

By: Nelson

S.B. No. 78

A BILL TO BE ENTITLED

1 AN ACT
2 relating to adverse licensing, listing, or registration decisions
3 by certain health and human services agencies.

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

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

7 SUBCHAPTER W. ADVERSE LICENSING, LISTING, OR REGISTRATION

8 DECISIONS

9 Sec. 531.951. APPLICABILITY. This subchapter applies only
10 to the licensing, listing, or registration decisions of a health
11 and human services agency under the law authorizing the agency to
12 regulate the following:

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

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

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

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

21 (5) an assisted living facility licensed under Chapter
22 247, Health and Safety Code;

23 (6) a special care facility licensed under Chapter
24 248, 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 an initial or renewal
17 license, listing, or registration that is denied by the agency
18 under the law authorizing the agency to regulate the person; and

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

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

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

2 (1) the name and address of the applicant applying for
3 an initial or renewal license, listing, or registration under the
4 applicable law;

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

7 (3) the name of each person against whom the denial,
8 revocation, suspension, or termination is effective and of each
9 person responsible for compliance with the agency's rules and
10 policies for the applicant, which may include:

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

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

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

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

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

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

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

27 (d) Each health and human services agency that regulates a

1 person described by Section 531.951 each month shall provide a copy
2 of the records maintained under this section to each other health
3 and human services agency that regulates a person described by
4 Section 531.951.

5 Sec. 531.953. DENIAL OF APPLICATION BASED ON ADVERSE AGENCY
6 DECISION. A health and human services agency that regulates a
7 person described by Section 531.951 may deny an applicant's initial
8 or renewal application for a license, listing, or registration
9 included in that section if:

10 (1) another health and human services agency
11 previously:

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

14 (i) is listed on the application or is or
15 will be serving in a position described by Section 531.952(c)(3)
16 for the applicant; and

17 (ii) is included in a record maintained
18 under Section 531.952; or

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

21 (i) is listed on the application or is or
22 will be serving in a position described by Section 531.952(c)(3)
23 for the applicant; and

24 (ii) is included in a record maintained
25 under Section 531.952; and

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

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

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

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

9 (D) a determination by the agency that the
10 applicant or person has committed an act or omission that renders
11 the applicant unqualified or unfit to fulfill the obligations of
12 the license, listing, or registration.

13 Sec. 531.954. REQUIRED APPLICATION INFORMATION. An
14 applicant submitting an initial or renewal application for a
15 license, listing, or registration described under Section 531.951
16 must include with the application a written statement of:

17 (1) the name of any person who is or will be serving in
18 a position described by Section 531.952(c)(3) for the applicant and
19 who is included in a record maintained by a health and human
20 services agency under Section 531.952; and

21 (2) any other relevant information required by
22 executive commissioner rule.

23 SECTION 2. (a) Not later than December 1, 2011, the
24 executive commissioner of the Health and Human Services Commission
25 shall adopt the rules necessary to implement Subchapter W, Chapter
26 531, Government Code, as added by this Act.

27 (b) Notwithstanding Section 531.952, Government Code, as

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1 added by this Act, a health and human services agency is not
2 required to maintain the records as required under that section
3 until January 1, 2012.

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