

(e) “Drug” or “drugs” means amphetamines, cannabinoids, cocaine, phencyclidine (PCP), opiates, barbiturates, benzodiazepines, methadone, methaqualene, propoxyphene, or a metabolite of any such substance.

(f) “Employee Assistance Certification Commission” or “EACC” means the national body that governs certification of individual practitioners in the employee assistance program field. The EACC is responsible for policies; procedures, standards of eligibility, and examination qualifications for certification; certification examination content and construction; examination scoring in accordance with accepted psychometric principles; appeals; fee structure, and; the EACC’s internal operation.

(g) “Employee assistance program” (EAP) means a worksite-based program using licensed employee assistance professionals and designed to assist in the identification and resolution of health, behavioral, or productivity problems associated with employees impaired by personal concerns, including alcohol and other drugs, health, emotional, marital, family, financial, legal, stress, or other personal concerns that may adversely affect the employees’ well-being or job performance.

(h) “Employee assistance service provider” means entities, including private or non-profit employers, hospitals, trade and professional associations, chambers of commerce, labor, unions, and social service provider groups that provide employee assistance program services and activities as described in subsection (b).

(i) “External employee assistance program” means an employee assistance program provided by an outside service provider with whom the employer contracts.

(j) “Internal employee assistance program” means an employee assistance program that is part of the employer’s organizational structure, staffed by on-site employees of the organization.

(k) “Qualified employee assistance program expenditures” means the aggregate amount of deductible expenditures paid or incurred by the employer during

the taxable year in providing for or contributing to an employee assistance program.

(l) “Rehabilitation resources” means, at a minimum, a well-maintained, up-to-date file of employee assistance providers, alcohol and other drug abuse programs licensed by the [single state authority on alcohol and other drugs], mental health providers, and other persons, entities, or organizations available to assist employees with personal or behavioral problems

(m) “Secretary” means the state Secretary of Labor.

(n) “[Single state authority on alcohol and other drugs]” means the state agency designated by the governor to plan, manage, monitor, and evaluate alcohol and other drug treatment services in the state.

(o) “Small business” means an employer with less than [250] employees.

(p) “Supervision” means and includes the following:

(1) Frequent and regularly scheduled one-to-one or group discussions between supervisor and supervisee focusing on:

(A) Data from the supervisee’s employee assistance service work made available to the supervisor by oral and written clinical reports, direct observation and audio or audiovisual recordings;

(B) Mutually developed goals and objectives for the development of learning.

(2) Maintaining of supervisee’s specific cases and his or her skill development by supervisor.

(q) “Unprofessional conduct” or “unethical conduct,” or “incompetency,” or “ignorance,” or “negligence,” are defined by the provisions of section 11(a)(7).

Section 5. [Option 1] State Board of Employee Assistance Professionals Licensure.

There is hereby created the state Board of Employee Assistance Professionals Licensure.

(a) The Board shall consist of five members who are residents of the state and who shall be appointed by the governor.

(1) Initial appointments to the Board shall be as follows:

(A) Three independent, external, certified

employee assistance professionals for terms of one year and two professionals for four years respectively;

(B) One person who is not directly or indirectly engaged in the employee assistance profession, for a term of two years; and

(C) One certified employee assistance professional for a term of five years.

(2) All Board members, except the member who is not directly or indirectly engaged in employee assistance, shall be duly licensed or eligible to be licensed by the Board. Subsequent appointees to the Board including the individual not directly or indirectly engaged in the employee assistance profession, shall possess the same professional qualifications required by their predecessors and shall be appointed to five-year terms.

(3) Notwithstanding paragraph (1) of this subsection, members shall serve until their successors are appointed and qualified. Any vacancy occurring on the Board shall be filled by the governor for the balance of the unexpired term.

(b) For each day engaged in the business of the Board, members shall receive as compensation [fifty] dollars and shall also receive actual expenses to be paid in accordance with the comprehensive travel regulations promulgated by the state.

(c) The Chair of the Board shall be appointed by the Governor.

(d) The Board shall meet as frequently as reasonably necessary to implement the provisions of this Act but not less than four times per year. Three or more members of the Board shall constitute a quorum for the purposes of transacting Board business.

(e) For administrative purposes, the Board shall be attached to the [state department of labor], which shall develop all rules and regulations necessary to enable the Board to conduct its business.]

Section 5. [Option 2] Licensure of Certified Employee Assistance Professionals.

The [single state authority on alcohol and other drugs], in consultation with the [state department of labor], shall be responsible for the licensure of certified employee assistance professionals.]

Section 5. [Option 3] Licensure of Certified Employee Assistance Professionals.

The [department of state or other appropriate state licensing agency], in consultation with the [single state authority on alcohol and other drugs], shall be responsible for the licensure of certified employee assistance professionals.]

COMMENT

This section describes the development of a state entity to license certified employee assistance professionals to practice in the state.

