HANDOUTS FOR

“Personnel & Human Resources”

August 20, 4:15—5:00 p.m.
with Bradley Young
Bickerstaff Heath DeGado Acosta, LLP
Personnel Law Update

August 20, 2015

Bradley B. Young

Overview - Employment/Personnel Law Update

HB 2828
HB 786
HB 1151
HB 445
HB 593
HB 1094
HB 1278
HB 1707
HB 1790
HB 2020

HB 2498
HB 2680
HB 2771
HB 3212
SB 202
SB 208
SB 1462
SB 1899
SB 1987
Pregnancy
Discrimination

Background Checks – HB 2828

City or county can request criminal history
records from DPS for:

employees;
applicants;
volunteers;
applicants for volunteer positions.
Written Policy – HB 786

Public employers must have written policy on expression of breast milk by employees.
Applies to county, city, school district, any board, commission, office, department or agency of any branch of state government.
Break time has to be reasonable.
Place other than multi-user bathroom.
No private or state cause of action created.

Sexual Harassment – HB 1151

Amends the Labor Code to make it an unlawful employment practice for an employer to fail to take immediate and appropriate corrective action regarding sexual harassment of an unpaid intern.
Applies to employers, and the employer’s agents or supervisors.

Paid Military Leave – HB 445

Amends the Government Code to require written notice of the availability of paid leave for military service.
Applies to the state, a municipality, county, or another political subdivision of the state.
Animal Encounter Training – HB 593

Requires the Texas Commission on Law Enforcement to establish a canine encounter training program.

Peace officers licensed on or after 1/1/16 must complete the program within two years.

Peace officers must complete the program as a requirement for an intermediate or advanced proficiency certificate issued on or after 1/1/16.

Peace officers employed by a county with a population of less than 125,000 are exempted until 1/1/17.

First Responder Death Benefits – HB 1094 and HB 1278

HB 1094:
Remarried spouse of first responder is eligible for workers’ compensation death benefits for life if the employee died in the course and scope of employment or while serving as a volunteer.

HB 1278:
Doubles the lump sum benefit paid to the survivors of certain law enforcement officers, firefighters, and other public employees killed in the line of duty.
Doubles the monthly benefit paid to the employees’ surviving minor children.

Emergency Services Retirement System – HB 1707

For political subdivisions with a department participating in the Texas Emergency Services Retirement System:
Allows required contributions to be submitted by wire transfer and automated clearinghouse withdrawal (ACH debit)
Civil Service – HB 1790

Authorizes a fire fighter or police officer who is temporarily disabled by an injury or illness unrelated to the line of duty to have another fire fighter or police officer volunteer do their work as an alternative to using all sick leave, vacation time, and other accumulated time before being placed on temporary leave.

Emergency Medical Services – HB 2020

Establishes the authority of a certified emergency medical technician-paramedic or licensed paramedic to provide advanced life support in an emergency or urgent care setting.

Emergency Medical Services Personnel – HB 2498

Amends the Health and Safety Code to enact, and enter the state into, the EMS Personnel Licensure Interstate Compact.

Allows emergency medical services personnel to work in different states if they:
- Have national certification
- Need to transport a patient across state lines
- Are needed in times of an emergency or disaster declaration.
Training Funds – HB 2680

Includes persons employed as telecommunicators and licensed by the Texas Commission on Law Enforcement among those eligible for continuing education funding through the law enforcement officer standards and education fund.

Workers’ Compensation – HB 2771

Travel of a fire fighter or emergency medical personnel en route to an emergency call is considered to be in the course and scope of employment for purposes of the Texas Workers’ Compensation Act.

Retired Peace Officer ID Cards – HB 3212

A law enforcement agency or other governmental entity, on request of a qualified retired law enforcement officer who holds a weapons proficiency certificate:

Must issue an identification card to the officer
Must issue a replacement card if the officer provides an affidavit stating that the card was stolen or lost.
Code Enforcement Officers/Sanitarians – SB 202

Transfers Code Enforcement Officers Licensing and Sanitarian Licensing Programs from the Department of State Health Services to the Texas Department of Licensing and Regulation (TDLR).

