

1-1 By: Riddle, Martinez, Fletcher H.B. No. 2845
1-2 (Senate Sponsor - Nichols)
1-3 (In the Senate - Received from the House May 6, 2009;
1-4 May 7, 2009, read first time and referred to Committee on Health
1-5 and Human Services; May 22, 2009, reported adversely, with
1-6 favorable Committee Substitute by the following vote: Yeas 7,
1-7 Nays 0; May 22, 2009, sent to printer.)

1-8 COMMITTEE SUBSTITUTE FOR H.B. No. 2845 By: Nichols

1-9 A BILL TO BE ENTITLED
1-10 AN ACT

1-11 relating to the certification of and disciplinary actions against
1-12 emergency medical services personnel.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Section 53.002, Occupations Code, is amended to
1-15 read as follows:

1-16 Sec. 53.002. APPLICABILITY OF CHAPTER. This chapter does
1-17 not apply to:

1-18 (1) the Supreme Court of Texas, a person licensed
1-19 under the court's authority on behalf of the judicial department of
1-20 government, or an applicant for a license issued under the court's
1-21 authority on behalf of the judicial department of government;

1-22 (2) a peace officer or an applicant for a license as a
1-23 peace officer described by Article 2.12, Code of Criminal
1-24 Procedure; ~~or~~

1-25 (3) an applicant for certification as emergency
1-26 medical services personnel under Chapter 773, Health and Safety
1-27 Code; or

1-28 (4) a person who:

1-29 (A) is licensed by the Texas ~~[State Board of]~~
1-30 Medical Board [Examiners], the Texas State Board of Pharmacy, the
1-31 State Board of Dental Examiners, or the State Board of Veterinary
1-32 Medical Examiners; and

1-33 (B) has been convicted of a felony under Chapter
1-34 481 or 483 or Section 485.033, Health and Safety Code.

1-35 SECTION 2. Section 773.050, Health and Safety Code, is
1-36 amended by amending Subsections (b), (c), (d), (e), and (f) and
1-37 adding Subsection (h) to read as follows:

1-38 (b) The executive commissioner ~~[board]~~ by rule shall
1-39 establish minimum standards for:

1-40 (1) staffing an advanced life-support emergency
1-41 medical services vehicle, a mobile intensive-care unit, or a
1-42 specialized emergency medical services vehicle;

1-43 (2) emergency medical services personnel
1-44 certification and performance, including provisional
1-45 certification, certification, decertification, recertification,
1-46 suspension, emergency suspension, and probation;

1-47 (3) the approval of courses and training programs, the
1-48 certification of program instructors, examiners, and course
1-49 coordinators for emergency medical services personnel training,
1-50 and the revocation and probation of an approval or certification;

1-51 (4) examinations of emergency medical services
1-52 personnel;

1-53 (5) medical supervision of basic and advanced
1-54 life-support systems;

1-55 (6) granting, suspending, and revoking a license for
1-56 emergency medical services providers; and

1-57 (7) emergency medical services vehicles.

1-58 (c) The executive commissioner ~~[board]~~ shall consider the
1-59 education, training, criminal background, and experience of allied
1-60 health professionals in adopting the minimum standards for
1-61 emergency medical services personnel certification and may
1-62 establish criteria for interstate reciprocity of emergency medical
1-63 services personnel. Each out-of-state application for

certification must be accompanied by a nonrefundable fee of not more than \$120. The executive commissioner ~~[board]~~ may also establish criteria for out-of-country emergency medical services personnel certification. Each out-of-country application for certification must be accompanied by a nonrefundable fee of not more than \$180.

(d) The executive commissioner ~~[board]~~ may not adopt a rule that requires any system, service, or agency to provide advanced life-support or staffing beyond basic life-support levels except for providers of:

- (1) advanced life-support emergency medical services;
- (2) mobile intensive care; or
- (3) specialized emergency medical services.

(e) The executive commissioner ~~[board]~~ shall adopt minimum standards for recognition of first responder organizations.

(f) The executive commissioner ~~[board]~~ shall recognize, prepare, or administer continuing education programs for certified personnel. A certificate holder must participate in the programs to the extent required by the executive commissioner ~~[board]~~ to remain certified.

(h) The department may provide a prescreening criminal history record check for an emergency medical services personnel applicant to determine the applicant's eligibility to receive certification before enrollment in the educational and training requirements mandated by the executive commissioner. The department may charge a reasonable fee for the costs associated with prescreening to each applicant who requests prescreening.

SECTION 3. Subchapter C, Chapter 773, Health and Safety Code, is amended by adding Sections 773.0614, 773.0615, 773.0616, and 773.0617 to read as follows:

Sec. 773.0614. AUTHORITY TO REVOKE, SUSPEND, DISQUALIFY FOR, OR DENY CERTIFICATION OF EMERGENCY MEDICAL SERVICES PERSONNEL FOR CERTAIN CRIMINAL OFFENSES. (a) In addition to the grounds under Section 773.061, the commissioner may suspend or revoke a certificate, disqualify a person from receiving a certificate, or deny a person the opportunity to take a certification examination on the grounds that the person has been convicted of, or placed on deferred adjudication community supervision or deferred disposition for, an offense that directly relates to the duties and responsibilities of emergency medical services personnel.