Option 1 creates a Board of Employee Assistance Professionals Licensure. This Board, an independent entity attached to the [state department of labor], would be responsible for licensing certified employee assistance professionals to practice in the state. Option 2 would establish the [single state authority on alcohol and other drugs] as the state agency that would license certified employee assistance professionals to practice in the state. This seemingly incongruous placement of responsibility for labor issues in the [single state authority] reflects the historic role employee assistance programs have played in addressing workplace alcohol and other drug problems. The employee assistance movement has its roots in occupational alcoholism programs. Although EAPs currently embrace a “broadbrush” approach, addressing a full-range of behavioral problems that affect job performance, considerable attention still is paid to substance abuse problems. In this respect, the state legislature may feel that the establishment of the [single state authority on alcohol and other drugs] as the state licensing agency for employee assistance professionals is well suited.

Option 3 would establish the [department of state or other appropriate state licensing agency] as the licensing agency for employee assistance professionals.

The Commission offers the three options to accommodate differences in state governments and philosophies. Option 1 would allow states a process through which they may establish an independent state agency to implement and monitor the licensing of employee assistance professionals. However, many states are currently downsizing government operations, eliminating many independent regulating agencies. For those states, Options 2 or 3 may be more appropriate for particular state budgetary and political conditions.

Subsequent references in this legislation to such state regulating entity will reflect all three alternatives.

Section 6. Application for Licensure.

(a) A person who is currently a certified employee assistance professional may apply for a license to practice in the state as an employee assistance professional by:

(1) Submitting an application to the [Board][single state authority on alcohol and other drugs][department of state or other appropriate state licensing agency], along with the EACC certified employee assistance professional document;

(2) Fulfilling any additional standards, if any, which the [Board][single state authority on alcohol and other drugs][department of state or other appropriate state licensing agency] may establish. Any standards adapted pursuant to this paragraph shall conform with the *Employee Assistance Professional Association Standards: Professional Guidelines*; and

(3) Paying a fee as established by the [Board][single state authority on alcohol and other drugs][department of state or other appropriate state licensing agency].

(b) During the one year period following [July 1, 19], a provider of employee assistance services shall:

(1) Obtain a valid state employee assistance professional license to provide such services; or

(2) Enter into a contractual agreement with a licensed employee assistance professional to receive supervision in order to obtain such licensure.

(c) The [Board][single state authority on alcohol and other drugs][department of state or other appropriate state licensing agency] may, at its discretion, grant an employee assistance professional's license without requiring fulfillment of the standards set forth in paragraph (a)(2) to any person residing or employed in the state, who at the time of application is licensed as an employee assistance professional by another state whose standards, in the opinion of the [Board][single state authority on alcohol and other drugs][department of state or other appropriate state licensing agency], are as stringent as those required by this [Act].

(d) No person shall, by verbal claim, advertisement, letterhead, card, or in any other way represent himself or herself to be a provider of, or shall actually provide, employee assistance services unless such person possesses a valid employee assistance professional license

of registration pursuant to subsection (a).

(e) An individual providing employee assistance program services under any other name shall be deemed to be providing employee assistance program services for the purposes of this [Act]. The determination that employee assistance program services are being provided shall be made by the [Board established by this Act] [single state authority on alcohol and other drugs][department of state or other appropriate agency].

(f) Violation of subsection (d) or (e) is a Class C [or lowest level] misdemeanor, punishable by a fine which shall be set by the [Board][single state authority on alcohol and other drugs][department of state or other appropriate state agency] at a percentage of the value of the contract, but not more than five thousand dollars (\$5,000).

(g) This [Act] shall apply to employee assistance professionals who provide both internal and external employee assistance program services.

COMMENT

This section establishes a procedure through which an employee assistance professional, who has been certified by the Employee Assistance Certification Commission, can apply to obtain a license to practice as an employee assistance professional in this state.

The supervision requirement of subsection (b)(2) pertain to those individuals who do not have the requisite experience to obtain a valid state employee assistance professional license. This requirement will be discussed fully in Section 7.

Under subsection (g), this licensure requirement to practice as an employee assistance professional shall apply to both internal and external employee assistance professionals. Again, this requirement insures consumer protection for the delivery of all employee assistance program services by knowledgeable, trained professionals in the state.

Section 7. Supervision.

(a) The supervision required by Section (6)(b)(2) and defined in Section (4)(p) shall total at least one hour for every thirty hours of clinical contact hours over a three year period. That supervision time shall be in addition to:

(1) Any overall administrative supervision, and:

(2) Any group seminar or group consultation that are deemed appropriate.

(b) Records of the experience and the supervision process must be maintained by both the supervisor and supervisee. The supervisor shall submit verification of supervision directly to the [Board][single state authority on alcohol and other drugs][department of state or other appropriate state licensing agency] on approved forms.

(c) Professional experience as an employee assistance professional before this legislation was adopted shall be credited to the individual's three year supervisory period in accordance with guidelines established by the [Board][single state authority on alcohol and other drugs][department of state or other appropriate state licensing agency].

(d) The [Board][single state authority on alcohol and other drugs][department of state or other appropriate state licensing agency] shall issue guidelines pertaining to the credit of professional employee assistance experience prior to the enactment of this [Act], pursuant to subsection (c).