Allows for the creation of advisory boards and committees to provide advice and recommendations to TDLR on technical matters relevant to the regulation of the programs.

Texas Workforce Commission – SB 208

Provides for the continuation of the Texas Workforce Commission (TWC) until 9/1/27.

Among the provisions, the bill repeals TWC’s authorization to review fire department exams for discrimination.

Emergency Services Personnel – SB 1462

Provides for the prescription, distribution, administration, and possession of an opioid antagonist for the treatment of an opioid-related drug overdose.

Authorizes emergency services personnel to administer the opioid antagonist.
Emergency Medical Services Personnel – SB 1899

Amends several provisions related to the regulation of emergency medical services:
- Allows EMS personnel to provide health services in an emergency or urgent care setting
- Creates an EMS provider exam
- Establishes an EMS provider’s duty to have a physical location and maintain certain equipment.

Peace Officer Training – SB 1987

Provides for issuance of specialty license plates for persons who are deaf or hard of hearing.
- Requires the Texas Commission on Law Enforcement to develop training for peace officers on interacting with drivers who are deaf or hard of hearing.

Peggy Young v. UPS

Peggy Young was a pregnant employee of UPS who was put on lifting limitations by her doctor.
She requested light duty from UPS
UPS had a policy of allowing light duty only for those:
- Injured on the job
- Disabled under the ADA
- Drivers who lost DOT cert
UPS denied her request and she filed suit
Young v. UPS

4th Circuit denied her claim
Consistent with law of the land at the time
Facially neutral policies for light duty

SCOTUS - Young v UPS –

Burden of Proof
PDA Denial of Accommodation
Disparate Treatment Claim

Prima facie case by showing:
  - belongs to the protected class
  - sought accommodation
  - employer did not accommodate her
  - employer did accommodate others “similar in their ability or inability to work.”

SCOTUS - Young v UPS – burden of proof

PDA Denial of Accommodation
Disparate Treatment Claim

Burden Shifts to Employer to Offer a legitimate non-discriminatory reason for its actions
  Employer’s reason normally cannot consist of claim more expensive or less convenient to add pregnant women to the category of those (similar in their ability or inability to work) whom the employer accommodates

Burden Shifts back to Employee to show pretext
SCOTUS - Young v UPS – burden of proof

Employee can show pretext (reach a jury) by

providing sufficient evidence that the employer’s policies impose a significant burden on pregnant workers and the proffered legitimate, nondiscriminatory reasons are not sufficiently strong to justify the burden but, instead, give rise to an inference of intentional discrimination.

SCOTUS on EEOC Guidance

Shot down “[a]n employer may not refuse to treat a pregnant worker the same as other employees who are similar in their ability or inability to work by relying on a policy that makes distinctions based on the source of an employee’s limitations (e.g., a policy of providing light duty only to workers injured on the job).”

“No View” - The Court specifically noted that Ms. Young’s case arose before the enactment of the Americans with Disabilities Amendments Act of 2008 (ADAA), which significantly broadened the definition of “disability” under the ADA. As interpreted by the EEOC, the new statutory definition requires employers to accommodate employees whose temporary lifting restrictions originated off the job.

