relating to the protection and care of persons who are elderly or disabled or who are children.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subsection (b), Section 532.001, Health and Safety Code, is amended to read as follows:

(b) The Department of Aging and Disability Services and the Department of State Health Services also include community services operated by those departments and the following facilities, as appropriate:

(1) the central office of each department;
(2) the Austin State Hospital;
(3) the Big Spring State Hospital;
(4) the Kerrville State Hospital;
(5) the Rusk State Hospital;
(6) the San Antonio State Hospital;
(7) the Terrell State Hospital;
(8) the North Texas State Hospital;
(9) the Abilene State Supported Living Center;
(10) the Austin State Supported Living Center;
(11) the Brenham State Supported Living Center;
(12) the Corpus Christi State Supported Living Center;
(13) the Denton State Supported Living Center;
(14) the Lubbock State Supported Living Center;
(15) the Lufkin State Supported Living Center;
(16) the Mexia State Supported Living Center;
(17) the Richmond State Supported Living Center;
(18) the San Angelo State Supported Living Center;
(19) the San Antonio State Supported Living Center;
(20) the El Paso State Supported Living Center;
(21) the Rio Grande State Center; [and]
(22) the Waco Center for Youth; and
(23) the El Paso Psychiatric Center.

SECTION 2. Subchapter A, Chapter 552, Health and Safety Code, is amended by adding Section 552.0011 to read as follows:

Sec. 552.0011. DEFINITIONS. In this chapter:

(1) "Commission" means the Health and Human Services Commission.
(2) "Department" means the Department of State Health Services.
(3) "Direct care employee" means a state hospital employee who provides direct delivery of services to a patient.

(4) "Direct supervision" means supervision of the employee by the employee's supervisor physically present and providing the employee with direction and assistance while the employee performs his or her duties.

(5) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.
(6) "Inspector general" means the Health and Human Services Commission's office of inspector general.

(7) "Patient" means an individual who is receiving voluntary or involuntary mental health services at a state hospital.

(8) "State hospital" means a hospital operated by the department primarily to provide inpatient care and treatment for persons with mental illness.

SECTION 3. Chapter 552, Health and Safety Code, is amended by adding Subchapters C and D to read as follows:

SUBCHAPTER C. POWERS AND DUTIES OF DEPARTMENT RELATING TO STATE HOSPITALS

Sec. 552.051. REPORTS OF ILLEGAL DRUG USE; POLICY. The executive commissioner shall adopt a policy requiring a state hospital employee who knows or reasonably suspects that another state hospital employee is illegally using or under the influence of a controlled substance, as defined by Section 481.002, to report that knowledge or reasonable suspicion to the superintendent of the state hospital.

Sec. 552.052. STATE HOSPITAL EMPLOYEE TRAINING. (a) Before a state hospital employee begins to perform the employee's duties without direct supervision, the department shall provide the employee with competency training and a course of instruction about the general duties of a state hospital employee. Upon completion of such training and instruction, the department shall evaluate the employee for competency. The department shall ensure the basic state hospital employee competency course focuses on:

(1) the uniqueness of the individuals the state hospital employee serves;
(2) techniques for improving quality of life for and promoting the health and safety of individuals with mental illness; and
(3) the conduct expected of state hospital employees.

(b) The department shall ensure the training required by Subsection (a) provides instruction and information regarding topics relevant to providing care for individuals with mental illness, including:

(1) the general operation and layout of the state hospital at which the person is employed, including armed intruder lockdown procedures;
(2) an introduction to mental illness;
(3) an introduction to substance abuse;
(4) an introduction to dual diagnosis;
(5) the rights of individuals with mental illness who receive services from the department;
(6) respecting personal choices made by patients;
(7) the safe and proper use of restraints;
(8) recognizing and reporting:
(A) evidence of abuse, neglect, and exploitation of individuals with mental illness;
(B) unusual incidents;
(C) reasonable suspicion of illegal drug use in the workplace;
(D) workplace violence; or
(E) sexual harassment in the workplace;
(9) preventing and treating infection;
(10) first aid;
(11) cardiopulmonary resuscitation;
(12) the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191); and
(13) the rights of state hospital employees.
(c) In addition to the training required by Subsection (a) and before a direct care employee begins to perform the direct care employee's duties without direct supervision, the department shall provide the direct care employee with training and instructional information regarding implementation of the interdisciplinary treatment program for each patient for whom the direct care employee will provide direct care, including the following topics:
   (1) prevention and management of aggressive or violent behavior;
   (2) observing and reporting changes in behavior, appearance, or health of patients;
   (3) positive behavior support;
   (4) emergency response;
   (5) person-directed plans;
   (6) self-determination; and
   (7) trauma-informed care.