COMMENT

The supervision requirement of this section allows an employee assistance professional to develop the body of knowledge and professional experience needed to qualify for a state license to practice. The Employee Assistance Certification Commission testing requirement for certification of an employee assistance professional demands three years or more of experience in the EAP field. This supervision requirement enables employee assistance professionals to develop such knowledge and experience under the guidance of an experienced, licensed employee assistance professional.

The [Board][single state authority on alcohol and other drugs][department of state or other appropriate state licensing agency] shall issue guidelines to shorten the three year supervisory requirement for those employee assistance professionals who had professional EAP experience prior to the enactment of this [Act].

Section 8. Employee Assistance Professional License Renewal.

All persons with current, valid certification from the Employee Assistance Certification Commission as a certified employee assistance professionals shall renew their employee assistance professional license as follows:

(a) On or before [insert date] of each year, the [Board][single state authority on alcohol and other drugs][department of state or other appropriate state licensing agency] shall mail an application for renewal to every person holding a valid current employee assistance professional license.

(b) Each applicant shall complete and return such application to the [Board][single state authority on alcohol and other drugs][department of state or other appropriate state licensing agency] on or before [insert date one month after subsection (a) date] of each year.

(c) Annual licensure renewal fees in an amount established by the [Board][single state authority on alcohol and other drugs][department of state or other appropriate state licensing agency] shall accompany each renewal application.

(d) If any holder of a license fails to renew his or her license within sixty (60) days after registration becomes due the license of such person shall be automatically revoked without further notice or hearing unless such hearing is specifically requested prior to the revocation.

COMMENT

This section describes the process by which a certified employee assistance professional shall renew his or her annual license.

Section 9. Disposition of Revenue from Fees.

Licensure fees collected shall be used to fund [Board activities and staff] [activities and staff of the single state authority on alcohol and other drugs, relating to certified employee assistance professionals, EAPs, and other aspects of this Act] [activities and staff of the department of state or other appropriate state licensing agency, relating to certified employee assistance professionals, EAPs, and other aspects of this Act].

COMMENT

The Commission intends that the Board of Employee Assistance Professionals Licensure to be as fiscally self-reliant as possible. All licensure fees shall be used to fund the Board's activities and staff. Should the state legislature opt to handle employee assistance professional licensure through the [single state authority on alcohol and other drugs] or the [department of state], all fees collected should be used to fund those aspects of the [single state authority's] or the [department of state's] activities and staff.

Section 10. License Reinstatement.

Any person licensed to provide employee assistance services in this state who has retired or subsequently may retire from such practice, or otherwise leaves the field of employee assistance services, shall not be required to obtain or maintain licensure as required by this [Act], provided such person files with the [Board][single state authority on alcohol and other drugs][department of state or other appropriate state licensing agency] an affidavit on a form, prescribed by the [Board][single state authority on alcohol and other drugs] [department of state or other state licensing agency], stating the date on which the person retired from such practice or otherwise left the field and such other facts that are required by the [Board][single state authority on alcohol and other drugs] [department of state or other appropriate state licensing agency]. If such person thereafter re-engages in the practice of providing employee assistance services, he or she shall re-apply for licensure with the [Board][single state authority on alcohol and other drugs][department of state or other appropriate state licensing agency] within 60 days of returning to practice as provided by this [Act].

COMMENT

The provision allowing a person who re-engages in an employee assistance practice 60 days to re-apply for licensure is a temporary exception to the provisions of Section 6. Often, those seeking to return to practice will not seek out licensure in a state until a professional position has been secured. This provision allows those individuals who re-engage in employee assistance services to secure a position in a state temporarily before subjecting themselves to state employee assistance professional licensure. However, after the 60 days have elapsed, all certification and licensure requirements of Section 6 apply.

Section 11. License Suspension or Revocation.

(a) The [Board][single state authority on alcohol and other drugs][department of state or other appropriate state licensing agency] shall have the power to deny, suspend, or revoke any license, or to otherwise discipline an applicant or holder of a license who is found by the [Board][single state authority on alcohol and other drugs][department of state or other appropriate state licensing agency] to have failed to adhere to the EACC Code for Professional Conduct. This includes, but is not limited to:

- (1) Willful or repeated violations of any provision of this [Act] or any rule of the [Board][single state authority on alcohol and other drugs][department of state or other appropriate state licensing agency];
- (2) Fraud or deception in procuring or attempting to procure a license, presenting to the [Board][single state authority on alcohol and other drugs][department of state or other appropriate state licensing agency] dishonest or fraudulent evidence of qualification, or fraud or deception in the process of examination for the purpose of securing a license;
- (3) Willful failure to display a license;
- (4) Fraud, deception, misrepresentation, dishonest or illegal practices in or connected with the practice of employee assistance;
- (5) Circulation of untrue, fraudulent, misleading, or deceptive advertising or advertising that the professional should have known was untrue, fraudulent, misleading, or deceptive;
- (6) Gross malpractice, or a pattern of continued or repeated malpractice, ignorance, negligence or incompetence in the course of practice;
- (7) Unprofessional or unethical conduct, or engaging in practices connected with the practice of employee assistance in violation of the standards of professional conduct established by Employee Assistance Professionals Association and prescribed by the [Board][single state authority on alcohol and other drugs][department of state or other appropriate state licensing agency], including, but need not be limited to:
 - (A) Circulation of advertising knowing it is untrue, fraudulent, misleading or deceptive;
 - (B) Engaging in sexual activities with clients;
 - (C) Conviction of any crime involving moral turpitude;
 - (D) Habitual intoxication or personal misuse of any drugs, any unlawful use of controlled substances, or the use of intoxicating liquors, controlled substances, or other drugs or stimulants in such a manner as to adversely affect the person's ability to practice employee assistance;

