

## **BILL ANALYSIS**

C.S.H.B. 3556  
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Public Health  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Over the past several years there has been a significant increase in the appearance of certain emergency medical services providers in Texas, especially in larger municipalities. Interested parties assert that the lack of state regulation has made it very easy to enter into this market, which has led to an alarming increase in Medicaid fraud. C.S.H.B. 3556 seeks to prevent fraudulent providers from entering the market by placing more stringent requirements on these providers.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

Section 531.0055, Government Code, as amended by Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, expressly grants to the executive commissioner of the Health and Human Services Commission all rulemaking authority for the operation of and provision of services by the health and human services agencies. Similarly, Sections 1.16-1.29, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, provide for the transfer of a power, duty, function, program, or activity from a health and human services agency abolished by that act to the corresponding legacy agency. To the extent practical, this bill analysis is written to reflect any transfer of rulemaking authority and to update references as necessary to an agency's authority with respect to a particular health and human services program.

C.S.H.B. 3556 amends the Health and Safety Code to require a person who applies for an emergency medical services provider license or for a renewal of a license, in addition to the requirements for obtaining or renewing such a license under the Emergency Health Care Act, to provide the Department of State Health Services (DSHS) with a letter of credit issued by a federally insured bank or savings institution in the amount of \$100,000 for the initial license and for renewal of the license on the second anniversary of the date the initial license is issued, \$75,000 for renewal of the license on the fourth anniversary of the date the initial license is issued, \$50,000 for renewal of the license on the sixth anniversary of the date the initial license was issued, and \$25,000 for renewal of the license on the eighth anniversary of the date the initial license is issued and each subsequent renewal. The bill requires such an applicant to also provide DSHS with a surety bond in the amount of \$50,000 for the initial license and for renewal of the license on the second anniversary of the date the initial license is issued, \$25,000 for renewal of the license on the fourth anniversary of the date the initial license is issued, and \$10,000 for renewal of the license on the sixth anniversary of the date the initial license is issued and each subsequent renewal, and to submit for approval by DSHS the name and contact information of the provider's administrator of record who satisfies the requirements set out in the bill's provisions.

C.S.H.B. 3556 prohibits the administrator of record from being employed or otherwise

compensated by another private for-profit emergency medical services provider, and requires the administrator of record to meet the qualifications required for an emergency medical technician or other health care professional license or certification issued by this state and to submit to a criminal history record check at the applicant's expense.

C.S.H.B. 3556 establishes that statutory provisions relating to the limitation on information required for the renewal of a certificate to practice as emergency medical services personnel do not apply to information an administrator of record is required to provide under the bill's provisions, and establishes that an administrator of record initially approved by DSHS may be required to complete an education course for new administrators of record. The bill requires the executive commissioner of the Health and Human Services Commission (HHSC) to recognize, prepare, or administer the education course for new administrators of record, which must include information about the laws and executive commissioner rules that affect emergency medical services providers. The bill requires an administrator of record approved by DSHS to complete at least eight hours of continuing education annually following initial approval and requires the executive commissioner to recognize, prepare, or administer continuing education programs for administrators of record, which must include information about changes in law and executive commissioner rules that affect emergency medical services providers. The bill exempts an emergency medical services provider that is directly operated by a governmental entity from requirements relating to an administrator of record.

C.S.H.B. 3556 requires DSHS, not later than December 1 of each even-numbered year, to electronically submit a report to the lieutenant governor, the speaker of the house of representatives, and the standing committees of the house and senate with jurisdiction over DSHS on the effect of the bill's provisions establishing additional licensing requirements for an emergency medical services provider and requirements for an administrator of record that includes the total number of applications for emergency medical services provider licenses submitted to DSHS and the number of applications for which licenses were issued or licenses were denied by DSHS, the number of emergency medical services provider licenses that were suspended or revoked by DSHS for violations of those provisions and a description of the types of violations that led to the license suspension or revocation, the number of occurrences and types of fraud committed by licensed emergency medical services providers related to those provisions, the number of complaints made against licensed emergency medical services providers for violations of those provisions and a description of the types of complaints, and the status of any coordination efforts of DSHS and the Texas Medical Board related to those provisions.

C.S.H.B. 3556 authorizes the commissioner of health to suspend, revoke, or deny an emergency medical services provider license on the grounds that the provider's administrator of record, employee, or other representative 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 the administrator, employee, or representative, other than an offense for which points are assigned to a person's driver's license; has been convicted of or placed on deferred adjudication community supervision or deferred disposition for an offense; or has been convicted of Medicare or Medicaid fraud, has been excluded from participation in the state Medicaid program, or has a hold on payment for reimbursement under the state Medicaid program.

C.S.H.B. 3556 places a moratorium on the issuance of new emergency medical services provider licenses for the period beginning on September 1, 2013, and ending on February 28, 2015, and specifies that the moratorium does not apply to the issuance of a license to a municipality, county, emergency services district, hospital, or emergency medical services volunteer provider organization in Texas, or to an emergency medical services provider applicant who is applying to provide services in response to 9-1-1 calls and is located in a rural area.

**EFFECTIVE DATE**

September 1, 2013.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 3556 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

**INTRODUCED**

SECTION 1. Subchapter C, Chapter 773, Health and Safety Code, is amended by adding Section 773.05711 to read as follows:

Sec. 773.05711. NONEMERGENCY AMBULANCE TRANSPORTATION PROVIDER.

