

1-1 By: Nelson S.B. No. 87  
1-2 (In the Senate - Filed November 10, 2008; February 10, 2009,  
1-3 read first time and referred to Committee on Health and Human  
1-4 Services; March 17, 2009, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;  
1-6 March 17, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 87 By: Nelson

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to adverse licensing, listing, or registration decisions  
1-11 by certain health and human services agencies.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 531, Government Code, is amended by  
1-14 adding Subchapter R to read as follows:

1-15 SUBCHAPTER R. ADVERSE LICENSING, LISTING, OR REGISTRATION  
1-16 DECISIONS

1-17 Sec. 531.701. APPLICABILITY. This subchapter applies only  
1-18 to the licensing, listing, or registration decisions of a health  
1-19 and human services agency under the law authorizing the agency to  
1-20 regulate the following:

1-21 (1) a youth camp licensed under Chapter 141, Health  
1-22 and Safety Code;

1-23 (2) a home and community support services agency  
1-24 licensed under Chapter 142, Health and Safety Code;

1-25 (3) a hospital licensed under Chapter 241, Health and  
1-26 Safety Code;

1-27 (4) an institution licensed under Chapter 242, Health  
1-28 and Safety Code;

1-29 (5) an assisted living facility licensed under Chapter  
1-30 247, Health and Safety Code;

1-31 (6) a special care facility licensed under Chapter  
1-32 248, Health and Safety Code;

1-33 (7) an intermediate care facility licensed under  
1-34 Chapter 252, Health and Safety Code;

1-35 (8) a chemical dependency treatment facility licensed  
1-36 under Chapter 464, Health and Safety Code;

1-37 (9) a mental hospital or mental health facility  
1-38 licensed under Chapter 577, Health and Safety Code;

1-39 (10) a child-care facility or child-placing agency  
1-40 licensed under or a family home listed or registered under Chapter  
1-41 42, Human Resources Code; or

1-42 (11) an adult day-care facility licensed under Chapter  
1-43 103, Human Resources Code.

1-44 Sec. 531.702. RECORD OF DECISION. (a) Each health and  
1-45 human services agency that regulates a person described by Section  
1-46 531.701 shall in accordance with this section and executive  
1-47 commissioner rule maintain a record of:

1-48 (1) each application for an initial or renewal  
1-49 license, listing, or registration that is denied by the agency  
1-50 under the law authorizing the agency to regulate the person; and

1-51 (2) each license, listing, or registration that is  
1-52 revoked, suspended, or terminated by the agency under the  
1-53 applicable law.

1-54 (b) The record of an application required by Subsection  
1-55 (a)(1) must be maintained until the 10th anniversary of the date the  
1-56 application is denied. The record of the license, listing, or  
1-57 registration required by Subsection (a)(2) must be maintained until  
1-58 the 10th anniversary of the date of the revocation, suspension, or  
1-59 termination.

1-60 (c) The record required under Subsection (a) must include:

1-61 (1) the name and address of the applicant applying for  
1-62 an initial or renewal license, listing, or registration under the  
1-63 applicable law;

(2) the name and address of each person listed in the application;

(3) 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:

(A) members of the board and management personnel of the applicant;

(B) the owner, operator, and officers of the applicant;

(C) the individuals supervising employees who have direct care or contact with individuals in the care of the applicant; and

(D) any health and human services facility owned or operated by a person described by Paragraphs (A) through (C);

(4) the specific type of license, listing, or registration that was denied, revoked, suspended, or terminated by the agency;

(5) a summary of the terms of the denial, revocation, suspension, or termination; and

(6) the period the denial, revocation, suspension, or termination was effective.

(d) Each health and human services agency that regulates a person described by Section 531.701 each month shall provide a copy of the records maintained under this section to each other health and human services agency that regulates a person described by Section 531.701.

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

(1) another health and human services agency previously:

(A) revoked, suspended, or terminated the license, listing, or registration of a person who:

(i) is listed on the application or is or will be serving in a position described by Section 531.702(c)(3) for the applicant; and

(ii) is included in a record maintained under Section 531.702; or

(B) denied an initial or renewal application for a person who:

(i) is listed on the application or is or will be serving in a position described by Section 531.702(c)(3) for the applicant; and

(ii) is included in a record maintained under Section 531.702; and

(2) the agency's action under Subdivision (1) was based on:

(A) an act or omission that resulted in physical or mental harm to an individual in the care of the applicant or person;

(B) a threat to the health, safety, or well-being of an individual in the care of the applicant or person;

(C) the physical, mental, or financial exploitation of an individual in the care of the applicant or person; or

(D) 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. An applicant submitting an initial or renewal application for a license, listing, or registration described under Section 531.701 must include with the application a written statement of:

(1) 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 a health and human

3-1 services agency under Section 531.702; and

3-2 (2) any other relevant information required by  
3-3 executive commissioner rule.

3-4 SECTION 2. (a) Not later than December 1, 2009, the  
3-5 executive commissioner of the Health and Human Services Commission  
3-6 shall adopt the rules necessary to implement Subchapter R, Chapter  
3-7 531, Government Code, as added by this Act.

3-8 (b) Notwithstanding Section 531.702, Government Code, as  
3-9 added by this Act, a health and human services agency is not  
3-10 required to maintain the records as required under that section  
3-11 until January 1, 2010.

3-12 SECTION 3. This Act takes effect September 1, 2009.

3-13 \* \* \* \* \*