EEOC Guidance after SCOTUS – Young v UPS

The Commission’s pregnancy discrimination guidance comports with some but not all aspects of the Court’s decision. The Commission will make necessary changes to the guidance in accordance with the decision. In 2012, the EEOC convened a public meeting Unlawful Discrimination Against Pregnant Workers and Workers with Caregiving Responsibilities. After that meeting, the Commission began a process to update its pregnancy discrimination guidance. The guidance issued in 2014 covers a range of issues unaffected by the decision including the Pregnancy Discrimination Act’s application to current, past, and potential pregnancy; the application of the Pregnancy Discrimination Act to lactation and breastfeeding; the prohibition of forced leave policies; and the application of the ADA to pregnancy-related impairments.

http://www.eeoc.gov/eeoc/litigation/statement_young_v_ups.cfm
Texas Local Government Code

If the physician of a municipal or county employee certifies that the employee is unable to perform the duties of the employee’s permanent work assignment as a result of the employee’s pregnancy and if a temporary work assignment that the employee may perform is available in the same office, the office supervisor who is responsible for personnel decisions shall assign the employee to the temporary work assignment.

Pregnant Workers Fairness Act
Pending in Congress – Proposed Legislation

Unlawful for an employer to refuse to make reasonable accommodations to known limitations related to the pregnancy, childbirth, or related medical conditions. Possible reasonable accommodations for pregnant women would include frequent bathroom breaks, breaks for increased water intake, modified work schedules, and light duty or assistance with manual labor.

Questions?
Brad Young represents municipalities, counties, and other local governmental entities in litigation involving employment, land use, real estate, constitutional rights, open government, and general civil matters.

In his spare time, Brad Young lives in a storm sewer and battles petty criminals, evil overlords, mutated creatures, and alien invaders.
Chapter 799

H.B. No. 2828

AN ACT
relating to the authority of a municipality or county to obtain
criminal history record information for certain persons, including
employees, independent contractors, and volunteers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 411.129, Government Code, is amended by
amending Subsection (a) and adding Subsection (a-1) to read as
follows:

(a) Except as provided by Subsection (b), a municipality is
entitled to obtain from the department criminal history record
information maintained by the department that relates to a person
who is:

(1) an applicant for employment by the municipality;
(2) an employee of the municipality;
(3) an applicant for employment by or an employee of a
business or person that contracts with the municipality;
(4) a volunteer with the municipality; or
(5) an applicant for a volunteer position with the
municipality.

(a-1) The department shall make available through electronic means the information
available to municipalities under this section.

SECTION 2. Section 411.1295(a), Government Code, is amended
to read as follows:
H.B. No. 2828

(a) Except as provided by Subsection (b), a county is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for employment by the county;
(2) an employee of the county;
(3) an applicant for employment by or an employee of a business or person that contracts with the county;
(4) a volunteer with the county; or
(5) an applicant for a volunteer position with the county.

SECTION 3. This Act takes effect September 1, 2015.
H.B. No. 2828

I certify that H.B. No. 2828 was passed by the House on April 23, 2015, by the following vote: Yees 139, Nays 0; 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2828 was passed by the Senate on May 26, 2015, by the following vote: Yees 30, Nays 1.

Secretary of the Senate

APPROVED: 6-11-2015

Date

Governor

FILED IN THE OFFICE OF THE SECRETARY OF STATE
4:09 O'Clock

Secretary of State
AN ACT
relating to the right of a public employee to express breast milk in
the workplace.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Subtitle A, Title 6, Government Code, is amended
by adding Chapter 619 to read as follows:

CHAPTER 619. RIGHT TO EXPRESS BREAST MILK
IN THE WORKPLACE

Sec. 619.001. DEFINITION. In this chapter, "public
employer" means:
(1) a county, a municipality, or another political
subdivision of this state, including a school district; or
(2) a board, a commission, an office, a department, or
another agency in the executive, judicial, or legislative branch of
state government, including an institution of higher education.

Sec. 619.002. RIGHT TO EXPRESS BREAST MILK. An employee of a
public employer is entitled to express breast milk at the
employee's workplace.

Sec. 619.003. POLICY ON EXPRESSING BREAST MILK. (a) A
public employer shall develop a written policy on the expression of
breast milk by employees under this chapter.

(b) A policy developed under Subsection (a) must state that
the public employer shall:
(1) support the practice of expressing breast milk;
and

(2) make reasonable accommodations for the needs of employees who express breast milk.