(a) In addition to the requirements for obtaining or renewing an emergency medical services provider license under this subchapter, a person who applies for a license or for a renewal of a license to provide only nonemergency ambulance transportation services must:

(1) provide the department with a letter of credit issued by a federally insured bank or savings institution in the amount of \$100,000

and a surety bond in the amount of \$50,000; and

**HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Subchapter C, Chapter 773, Health and Safety Code, is amended by adding Sections 773.05711, 773.05712, and 773.05713 to read as follows:

Sec. 773.05711. ADDITIONAL EMERGENCY MEDICAL SERVICES PROVIDER LICENSE REQUIREMENTS.

(a) In addition to the requirements for obtaining or renewing an emergency medical services provider license under this subchapter, a person who applies for a license or for a renewal of a license must:

(1) provide the department with a letter of credit issued by a federally insured bank or savings institution in the amount of:

(A) \$100,000 for the initial license and for renewal of the license on the second anniversary of the date the initial license is issued;

(B) \$75,000 for renewal of the license on the fourth anniversary of the date the initial license is issued;

(C) \$50,000 for renewal of the license on the sixth anniversary of the date the initial license is issued; and

(D) \$25,000 for renewal of the license on the eighth anniversary of the date the initial license is issued and each subsequent renewal;

(2) provide the department with a surety bond in the amount of:

(A) \$50,000 for the initial license and for renewal of the license on the second anniversary of the date the initial license is issued;

(B) \$25,000 for renewal of the license on the fourth anniversary of the date the initial license is issued; and

(C) \$10,000 for renewal of the license on the sixth anniversary of the date the initial license is issued and each subsequent

(2) submit for approval by the department the name and contact information of the provider's administrator of record.

(b) The administrator of record:

(1) may not be employed or otherwise compensated by another private for-profit emergency medical services provider;

(2) must meet the qualifications required for an emergency medical technician or other health care professional license or certification issued by this state; and

(3) must submit to a criminal history record check at the applicant's expense.

(c) Section 773.0415 does not apply to information an administrator of record is required to provide under this section.

(d) An administrator of record approved by the department under Subsection (a) must complete at least eight hours of continuing education every two years following initial approval. The executive commissioner shall recognize, prepare, or administer continuing education programs for administrators of record, which must include information about changes in law and department rules that affect emergency medical services providers.

(e) An emergency medical services provider that is directly operated by a governmental entity is exempt from the this section.

renewal; and

(3) submit for approval by the department the name and contact information of the provider's administrator of record who satisfies the requirements under Section 773.05712.

(b) An emergency medical services provider that is directly operated by a governmental entity is exempt from this section.

Sec. 773.05712. ADMINISTRATOR OF RECORD. (a) The administrator of record for an emergency medical services provider licensed under this subchapter:

(1) may not be employed or otherwise compensated by another private for-profit emergency medical services provider;

(2) must meet the qualifications required for an emergency medical technician or other health care professional license or certification issued by this state; and

(3) must submit to a criminal history record check at the applicant's expense.

(b) Section 773.0415 does not apply to information an administrator of record is required to provide under this section.

(c) An administrator of record initially approved by the department may be required to complete an education course for new administrators of record. The executive commissioner shall recognize, prepare, or administer the education course for new administrators of record, which must include information about the laws and department rules that affect emergency medical services providers.

(d) An administrator of record approved by the department under Section 773.05711(a) annually must complete at least eight hours of continuing education following initial approval. The executive commissioner shall recognize, prepare, or administer continuing education programs for administrators of record, which must include information about changes in law and department rules that affect emergency medical services providers.

(e) An emergency medical services provider that is directly operated by a governmental entity is exempt from this section.

Sec. 773.05713. REPORT TO LEGISLATURE. Not later than December 1 of each even-numbered year, the department shall electronically submit a report to the

lieutenant governor, the speaker of the house of representatives, and the standing committees of the house and senate with jurisdiction over the department on the effect of Sections 773.05711 and 773.05712 that includes:

(1) the total number of applications for emergency medical services provider licenses submitted to the department and the number of applications for which licenses were issued or licenses were denied by the department;

(2) the number of emergency medical services provider licenses that were suspended or revoked by the department for violations of those sections and a description of the types of violations that led to the license suspension or revocation;

(3) the number of occurrences and types of fraud committed by licensed emergency medical services providers related to those sections;

(4) the number of complaints made against licensed emergency medical services providers for violations of those sections and a description of the types of complaints; and

(5) the status of any coordination efforts of the department and the Texas Medical Board related to those sections.

SECTION 2. Subchapter C, Chapter 773, Health and Safety Code, is amended.

No equivalent provision.

SECTION 3. The change in law made by this Act applies only to an application for approval or renewal of an emergency

SECTION 2. Same as introduced version.

SECTION 3. Notwithstanding Chapter 773, Health and Safety Code, as amended by this Act, the Department of State Health Services may not issue any new emergency medical services provider licenses for the period beginning on September 1, 2013, and ending on February 28, 2015. The moratorium does not apply to the issuance of an emergency medical services provider license to a municipality, county, emergency services district, hospital, or emergency medical services volunteer provider organization in this state, or to an emergency medical services provider applicant who is applying to provide services in response to 9-1-1 calls and is located in a rural area, as that term is defined in Section 773.0045, Health and Safety Code.

SECTION 4. Same as introduced version.

medical services provider license submitted to the Department of State Health Services on or after the effective date of this Act. An application submitted before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2013.

SECTION 5. Same as introduced version.