

BILL ANALYSIS

Senate Research Center

H.B. 3556
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Health & Human Services
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Over the past several years, there has been an increase in the number of emergency medical services (EMS) providers in Texas. At the same time, the state has experienced an increase in Medicaid fraud involving EMS providers. The current EMS licensure and regulation process is believed to have contributed to these trends. H.B. 3556 strengthens the standards for EMS provider licensure to prevent fraudulent providers from operating in Texas.

H.B. 3556 amends current law relating to the licensing and regulation of emergency medical services providers and a moratorium on the issuance of emergency medical services provider licenses.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Department of State Health Services (DSHS) is modified in SECTION 1 (Section 773.0571, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 773.0571, Health and Safety Code, as follows:

Sec. 773.0571. **REQUIREMENTS FOR PROVIDER LICENSE.** Requires the Department of State Health Services (DSHS) to issue to an emergency medical services provider applicant a license that is valid for two years if DSHS is satisfied that:

- (1) the applicant, rather than the emergency medical services provider, has adequate staff to meet the staffing standards prescribed by this chapter and the rules adopted under this chapter;
- (2) Makes no change to this subdivision;
- (3) the applicant, rather than the emergency medical services provider, offers safe and efficient services for emergency prehospital care and transportation of patients;
- (4) the applicant possesses sufficient professional experience and qualifications to provide emergency medical services, and has not been excluded from participation in the state Medicaid program;
- (5) the applicant holds a letter of approval issued under Section 773.0573 by the governing body of the municipality or the commissioners court of the county in which the applicant is located and is applying to provide emergency medical services, as applicable; and
- (6) the applicant complies with the rules adopted under this chapter, rather than the emergency medical services provider complies with the rules adopted by the Texas Board of Health under this chapter.

SECTION 2. Amends Subchapter C, Chapter 773, Health and Safety Code, by adding Sections 773.05711, 773.05712, and 773.05713, as follows:

Sec. 773.05711. ADDITIONAL EMERGENCY MEDICAL SERVICES PROVIDER LICENSE REQUIREMENTS. (a) Requires a person who applies for a license or for a renewal of a license, in addition to the requirements for obtaining or renewing an emergency medical services provider license under this subchapter, to:

(1) provide DSHS 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 DSHS 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 renewal; and

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

(b) Provides that 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) Provides that the administrator of record for an emergency medical services provider licensed under this subchapter is prohibited from being employed or otherwise compensated by another private for-profit emergency medical services provider, is required to meet the qualifications required for an emergency medical technician or other health care professional license or certification issued by this state, and is required to submit to a criminal history record check at the applicant's expense.

(b) Provides that Section 773.0415 (Limitation on Information Required for Certificate Renewal) does not apply to information an administrator of record is required to provide under this section.

(c) Authorizes an administrator of record initially approved by DSHS to be required to complete an education course for new administrators of record. Requires the executive commissioner of the Health and Human Services Commission (executive commissioner) to recognize, prepare, or administer the education course for new administrators of record, which is required to include

information about the laws and DSHS rules that affect emergency medical services providers.

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

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

Sec. 773.05713. REPORT TO LEGISLATURE. 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 Sections 773.05711 and 773.05712 that includes:

(1) 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;

(2) the number of emergency medical services provider licenses that were suspended or revoked by DSHS 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 DSHS and the Texas Medical Board related to those sections.

SECTION 3. Amends Subchapter C, Chapter 773, Health and Safety Code, by adding Section 773.0573, as follows:

Sec. 773.0573. LETTER OF APPROVAL FROM LOCAL GOVERNMENTAL ENTITY. (a) Requires an emergency medical services provider applicant to obtain a letter of approval from the governing body of the municipality in which the applicant is located and is applying to provide emergency medical services, or if the applicant is not located in a municipality, the commissioners court of the county in which the applicant is located and is applying to provide emergency medical services.

(b) Authorizes a governing body of a municipality or a commissioners court of a county to issue a letter of approval to an emergency medical services provider applicant who is applying to provide emergency medical services in the municipality or county only if the governing body or commissioners court determines that:

(1) the addition of another licensed emergency medical services provider will not interfere with or adversely affect the provision of emergency medical services by the licensed emergency medical services providers operating in the municipality or county;

(2) the addition of another licensed emergency medical services provider will remedy an existing provider shortage that cannot be resolved through

the use of the licensed emergency medical services providers operating in the municipality or county; and

(3) the addition of another licensed emergency medical services provider will not cause an oversupply of licensed emergency medical services providers in the municipality or county.

(c) Provides that an emergency medical services provider is prohibited from expanding operations to or stationing any emergency medical services vehicles in a municipality or county other than the municipality or county from which the provider obtained the letter of approval under this section until after the second anniversary of the date the provider's initial license was issued, unless the expansion or stationing occurs in connection with a contract awarded by another municipality or county for the provision of emergency medical services, an emergency response made in connection with an existing mutual aid agreement, or an activation of a statewide emergency or disaster response by DSHS.

(d) Provides that this section does not apply to renewal of an emergency medical services provider license; or a municipality, county, emergency services district, hospital, or emergency medical services volunteer provider organization in this state that applies for an emergency medical services provider license.

SECTION 4. Amends Subchapter C, Chapter 773, Health and Safety Code, by adding Section 773.06141, as follows:

Sec. 773.06141. SUSPENSION, REVOCATION, OR DENIAL OF EMERGENCY MEDICAL SERVICES PROVIDER LICENSE. Authorizes the commissioner 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:

(1) 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 under Section 708.052 (Assignment of Points for Certain Convictions), Transportation Code;

(2) has been convicted of or placed on deferred adjudication community supervision or deferred disposition for an offense, including an offense listed in Sections 3g(a)(1)(A) (Murder), (B) (Capital Murder), (C) (Indecency With a Child), (D) (Aggravated Kidnapping), (E) (Aggravated Sexual Assault), (F) (Aggravated Robbery), (G) (Texas Controlled Substances Act), and (H) (Sexual Assault), Article 42.12 (Community Supervision), Code of Criminal Procedure, or an offense, other than an offense described by Subdivision (1), for which the person is subject to registration under Chapter 62 (Sex Offender Registration Program), Code of Criminal Procedure; or

(3) 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 under Subchapter C (Medicaid and Other Health and Human Services Fraud, Abuse, or Overcharges), Chapter 531 (Health and Human Services Commission), Government Code.

SECTION 5. Prohibits DSHS, notwithstanding Chapter 773 (Emergency Medical Services), Health and Safety Code, as amended by this Act, from issuing any new emergency medical services provider licenses for the period beginning on September 1, 2013, and ending on February 28, 2015. Provides that 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 (Temporary Exemptions for Emergency Medical Services Personnel Practicing in Rural Area), Health and Safety Code.

SECTION 6. Provides that Section 773.0571, Health and Safety Code, as amended by this Act, and Section 773.0573, Health and Safety Code, as added by this Act, apply only to an application for approval of an emergency medical services provider license submitted to DSHS on or after the effective date of this Act. Provides that 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 7. Makes application of the change in law made by this Act prospective.

SECTION 8. Effective date: September 1, 2013.