Sec. 619.004. PUBLIC EMPLOYER RESPONSIBILITIES. A public employer shall:

(1) provide a reasonable amount of break time for an employee to express breast milk each time the employee has need to express the milk; and

(2) provide a place, other than a multiple user bathroom, that is shielded from view and free from intrusion from other employees and the public where the employee can express breast milk.

Sec. 619.005. DISCRIMINATION PROHIBITED. A public employer may not suspend or terminate the employment of, or otherwise discriminate against, an employee because the employee has asserted the employee's rights under this chapter.

Sec. 619.006. NO CAUSE OF ACTION CREATED. This chapter does not create a private or state cause of action against a public employer.

SECTION 2. This Act takes effect September 1, 2015.
I certify that H.B. No. 786 was passed by the House on April 27, 2015, by the following vote: Yeas 90, Nays 47, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 786 on May 30, 2015, by the following vote: Yeas 143, Nays 0, 2 present, not voting.

I certify that H.B. No. 786 was passed by the Senate, with amendments, on May 24, 2015, by the following vote: Yeas 21, Nays 9.

APPROVED: 6-16-2015

Date

Governor
AN ACT
relating to sexual harassment protection for unpaid interns.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 21, Labor Code, is amended by adding Section 21.1065 to read as follows:

Sec. 21.1065. SEXUAL HARASSMENT PROTECTIONS FOR UNPAID INTERNS. (a) In this section, "sexual harassment" means an unwelcome sexual advance, a request for a sexual favor, or any other verbal or physical conduct of a sexual nature if:

(1) submission to the advance, request, or conduct is made a term or condition of an individual's internship, either explicitly or implicitly;

(2) submission to or rejection of the advance, request, or conduct by an individual is used as the basis for a decision affecting the individual's internship;

(3) the advance, request, or conduct has the purpose or effect of unreasonably interfering with an individual's work performance at the individual's internship; or

(4) the advance, request, or conduct has the purpose or effect of creating an intimidating, hostile, or offensive working environment.

(b) An employer commits an unlawful employment practice if sexual harassment of an unpaid intern occurs and the employer or the employer's agents or supervisors:
H.B. No. 1151

(1) know or should have known that the conduct
constituting sexual harassment was occurring; and

(2) fail to take immediate and appropriate corrective
action.

(c) In this section, an individual is considered to be an
unpaid intern of an employer if:

(1) the individual's internship, even though it
includes engagement in the employer's operations or the performance
of productive work for the employer, is similar to training that
would be given in an educational environment;

(2) the individual's internship experience is for the
individual's benefit;

(3) the individual does not displace the employer's
regular employees but works under close supervision of the
employer's existing staff;

(4) the employer does not derive any immediate
advantage from the individual's internship activities and on
occasion the employer's operations may be impeded by those
activities;

(5) the individual is not entitled to a job at the
conclusion of the internship; and

(6) the individual is not entitled to wages for the
time spent in the internship.

SECTION 2. The change in law made by this Act applies only
to a claim of discrimination based on conduct that occurs on or
after the effective date of this Act. A claim of discrimination
that is based on conduct that occurs before the effective date of
H.B. No. 1151

1 this Act is governed by the law in effect on the date the conduct
2 occurred, and the former law is continued in effect for that
3 purpose.
4
5 SECTION 3. This Act takes effect September 1, 2015.
I certify that H.B. No. 1151 was passed by the House on April 16, 2015, by the following vote: Yeas 146, Nays 0, 2 present, not voting.

H.B. No. 1151

President of the Senate

I certify that H.B. No. 1151 was passed by the Senate on May 27, 2015, by the following vote: Yeas 31, Nays 0.