(d) In addition to the training required by Subsection (c), the department shall provide, in accordance with the specialized needs of the population being served, a direct care employee with training and instructional information as necessary regarding:
   (1) seizure safety;
   (2) techniques for:
      (A) lifting;
      (B) positioning; and
      (C) movement and mobility;
   (3) working with aging patients;
   (4) assisting patients:
      (A) who have a visual impairment;
      (B) who have a hearing deficit; or
      (C) who require the use of adaptive devices and specialized equipment;
   (5) communicating with patients who use augmentative and alternative devices for communication;
   (6) assisting patients with personal hygiene;
   (7) recognizing appropriate food textures;
   (8) using proper feeding techniques to assist patients with meals; and
   (9) physical and nutritional management plans.

(e) The executive commissioner shall adopt rules that require a state hospital to provide refresher training courses to employees at least annually, unless the department determines in good faith and with good reason a particular employee's performance will not be adversely affected in the absence of such refresher training.

Sec. 552.053. INFORMATION MANAGEMENT, REPORTING, AND TRACKING SYSTEM. The department shall develop an information management, reporting, and tracking system for each state hospital to provide the department with information necessary to monitor serious allegations of abuse, neglect, or exploitation.

Sec. 552.054. RISK ASSESSMENT PROTOCOLS. The department shall develop risk assessment protocols for state hospital employees for use in identifying and assessing possible instances of abuse or neglect.

SUBCHAPTER D. INSPECTOR GENERAL DUTIES

Sec. 552.101. ASSISTING LAW ENFORCEMENT AGENCIES WITH CERTAIN INVESTIGATIONS. The inspector general shall employ and commission peace officers for the purpose of assisting a state or local law enforcement agency in the investigation of an alleged criminal offense involving a patient of a state hospital. A peace officer employed and commissioned by the inspector general is a peace officer for purposes of Article 2.12, Code of Criminal Procedure.
Sec. 552.102. SUMMARY REPORT. (a) The inspector general shall prepare a summary report for each investigation conducted with the assistance of the inspector general under this subchapter. The inspector general shall ensure that the report does not contain personally identifiable information of an individual mentioned in the report.

(b) The summary report must include:

(1) a summary of the activities performed during an investigation for which the inspector general provided assistance;

(2) a statement regarding whether the investigation resulted in a finding that an alleged criminal offense was committed; and

(3) a description of the alleged criminal offense that was committed.

(c) The inspector general shall deliver the summary report to the:

(1) executive commissioner;

(2) commissioner of state health services;

(3) commissioner of the Department of Family and Protective Services;

(4) State Health Services Council;

(5) governor;

(6) lieutenant governor;

(7) speaker of the house of representatives;

(8) standing committees of the senate and house of representatives with primary jurisdiction over state hospitals;

(9) state auditor; and

(10) alleged victim or the alleged victim’s legally authorized representative.

(d) A summary report regarding an investigation is subject to required disclosure under Chapter 552, Government Code. All information and materials compiled by the inspector general in connection with an investigation are confidential, not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the inspector general or the inspector general’s employees or agents involved in the investigation, except that this information may be disclosed to the Department of Family and Protective Services, the office of the attorney general, the state auditor’s office, and law enforcement agencies.

Sec. 552.103. ANNUAL STATUS REPORT. (a) The inspector general shall prepare an annual status report of the inspector general’s activities under this subchapter. The annual report may not contain personally identifiable information of an individual mentioned in the report.

(b) The annual status report must include information that is aggregated and disaggregated by individual state hospital regarding:

(1) the number and type of investigations conducted with the assistance of the inspector general;

(2) the number and type of investigations involving a state hospital employee;

(3) the relationship of an alleged victim to an alleged perpetrator, if any;

(4) the number of investigations conducted that involve the suicide, death, or hospitalization of an alleged victim; and

(5) the number of completed investigations in which commission of an alleged offense was confirmed or unsubstantiated or in which the investigation was inconclusive, and a description of the reason that allegations were unsubstantiated or the investigation was inconclusive.

(c) The inspector general shall submit the annual status report to the:

(1) executive commissioner;

(2) commissioner of state health services;

(3) commissioner of the Department of Family and Protective Services;

(4) State Health Services Council;

(5) governor;

(6) lieutenant governor;

(7) speaker of the house of representatives;

(8) standing committees of the senate and house of representatives with primary jurisdiction over state hospitals; and

(9) state auditor.
(5) Family and Protective Services Council;
(6) governor;
(7) lieutenant governor;
(8) speaker of the house of representatives;
(9) standing committees of the senate and house of representatives with primary jurisdiction over state hospitals;
(10) state auditor; and
(11) comptroller.