- (E) Failure to inform clients fully about the limits of confidentiality in a given situation, the purposes for which information is obtained, and how it may be used;
- (F) Denial of clients' reasonable requests for access to any records concerning them;
- (G) Failure to protect all client confidences as required by Section 14 of this [Act], including failure to protect the confidences of others contained in those records to which other clients are properly granted access;
- (H) Failure to obtain informed consent of clients before taping, recording, or permitting third party observation of their activities;
- (I) Failure to clarify the nature and directions of the certified employee assistance professional's duties, and to keep all parties informed of their ethical obligations when a conflict of interest exists between a client and the certified employee assistance professional's employing institution;
- (J) Failure to inform consumers fully as to the purpose and nature of an evaluative research, treatment, educational or training procedure, and failure to inform fully any clients, students, or participants in research of their freedom of choice with regard to participation;
- (K) Failure to attempt to terminate a clinical or consulting relationship when it is reasonably clear that the relationship is not benefiting the consumer. Certified employee assistance professionals who find that their services are being used by employers in a way that is not beneficial to the participants or to employees who may be affected, or to significant others, have the responsibility to make such opinions known to the responsible persons and to propose modification or termination of the engagement;
- (L) Failure to avoid dual relationships with clients and/or relationships that might impair their professional judgment or increase the risk of client exploitation;
- (M) Failure to assist clients in finding needed services by making inappropriate referrals in those instances where payment of the usual fee would be a hardship;
- (N) Failure to terminate services to, and professional relationships with, clients when such service and relationships are no longer required. The certified employee assistance professional who anticipates the termination or interruption of service to clients shall notify clients promptly and seek the transfer, referral, or continuation of service in relation to the clients' needs and preferences;
- (O) Setting fees that are unreasonable and not commensurate with the service performed;
- (P) Engaging in the division of fees or agreeing to split or divide the fee received for professional services with any person for bringing or referring a patient; or
- (Q) Accepting gifts, gratuities, or any other favors from clients or their families.
- (8) Conduct reflecting unfavorably on the profession of employee assistance;
- (9) Willful provision of any false statements concerning material in any oath or affidavit required by this [Act];
- (10) Revocation by another state or the Employee Assistance Certification Commission of a employee assistance professional certification or license to practice in that state. The record of such revocation shall be conclusive evidence;
- (11) Conviction of a criminal offense in the courts of this state, or any other state, territory or country which if committed in this state would be a felony:
- (A) The record of conviction in a court of competent jurisdiction shall be sufficient evidence for disciplinary action to be taken as may be considered by the [Board][single state authority on alcohol and other drugs][department of state or other state licensing agency]; and
- (B) A record of conviction of offenses involving unlawful practice, or the unlawful manufacture, sale, distribution, possession with intent to distribute drugs, possession, use, or unlawful driving while under the influence, shall, without any other testimony, be sufficient for the [Board][single state authority on alcohol and other drugs][department of state or other appropriate state licensing agency] to take temporary disciplinary action even

though an appeal for review by a higher court may be pending;

(12) Permitting or allowing another to use the license for the purpose of providing or offering employee assistance services;

(13) Engaging in practice under a false or assumed name, or impersonating another practitioner of a like, similar, or different name;

(14) Knowingly employing or permitting any person who is not a certified employee assistance professional to practice employee assistance in this state or to perform work which, under this [Act], can be done only by certified employee assistance professionals;

(15) Current habitual use of alcohol, or other stimulants or sedatives to such an extent as to detract from the performance of professional obligations and duties;

(16) Illegal use of drugs; or

(17) Being currently adjudicated mentally incompetent by a court of competent jurisdiction or being currently voluntarily or involuntarily committed or admitted to a state hospital or other mental institution. The record of adjudication, judgment, order, or voluntary commitment is conclusive evidence of such mental illness, and upon receipt of a certified copy of any such adjudication, judgment, order or record of voluntary commitment by the [Board][single state authority on alcohol and other drugs][department of state], the [Board][single state authority on alcohol and other drugs][department of state or other appropriate state licensing agency] may suspend the employee assistance professional license of the person so adjudicated or committed, unless such person submits proof that such adjudication or commitment is no longer in effect.