Chief Clerk of the House

Secretary of the Senate

APPROVED: 6-13-2015

Date

Governor

FILED IN THE OFFICE OF THE SECRETARY OF STATE 6:30 PM O'CLOCK

Secretary of State
Chapter 456

H.B. No. 445

AN ACT
relating to providing notice of the availability of paid leave for
military service to public officers and employees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 437.202, Government Code, is amended by
adding Subsections (e) and (f) to read as follows:

(e) This state, a municipality, a county, or another
political subdivision of this state shall provide written notice of
the number of workdays of paid leave to which an officer or employee
described by Subsection (a) is entitled each fiscal year under
Subsection (a) and, if applicable, the number of workdays of paid
leave to which an officer or employee described by Subsection (a) is
entitled to carry forward each fiscal year under Subsection (b):

(1) on employment, in the case of an employee; or
(2) as soon as practicable after appointment or
election, in the case of an officer.

(f) This state, a municipality, a county, or another
political subdivision of this state shall, on the request of an
officer or employee described by Subsection (a), provide to that
officer or employee a statement that contains:

(1) the number of workdays for which the officer or
employee claimed paid leave under Subsection (a) in that fiscal
year; and
(2) if the statement is provided to an officer or
employee of this state:

(A) the net balance of unused accumulated leave under Subsection (a) for that fiscal year that the officer or employee is entitled to carry forward to the next fiscal year; and

(B) the net balance of all unused accumulated leave under this section to which the officer or employee is entitled.

SECTION 2. This Act takes effect September 1, 2015.
I certify that H.B. No. 445 was passed by the House on April 22, 2015, by the following vote: Yeas 144, Nays 0, 2 present, not voting.

I certify that H.B. No. 445 was passed by the Senate on May 22, 2015, by the following vote: Yeas 30, Nays 1.

APPROVED: 6-3-2015

Date

Secretary of State
Chapter 31

H.B. No. 593

AN ACT
relating to canine encounter training for peace officers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1701.253, Occupations Code, is amended
by adding Subsection (1) to read as follows:

(1) As part of the minimum curriculum requirements, the
commission shall require an officer licensed by the commission on
or after January 1, 2016, to complete a canine encounter training
program established by the commission under Section 1701.261. An
officer shall complete the program not later than the second
anniversary of the date the officer is licensed under this chapter
unless the officer completes the program as part of the officer's
basic training course.

SECTION 2. Subchapter F, Chapter 1701, Occupations Code, is
amended by adding Section 1701.261 to read as follows:

Sec. 1701.261. CANINE ENCOUNTER TRAINING PROGRAM. (a) The
commission shall establish a statewide comprehensive education and
training program on canine encounters and canine behavior. The
training program must consist of at least four hours of classroom
instruction and practical training, developed and approved by the
commission, that addresses:

(1) handling canine-related calls, anticipating
unplanned encounters with canines, and using humane methods and
tools in handling canine encounters;
(2) recognizing and understanding canine behavior;
(3) state laws related to canines;
(4) canine conflict avoidance and de-escalation;
(5) use of force continuum principles in relation to canines;
(6) using nonlethal methods, tools, and resources to avoid and defend against a canine attack; and
(7) a general overview of encounters with other animals.

(b) At least once every four years, the commission shall review the content of the training program under this section and update the program as necessary.

(c) Notwithstanding Sections 1701.253(1) and 1701.402(1), an officer who has completed at least four hours of a canine encounter training program is not required to complete the program under this section.

SECTION 3. Section 1701.402, Occupations Code, is amended by adding Subsection (l) to read as follows:

(l) As a requirement for an intermediate or advanced proficiency certificate issued by the commission on or after January 1, 2016, an officer must complete the canine encounter training program established by the commission under Section 1701.261.

SECTION 4. Not later than January 1, 2016, the Texas Commission on Law Enforcement shall establish the canine encounter training program as required by Section 1701.261, Occupations Code, as added by this Act.
H.B. No. 593

SECTION 5. Notwithstanding any other provision of this Act, an officer employed by a county with a population of less than 125,000 is not required to comply with Sections 1701.253(1) and 1701.402(1), Occupations Code, as added by this Act, before January 1, 2017.