(d) An annual status report submitted under this section is public information under Chapter 552, Government Code.

Sec. 552.104. RETALIATION PROHIBITED. The department or a state hospital may not retaliate against a department employee, a state hospital employee, or any other person who in good faith cooperates with the inspector general under this subchapter.

SECTION 4. Section 261.101, Family Code, is amended by adding Subsection (b-1) and amending Subsection (c) to read as follows:

(b-1) In addition to the duty to make a report under Subsection (a) or (b), a person or professional shall make a report in the manner required by Subsection (a) or (b), as applicable, if the person or professional has cause to believe that an adult was a victim of abuse or neglect as a child and the person or professional determines in good faith that disclosure of the information is necessary to protect the health and safety of:

(1) another child; or
(2) an elderly or disabled person as defined by Section 48.002, Human Resources Code.

(c) The requirement to report under this section applies without exception to an individual whose personal communications may otherwise be privileged, including an attorney, a member of the clergy, a medical practitioner, a social worker, a mental health professional, an employee or member of a board that licenses or certifies a professional, and an employee of a clinic or health care facility that provides reproductive services.

SECTION 5. Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.1103 to read as follows:

Sec. 411.1103. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF STATE HEALTH SERVICES. (a) The Department of State Health Services is entitled to obtain from the department criminal history record information maintained by the department that relates to a person:

(1) who is:
   (A) an applicant for employment at a state hospital;
   (B) an employee of a state hospital;
   (C) a person who contracts or may contract to provide goods or services to the Department of State Health Services at a state hospital or an employee of or applicant for employment with that person;
   (D) a volunteer with a state hospital; or
   (E) an applicant for a volunteer position with a state hospital; and
   (2) who would be placed in direct contact with a patient at a state hospital.

(b) Criminal history record information obtained by the Department of State Health Services under this section may not be released or disclosed to any person except:

(1) on court order;
(2) with the consent of the person who is the subject of the criminal history record information;
(3) for purposes of an administrative hearing held by the Department of State Health Services concerning the person who is the subject of the criminal history record information; or
(4) as provided by Subsection (c).
(c) The Department of State Health Services is not prohibited from releasing criminal history record information obtained under this section to the person who is the subject of the criminal history record information.

(d) Subject to Section 411.087, the Department of State Health Services is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from any other criminal justice agency in this state criminal history record information maintained by that criminal justice agency that relates to a person described by Subsection (a).

(e) This section does not prohibit the Department of State Health Services from obtaining and using criminal history record information as provided by other law.

SECTION 6. Subsection (c), Section 48.051, Human Resources Code, is amended to read as follows:

(c) The duty imposed by Subsections (a) and (b) applies without exception to a person whose knowledge concerning possible abuse, neglect, or exploitation is obtained during the scope of the person's employment or whose professional communications are generally confidential, including an attorney, clergy member, medical practitioner, social worker, employee or member of a board that licenses or certifies a professional, and mental health professional.

SECTION 7. Section 552.011, Health and Safety Code, is repealed.

SECTION 8. Not later than December 1, 2013, the executive commissioner of the Health and Human Services Commission shall adopt rules necessary to implement Subchapter C, Chapter 552, Health and Safety Code, as added by this Act.

SECTION 9. (a) Not later than May 1, 2014, the Health and Human Services Commission's office of inspector general shall begin employing and commissioning peace officers as required by Section 552.101, Health and Safety Code, as added by this Act.

(b) Not later than January 1, 2014, the Department of State Health Services shall develop the training required by Section 552.052, Health and Safety Code, as added by this Act.

(c) The Department of State Health Services shall ensure that each state hospital employee receives the training required by Section 552.052, Health and Safety Code, as added by this Act, regardless of when the employee was hired, not later than September 1, 2014.

SECTION 10. Section 411.1103, Government Code, as added by this Act, applies only to background and criminal history checks performed on or after the effective date of this Act.

SECTION 11. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 12. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

Passed the Senate on April 2, 2013: Yeas 31, Nays 0; passed the House on May 16, 2013: Yeas 142, Nays 0, two present not voting.

Approved June 14, 2013.

Effective June 14, 2013.

CHAPTER 396

S.B. No. 164

AN ACT

relating to the issuance to veterans of specially marked licenses to carry a concealed handgun and specially marked personal identification certificates.

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