(b) The [Board][single state authority on alcohol and other drugs][department of state or other appropriate state licensing agency] may on its own motion cause to be investigated any report indicating that a license holder is or may be in violation of the provisions of this [Act]. Any person who in good faith reports to the [Board][single state authority on alcohol and other drugs][department of state or other appropriate state licensing agency] any information that an employee assistance professional license holder is or may be in violation of any provisions of this [Act] shall be immune from any liability, civil or criminal, that might

otherwise be incurred or imposed as a result of action taken pursuant to this [Act].

(c) All administrative proceedings for disciplinary action against a license holder undertaken pursuant to this [Act] shall be conducted in accordance with the [cite state statutory counterpart to Uniform Administrative Procedures Act].

COMMENT

This section reflects a summary of the EACC Code for Professional Conduct. The legislature may wish to review the entire EACC Code for Professional Conduct when developing the provisions of subsection (a).

Subsection (a)(11)(B) should be interpreted narrowly and currently. Often, employee assistance professionals are people in recovery and may have previous records of conviction for alcohol or other drug offenses. It is not the intention of this [Act] that such people be subject to disciplinary actions for earlier convictions.

Subsection (b) provides immunity from liability for individuals who report violations of this [Act] by employee assistance professionals. This immunity is granted to encourage the reporting of illegal activities by employee assistance professionals and to insure acceptable professional and ethical standards in this area.

Section 12. Employee Assistance Program or Rehabilitation Resources, as Adjunct to Substance Abuse Testing.

If an employer conducts substance abuse testing as part of any workplace substance abuse program, an employee assistance program or rehabilitation resources must be provided.

[Option 1: (a) To insure appropriate evaluation and referral to treatment for employees, any employer with 50 or more employees shall have an employee assistance program, or must contract with external employee assistance providers and develop resource and referral agreements with alcohol and other drug abuse programs licensed by the [single state authority on alcohol and other drugs], mental health providers, and other persons, entities, or organizations available to assist employees with personal or behavioral problems.

(1) The employer shall notify the employee of the benefits and services of the employee assistance

program, or of the external employee assistance providers.

(2) An employer shall post notice of the employee assistance program in conspicuous places and consider alternative routine and reinforcing means of publicizing such services.

(3) The employer must provide the employee with notice of the policies and procedures regarding access to and use of the program.

(4) If an employer contracts with external employee assistance providers, the employer shall post in a conspicuous place a listing of these external employee assistance providers and consider alternative routine and reinforcing means of publicizing such services.

(b) To insure appropriate evaluation and referral to treatment for employees, any employer with less than 50 employees must:

(1) Have an employee assistance program;

(2) Contract with external employee assistance providers and develop resource and referral agreements with alcohol and other drug abuse programs licensed by the [single state authority on alcohol and other drugs], mental health providers, and other persons, entities, or organizations available to assist employees with personal or behavioral problems; or

(3) Maintain a resource file of complete and up-to-date information on employee assistance program service providers, alcohol and other drug abuse programs licensed by the [single state authority on alcohol and other drugs], mental health providers, and other persons, entities, or organizations available to assist employees with personal or behavioral problems.

(c) Pursuant to subsection (b):

(1) An employer must provide employees with notice of the policies and procedures regarding access to and utilization of any programs and services offered.

(2) An employer shall post notice of any employee assistance program in conspicuous places and consider alternative routine and reinforcing means of publicizing such services.

(3) If an employer contracts with external employee assistance providers, the employer shall post in con-

spicuous places a listing of these external employee assistance providers and consider alternative routine and reinforcing means of publicizing such services.

(4) If an employer provides a resource file, the employer shall provide all employees information about the existence of the resource file and a summary of the information contained within the resource file. The summary should contain, but need not be limited to, all information necessary to access the services listed in the resource file.]

[Option 2: (a) If an employer has an employee assistance program, the employer must inform the employee of the benefits and services of the employee assistance program. An employer shall post notice of the employee assistance program in conspicuous places and consider alternative routine and reinforcing means of publicizing such services. In addition, the employer must provide the employee with notice of the policies and procedures regarding access to and utilization of the program.

(b) If an employer does not have an employee assistance program, the employer must maintain a resource file of employee assistance program service providers, drug and alcohol abuse programs licensed by the [single state authority on alcohol and other drugs], mental health providers, and other persons, entities, or organizations available to assist employees with personal or behavioral problems. The employer shall provide all employees information about the existence of the resource file and a summary of the information contained within the resource file. The summary should contain, but need not be limited to, all information necessary to access the services listed in the resource file. In addition, the employer shall post in conspicuous places a listing of multiple employee assistance providers in the area.]

COMMENT

Employee assistance programs or rehabilitation resources should be made available to all employees as part of any comprehensive drug-free workplace program. EAPs bridge the gap between the workplace and outside resources, including treatment programs that can help assist an employees and their families with alcohol and other drug problems. EAPs also offer counseling, problem resolution, and employee education services and assist employees with identifying and resolving job performance problems. Cost-benefit analyses of EAPs have found a 4:1 return or higher on invest-

ment in the programs due to lower health care and workers' compensation utilization costs and higher worker productivity.

