

- SUBJECT:** Adverse licensing, listing, or registration decisions by HHS agencies
- COMMITTEE:** Public Health — favorable, without amendment
- VOTE:** 7 ayes — Kolkhorst, Naishtat, Gonzales, Hopson, McReynolds, Truitt, Zerwas
- 0 nays
- 4 absent — Coleman, J. Davis, S. King, Laubenberg
- SENATE VOTE:** On final passage, April 2 — 31-0, on Local and Uncontested Calendar
- WITNESSES:** For — Lee Spiller, Citizens Commission on Human Rights; (*Registered, but did not testify*: Kathryn Lewis, Advocacy, Incorporated; Jodie Smith, Texans Care for Children)
- Against — None
- On — Michael Minoia, Texas Department of State Health Services; Sasha Rasco, Department of Family and Protective Services; Tom Valentine, Health and Human Services Commission; (*Registered, but did not testify*: Bill Pewitt, Texas Association for Home Care)
- BACKGROUND:** Health and human services (HHS) agencies currently do not share with each other information regarding adverse action taken against licensure applicants or license holders. Consequently, an agency may unknowingly grant a license to an applicant that has had a license denied or revoked by another agency due to gross misconduct.
- DIGEST:** SB 87 would amend Government Code, ch. 531 by adding subchapter R, regarding adverse licensing, listing, or registration decisions of health and human services agencies. The agencies covered would be youth camps, hospitals, home and community support services agencies, nursing homes, assisted living facilities, intermediate care facilities for the mentally retarded (ICFs-MR), chemical dependency treatment facilities, child-care

and adult day-care facilities, and special care facilities for terminally ill individuals.

Under the bill, each agency would maintain a record of each application for an initial or renewal license, listing, or registration that was denied, revoked, suspended, or terminated by the agency authorized to regulate the individual or entity. Agencies would provide copies of the records to each other on a monthly basis, and records would be maintained until the tenth anniversary of the denial, revocation, suspension, or termination. Records would be required to include:

- the name and address of the applicant for the license, renewal, listing, or registration;
- the name and address of each person listed in the application;
- the name of each person against whom the denial, revocation, suspension, or termination was effective and of each person responsible for compliance with the agency's rules and policies for the applicant;
- the specific type of license, listing, or registration that was denied, revoked, suspended, or terminated by the agency;
- a summary of the terms of the denial, revocation, suspension, or termination; and
- the period during which the denial, revocation, suspension, or termination was effective.

An agency could deny an applicant's license, renewal, listing, or registration if another agency previously denied, revoked, suspended, or terminated the license, renewal, listing, or registration of an individual who was included in a maintained record, listed on the application, or was or would be serving as the owner or operator of the facility, a member of the board, officer, or management personnel of the facility, or an individual supervising direct care employees of the facility, and the agency's action was based on:

- an act of omission that resulted in physical or mental harm to an individual in the care of the applicant;
- a threat to the health, safety, or well-being of an individual in the care of the applicant;
- the physical, mental, or financial exploitation of an individual in the care of the applicant; or

- a determination by the agency that the applicant had committed an act or omission that rendered the applicant unqualified or unfit to fulfill the obligations of the license, listing, or registration.

The bill would take effect September 1, 2009. The Health and Human Services commissioner would implement rules necessary to implement the bill no later than December 1, 2009, and a HHS agency would not be required to maintain records as required until January 1, 2010.