

## **BILL ANALYSIS**

S.B. 87  
By: Nelson  
Public Health  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Currently, a state agency has limited authority to take action against a licensure applicant based on an adverse action from another agency. This situation has allowed individuals who have been disciplined for gross violations by one agency to be licensed to provide services by another agency, endangering the health and safety of the public.

S.B. 87 requires a health and human services agency to share information about adverse licensing decisions with other health and human services agencies and authorizes a health and human services agency to deny an applicant's initial or renewal application under certain conditions.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTIONS 1 and 2 of this bill.

### **ANALYSIS**

S.B. 87 amends the Government Code to require each health and human services agency that regulates a person described in provisions of the bill relating to applicability to maintain, in accordance with the bill and rule of the executive commissioner of the Health and Human Services Commission, a record of each application for an initial or renewal license, listing, or registration that is denied by the agency under the law authorizing the agency to regulate the person and requires the record of an application to be maintained until the 10th anniversary of the date the application is denied. The bill requires such an agency to also maintain a record of each license, listing, or registration that is revoked, suspended, or terminated by the agency under the applicable law and requires the record of the license, listing, or registration to be maintained until the 10th anniversary of the date of revocation, suspension, or termination. The bill makes its provisions applicable only to the adverse licensing, listing, or registration decisions of a health and human services agency under law authorizing that agency to regulate a youth camp, a home and community support services agency, a hospital, a convalescent and nursing home and related institution, an assisted living facility, a special care facility, an intermediate care facility, a chemical dependency treatment facility, a mental hospital or mental health facility, a child-care facility or child-placing agency or a family home, or an adult day care facility licensed, listed, or registered under state law, as applicable.

S.B. 87 requires the record maintained by each agency to include the name and address of the applicant applying for an initial or renewal license, listing, or registration under the applicable law; the name and address of each person listed in the application; the name of each person against whom the denial, revocation, suspension, or termination is effective and of each person responsible for compliance with the agency's rules and policies for the applicant, which may include members of the board and management personnel of the applicant, the owner, operator, and officers of the applicant, the individuals supervising employees who have direct care or contact with individuals in the care of the applicant, and any health and human services facility

owned or operated by any of those individuals; the specific type of license, listing, or registration that was denied, revoked, suspended, or terminated by the agency; a summary of the terms of denial, revocation, suspension, or termination; and the period the denial, revocation, suspension, or termination was effective. The bill requires each health and human services agency that regulates a person to provide a copy each month of the records maintained to each other such agency that regulates a person.

S.B. 87 authorizes such an agency to deny an applicant's initial or renewal application for a license, listing, or registration if another agency previously revoked, suspended, or terminated the license, listing, or registration of, or denied an initial or renewal application for, a person who is listed on the application or is or will be serving in a position responsible for compliance with the agency's rules and policies for the applicant, and who is included in a record maintained under the bill's provisions; and if the agency's action under these provisions was based on an act or omission that resulted in physical or mental harm to an individual in the care of the applicant or person; a threat to the health, safety, or well-being of an individual in the care of the applicant or person; the physical, mental, or financial exploitation of an individual in the care of the applicant or person; or a determination by the agency that the applicant or person committed an act or omission that renders the applicant unqualified or unfit to fulfill the obligations of the license, listing, or registration. The bill requires an applicant submitting an initial or renewal application for a license, listing, or registration to include with the application a written statement of the name of a person who is or will be serving in a position responsible for compliance with the agency's rules and policies for the applicant and who is included in a record maintained by a health and human services agency, and any other information required by executive commissioner rule. The bill requires the executive commissioner to adopt rules as necessary to implement these provisions not later than December 1, 2009. The bill provides that a health and human services agency is not required to maintain a record of decision until January 1, 2010.

#### **EFFECTIVE DATE**

September 1, 2009.