The Commission strongly recommends that employers allow those employees who test positive to be given an opportunity to seek assistance and rehabilitation through an EAP and other treatment resources. Generally, it is more cost-effective to treat an employee than to terminate him or her, given recruitment, training, and other cost considerations. Also, employment termination does little to address the actual problem of alcohol and other drug abuse. Such positive substance abuse tests and the threat of termination of employment often are the impetus needed to convince an addict or alcoholic to seek help.

The Commission strongly recommends that all employers provide employee assistance programs, whether internal or external, to their employees and encourages employers to use EAPs to link substance abuse testing to employee treatment and rehabilitation programs. Legislators or employers who are concerned with the costs of an employee assistance program or alcohol and other drug treatment should consider the [Model Addiction Cost Reduction Act] in Volume IV, Treatment, and the employee assistance program tax credit offered in Section 18 of this [Act].

However, should the Commission's recommendation not prove feasible, this section offers state legislatures two options. Option 1 mandates that all employers with 50 or more employees must have an EAP, or must contract with an external EAP provider, and must inform its employees of those available services. Should the employer have less than 50 employees, the employer must either have an EAP, must contract with an external EAP, or must maintain a resource file of other assistance providers. The Commission endorses Option 1.

Option 2 mandates that an employer having an EAP must inform its employees of those services. If an employer does not have an EAP, it must maintain a resource file of other employee assistance providers so that employees are given some avenue of assistance for their substance abuse problems.

For both options, employers must develop ways to publicize the availability of employee assistance programs and/or rehabilitation resources. Notice of the existence of such programs and the ways in which employees may access them should be posted in conspicuous locations. Also, employers should develop innovative rou-

tine and reinforcing means of notifying and encouraging employees to use such resources. Describing such programs and processes in paycheck envelopes or in the employee benefits handbook are two examples.

Section 13. Employee Education, as Adjunct to Substance Abuse Testing.

If an employer conducts substance abuse testing as part of any workplace substance abuse program, an employer must provide all employees with an education program on alcohol and other drug abuse prior to the implementation of such employee testing. Also, an employer must provide all employees with an annual education program on alcohol and other drug abuse, in general, and its effects on the workplace, specifically. An education program for a minimum of one hour should include, but is not limited to the following information:

- (a) The explanation of the disease of addiction for alcohol and other drugs;
- (b) The effects and dangers of the commonly abused substances in the workplace; and
- (c) The company's policies and procedures regarding alcohol and other drug use or abuse in the workplace and how employees who wish to obtain substance abuse treatment can do so.

COMMENT

An employer must provide all employees with annual education programs on alcohol and other drug abuse. An employer must also provide or initiate such a program prior to implementing a substance abuse testing program.

This education program should be provided by an employer's employee assistance professional, a certified addiction counselor, a labor relations attorney, or other individuals or programs with expertise in the areas of alcohol and other drug abuse. Employers are encouraged to consult with their [single state authority on alcohol and other drugs], the [state department of education], the [state department of health], the [state department of labor], and other reliable sources of alcohol and other drug information in order to develop accurate educational programs for employees. In addition, employers are encouraged to fully explain and discuss with employees all policies, rules, procedures, and rights associated with the development, implementation, and maintenance of a drug-free workplace program.

Section 14. Supervisor Substance Abuse Training, as Adjunct to Substance Abuse Testing.

If an employer conducts substance abuse testing as part of any workplace substance abuse program, an employer must provide all supervisory personnel a minimum of two hours of training prior to the institution of a drug-free workplace program pursuant to this [Act], in addition to the educational program provided in Section 13, and each year thereafter. This training should include but is not limited to the following:

- (a) Recognition of evidence of employee alcohol and other drug abuse;
- (b) Documentation and corroboration of employee alcohol and other drug abuse;
- (c) Referral of alcohol and other drug abusing employees to the proper treatment providers;
- (d) Recognition of the benefits of referring alcohol and other drug abusing employees to treatment programs, in terms of employee health and safety and company savings; and
- (e) Explanation of any health insurance or HMO coverage for alcohol and other drug problems.

COMMENT

An integral part of any drug-free workplace program is annual alcohol and other drug abuse training for all supervisors. This training must be provided in addition to the annual employee alcohol and other drug education programs. Supervisors need instruction in the recognition of substance abuse, documentation and corroboration of employee alcohol and other drug abuse, and referral to appropriate EAPs or outside treatment providers. They also need to know how to help employees understand and access available assistance for any alcohol or other drug problems.

This training can be provided by the employer's employee assistance professional, a certified addiction counselor, a labor relations attorney, or other individuals or programs with expertise in the area of alcohol and other drug abuse. Employers are encouraged to consult with their [single state authority on alcohol and other drugs], the [state department of education], the [state department of health], the [state department of labor], and other reliable sources of alcohol and other drug information in order to develop accurate educational programs for supervisors.

Section 15. Confidentiality of Certain Records of Employee Assistance Programs.

(a) Confidentiality of certain records of employee assistance programs is hereby established.

(1) Records of the identity, prognosis, assessment and treatment plan, or referral for treatment of any individual that are maintained by any employee assistance program shall be confidential and may be disclosed only as authorized under subsections (b) and (g);

(2) Such confidentiality shall apply to the records without regard to whether the employee assistance program involved is conducted, regulated or directly or indirectly assisted by any department or agency of this state.

