

1-1 By: Nelson S.B. No. 78
1-2 (In the Senate - Filed November 8, 2010; January 31, 2011,
1-3 read first time and referred to Committee on Health and Human
1-4 Services; March 7, 2011, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;
1-6 March 7, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 78 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 W to read as follows:

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

1-17 Sec. 531.951. APPLICABILITY. This subchapter applies only
1-18 to the licensing, listing, or registration decisions of a health
1-19 and human services agency with respect to a person under the law
1-20 authorizing the agency to regulate the following types of persons:

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. 531.952. RECORD OF DECISION. (a) Each health and
1-45 human services agency that regulates a person described by Section
1-46 531.951 shall in accordance with this section and executive
1-47 commissioner rule maintain a record of:

1-48 (1) each application for a license, including a
1-49 renewal license or a license that does not expire, a listing, or a
1-50 registration that is denied by the agency under the law authorizing
1-51 the agency to regulate the person; and

1-52 (2) each license, listing, or registration that is
1-53 revoked, suspended, or terminated by the agency under the
1-54 applicable law.

1-55 (b) The record of an application required by Subsection
1-56 (a)(1) must be maintained until the 10th anniversary of the date the
1-57 application is denied. The record of the license, listing, or
1-58 registration required by Subsection (a)(2) must be maintained until
1-59 the 10th anniversary of the date of the revocation, suspension, or
1-60 termination.

1-61 (c) The record required under Subsection (a) must include:

1-62 (1) the name and address of the applicant for a
1-63 license, listing, or registration that is denied as described by
1-64 Subsection (a)(1);

1-65 (2) the name and address of each person listed in the

2-1 application for a license, listing, or registration that is denied
2-2 as described by Subsection (a)(1);

2-3 (3) the name of each person determined by the
2-4 applicable regulatory agency to be a controlling person of an
2-5 entity for which an application, license, listing, or registration
2-6 is denied, revoked, suspended, or terminated as described by
2-7 Section (a);

2-8 (4) the specific type of license, listing, or
2-9 registration that was denied, revoked, suspended, or terminated by
2-10 the agency;

2-11 (5) a summary of the terms of the denial, revocation,
2-12 suspension, or termination; and

2-13 (6) the period the denial, revocation, suspension, or
2-14 termination was effective.

2-15 (d) Each health and human services agency that regulates a
2-16 person described by Section 531.951 each month shall provide a copy
2-17 of the records maintained under this section to each other health
2-18 and human services agency that regulates a person described by
2-19 Section 531.951.

2-20 Sec. 531.953. DENIAL OF APPLICATION BASED ON ADVERSE AGENCY
2-21 DECISION. A health and human services agency that regulates a
2-22 person described by Section 531.951 may deny an application for a
2-23 license, including a renewal license or a license that does not
2-24 expire, a listing, or a registration included in that section if:

2-25 (1) any of the following persons are listed in a record
2-26 maintained under Section 531.952:

2-27 (A) the applicant;

2-28 (B) a person listed on the application; or

2-29 (C) a person determined by the applicable
2-30 regulating agency to be a controlling person of an entity for which
2-31 the license, including a renewal license or a license that does not
2-32 expire, the listing, or the registration is sought; and

2-33 (2) the agency's action that resulted in the person
2-34 being listed in a record maintained under Section 531.952 is based
2-35 on:

2-36 (A) an act or omission that resulted in physical
2-37 or mental harm to an individual in the care of the applicant or
2-38 person;

2-39 (B) a threat to the health, safety, or well-being
2-40 of an individual in the care of the applicant or person;

2-41 (C) the physical, mental, or financial
2-42 exploitation of an individual in the care of the applicant or
2-43 person; or

2-44 (D) a determination by the agency that the
2-45 applicant or person has committed an act or omission that renders
2-46 the applicant unqualified or unfit to fulfill the obligations of
2-47 the license, listing, or registration.

2-48 Sec. 531.954. REQUIRED APPLICATION INFORMATION. An
2-49 applicant submitting an initial or renewal application for a
2-50 license, including a renewal license or a license that does not
2-51 expire, a listing, or a registration described under Section
2-52 531.951 must include with the application a written statement of:

2-53 (1) the name of any person who is or will be a
2-54 controlling person, as determined by the applicable agency
2-55 regulating the person, of the entity for which the license,
2-56 listing, or registration is sought; and

2-57 (2) any other relevant information required by
2-58 executive commissioner rule.

2-59 SECTION 2. (a) Not later than March 1, 2012, the executive
2-60 commissioner of the Health and Human Services Commission shall
2-61 adopt the rules necessary to implement Subchapter W, Chapter 531,
2-62 Government Code, as added by this Act.

2-63 (b) Notwithstanding Section 531.952, Government Code, as
2-64 added by this Act, a health and human services agency is not
2-65 required to maintain the records as required under that section
2-66 until March 1, 2012.

2-67 SECTION 3. This Act takes effect September 1, 2011.

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