(b) For purposes of Subsection (a), the department may not consider offenses for which points are assessed under Section 708.052, Transportation Code.

(c) A certificate holder's certificate shall be revoked if the certificate holder is convicted of or placed on deferred adjudication community supervision or deferred disposition for:

(1) an offense listed in Sections 3g(a)(1)(A) through (H), Article 42.12, Code of Criminal Procedure; or

(2) an offense, other than an offense described by Subdivision (1), committed on or after September 1, 2009, for which the person is subject to registration under Chapter 62, Code of Criminal Procedure.

Sec. 773.0615. FACTORS CONSIDERED IN SUSPENSION, REVOCATION, OR DENIAL OF CERTIFICATE. (a) In determining whether an offense directly relates to the duties and responsibilities of emergency medical services personnel under Section 773.0614(a), the commissioner shall consider:

(1) the nature and seriousness of the crime;
(2) the relationship of the crime to the purposes for requiring certification to engage in emergency medical services;

(3) the extent to which certification might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and

(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of emergency medical services personnel.

(b) In determining the fitness to perform the duties and discharge the responsibilities of emergency medical services personnel for a person who has been convicted of, or placed on

deferred adjudication community supervision or deferred disposition for, a crime the commissioner shall consider, in addition to the factors listed in Subsection (a):

(1) the extent and nature of the person's past criminal activity;

(2) the age of the person when the crime was committed;

(3) the amount of time that has elapsed since the person's last criminal activity;

(4) the conduct and work activity of the person before and after the criminal activity;

(5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated, after release, or since imposition of community supervision or deferred adjudication; and

(6) other evidence of the person's fitness, including letters of recommendation from:

(A) prosecutors, law enforcement officers, correctional officers, or community supervision officers who prosecuted, arrested, or had custodial or other responsibility for the person;

(B) the sheriff or chief of police in the community where the person resides; and

(C) any other person in contact with the person.

(c) The applicant or certificate holder has the responsibility, to the extent possible, to obtain and provide to the commissioner the recommendations of the persons required by Subsection (b)(6).

(d) In addition to providing evidence related to the factors under Subsection (b), the applicant or certificate holder shall furnish proof in the form required by the department that the applicant or certificate holder has:

(1) maintained a record of steady employment;

(2) supported the applicant's or certificate holder's dependents;

(3) maintained a record of good conduct; and

(4) paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant or certificate holder has been convicted, been placed on community supervision, or received deferred adjudication.

Sec. 773.0616. PROCEEDINGS GOVERNED BY ADMINISTRATIVE PROCEDURE ACT; GUIDELINES. (a) A proceeding before the commissioner to consider the issues under Section 773.0615 is governed by Chapter 2001, Government Code.

(b) The executive commissioner shall issue guidelines relating to the commissioner's decision-making under Sections 773.0614 and 773.0615. The guidelines must state the reasons a particular crime is considered to relate to emergency medical services personnel and include any other criterion that may affect the decisions of the commissioner.

(c) The executive commissioner shall file the guidelines with the secretary of state for publication in the Texas Register.

(d) The department annually shall issue any amendments to the guidelines.

Sec. 773.0617. NOTICE AND REVIEW OF SUSPENSION, REVOCATION, DISQUALIFICATION FOR, OR DENIAL OF CERTIFICATION. (a) If the commissioner suspends or revokes a certification, denies a person a certificate, or denies the opportunity to be examined for a certificate under Section 773.0614, the commissioner shall notify the person in writing of:

(1) the reason for the suspension, revocation, denial, or disqualification;

(2) the review procedure provided by Subsection (b); and

(3) the earliest date the person may appeal the action of the commissioner.

(b) A person whose certificate has been suspended or revoked or who has been denied a certificate or the opportunity to take an examination and who has exhausted the person's administrative appeals may file an action in the district court in Travis County for review of the evidence presented to the commissioner and the

4-1 decision of the commissioner.

4-2 (c) The petition for an action under Subsection (b) must be
4-3 filed not later than the 30th day after the date the commissioner's
4-4 decision is final.

4-5 SECTION 4. Not later than January 1, 2010, the executive
4-6 commissioner of the Health and Human Services Commission shall
4-7 issue the guidelines required by Section 773.0616(b), Health and
4-8 Safety Code, as added by this Act.

4-9 SECTION 5. The changes in law made by this Act to Chapter
4-10 773, Health and Safety Code, apply only to an application for
4-11 certification or renewal of certification of emergency medical
4-12 services personnel submitted on or after January 1, 2010.

4-13 SECTION 6. This Act takes effect September 1, 2009.

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