(b) Authorized disclosures.

(1) The content of any record referred to in subsection (a) may be disclosed in accordance with the prior written consent of the individual, but only as allowed under regulations prescribed pursuant to subsection (f).

(2) Whether or not the individual referred to in subsection (a) provides consent, the content of such record may be disclosed as follows:

(A) To medical personnel to the extent necessary to meet a bona fide medical emergency;

(B) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluations, but such personnel shall not identify directly or indirectly, any individual in any report of such research, audit, or evaluation, or otherwise disclose client identities in any manner;

(C) If authorized by an appropriate order of a court of competent jurisdiction granted under application showing good cause therefore. In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the individual, injury to the relationship between the individual and the employee assistance program involved, or between the individual and any entity providing treatment services pursuant to a referral of any such program. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of the

record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

(c) With respect to any record referred to in subsection (a), any such record of an individual may not, except as authorized by a court order granted under subsection (b)(2)(C), be used to initiate or substantiate any criminal charges against the individual or to conduct any investigation of the individual.

(d) The prohibitions of this section continue to apply to records concerning any individual who has been a client or patient, irrespective of whether or when that person ceases to be a client or patient.

(e) Enforcement.

(1) Any person who violates any provision of this section, or any regulation issued pursuant to this section, shall be liable to the state for a civil penalty assessed by the [Board][single state authority on alcohol and other drugs] in an amount not to exceed \$[5,000] for each such violation.

(2) Any individual who is aggrieved as a result of a violation by any person of any provision of this section or any regulations issued pursuant to this section may, in any court of competent jurisdiction, commence a civil action against such person to obtain appropriate relief, including actual and punitive damages, equitable relief, and reasonable attorney's fee and costs. For a violation of this section or regulation, damages may not be less than the liquidated amount of \$[2,000].

(f) Except as provided in subsection (a), the [Board][single state authority on alcohol and other drugs][department of state or other appropriate state licensing agency] shall prescribe regulations to carry out the purposes of this section. These regulations may contain such definition, safeguards, and procedures, including procedures and criteria for the issuance and scope of orders under subsection (b)(2)(C) as deemed necessary by the [Board][single state authority on alcohol and other drugs][department of state or other appropriate state licensing agency].

(g) This section may not be construed:

(1) With respect to alcoholism, alcohol abuse, and drug abuse, to reduce the scope of coverage or apply lesser standards than the coverage established under any other confidentiality law or regulation of this state or the United States; or

(2) To supersede the application of state or local requirements for the reporting of incidents of domestic or child abuse to the appropriate state or local authorities.

COMMENT

Strict confidentiality provisions are essential to the well-being and proper utilization of any employee assistance program service by employees and their family members. Those using the employee assistance program services must feel assured that strict confidentiality of their records and information shall be maintained; otherwise, they will not seek the assistance of such services.

There will be times when court-ordered access to an individual's files may be necessary. Thus, some leeway is given in this section to allow for such access under specific circumstances related to criminal activity. However, in such circumstances, the confidentiality laws of this state or of the federal government shall not be superceded.

Section 16. Promulgation of Rules and Regulations.

The [Board] [single state authority on alcohol and other drugs][department of state or other appropriate state licensing agency] is authorized to promulgate, in accordance with the provisions of [insert state statutory counterpart to Uniform Administrative Procedures Act] rules and regulations as necessary to implement the provisions of this [Act].

Section 17. Evaluation and Assessment of Employee Assistance Programs.

The [Board][department of state or other appropriate state licensing agency], in conjunction with [the single state authority on alcohol and drugs], shall develop and issue guidelines to assist employers to evaluate the efficacy of employee assistance programs. Components of these evaluations may include, but need not be limited to:

(a) Administrative factors.

- (1) Review of EAP policies and procedures;
- (2) Personnel;
- (3) Community networking;
- (4) Employee and supervisor surveys;

- (5) Program utilization;
 - (6) Communications;
 - (7) Recovery rates;
 - (8) Problem resolution analysis; and
 - (9) Information processing.
- (b) Direct cost reductions.
- (1) Health and mental health care cost savings;
 - (2) Accident and injury cost savings;
 - (3) Workers' compensation cost savings; and
 - (4) Unemployment compensation cost savings.
- (c) Indirect cost reductions.
- (1) Turn-over cost savings;
 - (2) Absenteeism cost savings; and
 - (3) Productivity cost savings.
- (d) Subjective factors.
- (1) Job performance of EAP participants;
 - (2) Morale of EAP participants;
 - (3) Discipline of EAP participants;
 - (4) Grievances caused by EAP participants;
 - (5) EAP participation and recovery rates; and
 - (6) Subjective factor analysis of total company workforce.

COMMENT

Proper evaluation and monitoring of employee assistance programs can point to the many benefits to employees and employers alike. However, few employee assistance programs undertake methodologically sound evaluations to determine just what benefits they are serving.

