

By: Nelson

S.B. No. 78

A BILL TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 531, Government Code, is amended by adding Subchapter W to read as follows:

SUBCHAPTER W. ADVERSE LICENSING, LISTING, OR REGISTRATION

DECISIONS

Sec. 531.951. APPLICABILITY. This subchapter applies only to the licensing, listing, or registration decisions of a health and human services agency with respect to a person under the law authorizing the agency to regulate the following types of persons:

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

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

(3) a hospital licensed under Chapter 241, Health and Safety Code;

(4) an institution licensed under Chapter 242, Health and Safety Code;

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

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

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

3           (8) a chemical dependency treatment facility licensed  
4 under Chapter 464, Health and Safety Code;

5           (9) a mental hospital or mental health facility  
6 licensed under Chapter 577, Health and Safety Code;

7           (10) a child-care facility or child-placing agency  
8 licensed under or a family home listed or registered under Chapter  
9 42, Human Resources Code; or

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

12           Sec. 531.952. RECORD OF DECISION. (a) Each health and  
13 human services agency that regulates a person described by Section  
14 531.951 shall in accordance with this section and executive  
15 commissioner rule maintain a record of:

16           (1) each application for a license, including a  
17 renewal license or a license that does not expire, a listing, or a  
18 registration that is denied by the agency under the law authorizing  
19 the agency to regulate the person; and

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

23           (b) The record of an application required by Subsection  
24 (a)(1) must be maintained until the 10th anniversary of the date the  
25 application is denied. The record of the license, listing, or  
26 registration required by Subsection (a)(2) must be maintained until  
27 the 10th anniversary of the date of the revocation, suspension, or

1 termination.

2 (c) The record required under Subsection (a) must include:

3 (1) the name and address of the applicant for a  
4 license, listing, or registration that is denied as described by  
5 Subsection (a)(1);

6 (2) the name and address of each person listed in the  
7 application for a license, listing, or registration that is denied  
8 as described by Subsection (a)(1);

9 (3) the name of each person determined by the  
10 applicable regulatory agency to be a controlling person of an  
11 entity for which an application, license, listing, or registration  
12 is denied, revoked, suspended, or terminated as described by  
13 Section (a);

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

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

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

21 (d) Each health and human services agency that regulates a  
22 person described by Section 531.951 each month shall provide a copy  
23 of the records maintained under this section to each other health  
24 and human services agency that regulates a person described by  
25 Section 531.951.

26 Sec. 531.953. DENIAL OF APPLICATION BASED ON ADVERSE AGENCY  
27 DECISION. A health and human services agency that regulates a

1 person described by Section 531.951 may deny an application for a  
2 license, including a renewal license or a license that does not  
3 expire, a listing, or a registration included in that section if:

4 (1) any of the following persons are listed in a record  
5 maintained under Section 531.952:

6 (A) the applicant;

7 (B) a person listed on the application; or

8 (C) a person determined by the applicable  
9 regulating agency to be a controlling person of an entity for which  
10 the license, including a renewal license or a license that does not  
11 expire, the listing, or the registration is sought; and

12 (2) the agency's action that resulted in the person  
13 being listed in a record maintained under Section 531.952 is based  
14 on:

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

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

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

23 (D) a determination by the agency that the  
24 applicant or person has committed an act or omission that renders  
25 the applicant unqualified or unfit to fulfill the obligations of  
26 the license, listing, or registration.

27 Sec. 531.954. REQUIRED APPLICATION INFORMATION. An

1 applicant submitting an initial or renewal application for a  
2 license, including a renewal license or a license that does not  
3 expire, a listing, or a registration described under Section  
4 531.951 must include with the application a written statement of:

5 (1) the name of any person who is or will be a  
6 controlling person, as determined by the applicable agency  
7 regulating the person, of the entity for which the license,  
8 listing, or registration is sought; and

9 (2) any other relevant information required by  
10 executive commissioner rule.

11 SECTION 2. (a) Not later than March 1, 2012, the executive  
12 commissioner of the Health and Human Services Commission shall  
13 adopt the rules necessary to implement Subchapter W, Chapter 531,  
14 Government Code, as added by this Act.

15 (b) Notwithstanding Section 531.952, Government Code, as  
16 added by this Act, a health and human services agency is not  
17 required to maintain the records as required under that section  
18 until March 1, 2012.

19 SECTION 3. This Act takes effect September 1, 2011.