

BILL ANALYSIS

Senate Research Center
81R1988 YDB-D

S.B. 87
By: Nelson
Health & Human Services
3/9/2009
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, state agencies have 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.

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

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Sections 531.702 and 531.704, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 531, Government Code, by adding Subsection R, as follows:

SUBCHAPTER R. ADVERSE LICENSING, LISTING, OR REGISTRATION DECISIONS

Sec. 531.701. **APPLICABILITY.** Provides that this subchapter applies only to the licensing, listing, or registration decisions of a health and human services agency (agency) under the law authorizing the agency to regulate licensed agencies, hospitals, and facilities under Chapters 141 (Youth Camps), Health and Safety Code; 142 (Home and Community Support Services), Health and Safety Code; 241 (Hospitals), Health and Safety Code; 242 (Convalescent And Nursing Homes And Related Institutions), Health and Safety Code; 247 (Assisted Living Facilities), Health and Safety Code; 248 (Special Care Facilities), Health and Safety Code; 252 (Intermediate Care Facilities for the Mentally Retarded), Health and Safety Code; 464 (Facilities Treating Alcoholics and Drug-Dependent Persons), Health and Safety Code; 577 (Private Mental Hospitals and Other Mental Health Facilities), Health and Safety Code; 42 (Regulation of Certain Facilities, Homes, and Agencies That Provide Child-Care Services), Human Resources Code; and 103 (Adult Day Care), Human Resources Code.

Sec. 531.702. **RECORD OF DECISION.** (a) Requires each health and human services agency that regulates a person described by Section 531.701, in accordance with this section and executive commissioner of the Health and Human Services Commission (executive commissioner) rule, to maintain a record of:

- (1) 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
- (2) each license, listing, or registration that is revoked, suspended, or terminated by the agency under the applicable law.

(b) Requires that the record of an application required by Subsection (a)(1) be maintained until the 10th anniversary of the date the application is denied.

Requires that the record of the license, listing, or registration required by Subsection (a)(2) be maintained until the 10th anniversary of the date of the revocation, suspension, or termination.

(c) Requires that the record required under Subsection (a) 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 and address of each person against whom the denial, revocation, suspension, or termination is effective and of each of certain persons responsible for compliance with the agency's rules and policies for the applicant; the specific type of license, listing, or registration that was denied, revoked, suspended, or terminated by the agency, a summary of the terms of the denial, revocation, suspension, or termination; and the period the denial, revocation, suspension, or termination was effective.

(d) Requires each agency that regulates a person described by Section 531.701 each month to provide a copy of the records maintained under this section to each other agency that regulates a person described by Section 531.701.

Sec. 531.703. DENIAL OF APPLICATION BASED ON ADVERSE AGENCY DECISION. Authorizes an agency that regulates a person described by Section 531.701 to deny an applicant's initial or renewal application for a license, listing, or registration included in that section if:

(1) another agency previously revoked, suspended, or terminated the license, listing, or registration of a person or denied an initial or renewal application for a person who is listed on the application or will be serving in a position described by Section 531.702 (c)(3) or is included in a record maintained under Section 531.702; and

(2) the agency's action under Subdivision (1) 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 has committed an act or omission that renders the applicant unqualified or unfit to fulfill the obligations of the license, listing, or registration.

Sec. 531.704. REQUIRED APPLICATION INFORMATION. Requires an applicant submitting an initial or renewal application for a license, listing, or registration described under Section 531.701 to include with the application a written statement of the name of any person who is or will be serving in a position described by Section 531.702(c)(3) for the applicant and who is included in a record maintained by an agency under Section 531.702 and any other relevant information required by executive commissioner rule.

SECTION 2. (a) Requires, not later than December 1, 2009, the executive commissioner to adopt the rules necessary to implement Subchapter R, Chapter 531, Government Code, as added by this Act.

(b) Makes application of this Act prospective to January 1, 2010.

SECTION 3. Effective date: September 1, 2009.