Again, the most rigorous and conservative cost-benefit analyses of employee assistance programs show a 4:1 return or higher on investment in the programs due to lower health care and workers' compensation utilization costs, higher worker productivity, higher employee morale, reduced alcohol and other drug problems, and reduced employee crime. Such analyses reflect the benefits of employee assistance programs for employees as well as employers and encourage employers to make such programs an integral part of any workplace.

The analytic framework offered in this section is based on one developed by Robert T. Thompson, Jr. in *Substance Abuse and Employee Rehabilitation*.

Section 18. Tax Credit for Employer Expenditures for Certain Employee Assistance Programs.

(a) There is established an employee assistance program credit equal to ten percent of the qualified employee assistance program expenditures for each taxable year. Such credit shall not exceed more than [fifty] dollars of qualified employee assistance program expenditures per employee for any taxable year.

(b) Special aggregation and allocation rules.

(1) In determining the amount of the credit under this section, all members of a consortium shall be treated as a single taxpayer, and the credit (if any) allowable by this section to each such member shall be its proportionate share of the qualified employee assistance program expenditures giving rise to the credit.

(2) In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the [department of state or other appropriate state licensing agency].

(c) The credit allowable under this section with respect to an employer's qualified employee assistance program expenditures shall be in addition to any deduction or credit allowed the employer under any other law, statute, rule or regulation.

(d) The amendments made by this section shall apply to taxable years beginning [date].

COMMENT

This section offers the state legislature an opportunity to encourage the implementation of employee assistance programs by offering businesses a ten percent tax credit for employee assistance program costs. Currently, a majority of large businesses have already established EAPs; however, many small and medium sized businesses have not, primarily due to cost constraints. The establishment of incentives such as a tax credit allows businesses to reap the many benefits of employee assistance programs, including reduced alcohol and other drug problems, lower absenteeism rates, lower overall health care and workers' compensation utilization rates, and reduced disciplinary problems, while alleviating the potential obstacle of initial costs.

Section 19. Employee Assistance Consortia Demonstration Grant.

(a) The [state secretary of labor], in consultation with the [single state authority on alcohol and other drugs], shall establish an Employee Assistance Consortia Demonstration Program.

(1) The [state secretary of labor] shall award grants to assist entities with the establishment of employee assistance program consortia. Such consortia shall use amounts received under such grants to design and implement effective mechanisms for delivering employee assistance services to employers and employees of small businesses presently not providing such services.

(2) To be eligible to receive this grant, an entity shall:

(A) Demonstrate that it provides adequate health insurance coverage for substance abuse treatment; and

(B) Prepare and submit to the [secretary of labor] an application at such time, in such form, and containing such information as the [secretary] deems appropriate.

(3) In awarding such grants, the [secretary] shall, to the maximum extent practicable, ensure that a broad cross-section of small businesses are represented and ensure that as many different types of employee assistance service providers as possible are represented.

(4) Such grants shall fund employee assistance program activities identified in Section 4(b) for a term of [] years for [] percent of non-capital expenditures, as deemed appropriate by the [secretary of labor].

(5) No amounts appropriated for purposes of this subsection shall be utilized to replace existing public or private expenditures made available for the purpose of this subsection or to continue existing employee assistance program consortia.

(6) The [single state authority on alcohol and drug abuse] and the [state department of labor] shall consult with and provide technical assistance and training to grantees under paragraph (1) and shall evaluate the programs established using amounts received under such grants to determine the effectiveness of different programs in assisting small businesses in providing employee assistance ser-

vices. The grantees will be required to utilize a portion of the grant money towards documentation for outcome measurements.

(b) Education initiatives.

(1) The [single state authority on alcohol and other drug abuse] and the [state department of labor] shall develop, publicize, and distribute information concerning alcohol and other drug abuse and appropriate programmatic responses targeted to the small business community and their employees.

(2) The [single state authority on alcohol and other drug abuse] and the [state department of labor] shall conduct a comprehensive, multi-media public information campaign concerning the benefits of establishing workplace programs that are responsive to the needs of employees affected by alcohol and other drug problems. Such campaign shall be directed to public and private employers and shall encourage such employers to establish employee assistance programs.

(c) The [secretary of labor] shall promulgate guidelines necessary to carry out this section.

(d) The [secretary of labor] shall conduct a study to determine whether an Office should be established to coordinate all of the [state department of labor's] activities relating to employee assistance programming. No later than one year after the date of enactment of this [Act], the [secretary] shall prepare and submit to the appropriate committees of the state legislature a report concerning the results of such study.

COMMENT

Again, while a majority of large businesses have already established employee assistance programs, many small and medium sized businesses have not, primarily due to cost constraints. A number of small business have formed employee assistance consortia, pooling employee assistance resources in order to manage costs but still provide their employees with employee assistance program services. This section creates a demonstration project to design and implement effective mechanisms for delivering employee assistance services to employers and employees of small businesses presently not providing such services.

Section 20. Severability.

If any provision of this [Act] or application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the [Act] that can be given without the invalid provision or application, and to this end, the provisions of this [Act] are severable.

Section 21. Effective Date.

This [Act] shall be effective on [reference to normal state method of determination of the effective date] [reference to specific date].