SECTION 6. This Act takes effect September 1, 2015.
H.B. No. 593

I certify that H.B. No. 593 was passed by the House on April 20, 2015, by the following vote: Yeas 132, Nays 12, 1 present, not voting.

Robert Hamen
Chief Clerk of the House

I certify that H.B. No. 593 was passed by the Senate on May 4, 2015, by the following vote: Yeas 28, Nays 3.

Mary Spaul
Secretary of the Senate

APPROVED: 5-18-2015

Date

Greg Abbott
Governor

FILED IN THE OFFICE OF THE SECRETARY OF STATE
3:46 O'CLOCK
MAY 18, 2015
Secretary of State
AN ACT
relating to workers' compensation death benefit eligibility for
certain spouses of first responders killed in the line of duty.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Section 408.183, Labor Code, is amended by
adding Subsection (b-1) to read as follows:
(b-1) Notwithstanding Subsection (b), an eligible spouse
who remarried is eligible for death benefits for life if the
employee was a first responder, as defined by Section 504.055, who
suffered death in the course and scope of employment or while
providing services as a volunteer.
SECTION 2. The change in law made by this Act to Section
408.183, Labor Code, applies only to a claim for workers'
compensation benefits based on a compensable injury that occurs on
or after the effective date of this Act. A claim based on a
compensable injury that occurs before that date is governed by the
law as it existed on the date the compensable injury occurred, and
the former law is continued in effect for that purpose.
SECTION 3. This Act takes effect September 1, 2015.
I certify that H.B. No. 1094 was passed by the House on May 4, 2015, by the following vote: Yeas 137, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1094 on May 28, 2015, by the following vote: Yeas 144, Nays 0, 2 present, not voting.

I certify that H.B. No. 1094 was passed by the Senate, with amendments, on May 26, 2015, by the following vote: Yeas 30, Nays 1.

APPROVED: 6-13-2015

Date

Governor

FILED IN THE OFFICE OF THE SECRETARY OF STATE
6:30 o'clock

Secretary of State
Chapter 718

AN ACT
relating to financial assistance paid to the survivors of certain
law enforcement officers, firefighters, and other public employees
killed in the line of duty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 615.022, Government Code, is amended to
read as follows:

Sec. 615.022. PAYMENT TO SURVIVORS. (a) If there is an
eligible surviving spouse, the state shall pay $500,000 [$250,000]
to the eligible surviving spouse.

(b) If there is no eligible surviving spouse, the state
shall pay $500,000 [$250,000] in equal shares to surviving
children.

(c) If there is no eligible surviving spouse or child, the
state shall pay $500,000 [$250,000] in equal shares to surviving
parents.

SECTION 2. Sections 615.023(a) and (b), Government Code,
are amended to read as follows:

(a) The state shall pay to the duly appointed or qualified
guardian or other legal representative of an eligible surviving
minor child:

(1) $400 [$200] each month, if there is one surviving
child;

(2) $600 [$300] each month, if there are two surviving
children; or

(3) $800 [$400] each month, if there are three or more surviving children.

(b) A child's entitlement to assistance payable under this section ends on the last day of the month that includes the child's 18th birthday. At that time, payments to any other surviving minor children shall be adjusted, as necessary, to conform to the amounts payable under Subsection (a).

SECTION 3. The changes in law made by this Act apply in relation to a payment of assistance made to survivors of certain public servants on or after the effective date of this Act regardless of the date the death of the public servant occurs.

SECTION 4. This Act takes effect September 1, 2015.
H.B. No. 1278

I certify that H.B. No. 1278 was passed by the House on May 12, 2015, by the following vote: Yeas 146, Nays 0, 2 present, not voting.

Robert Haney
Chief Clerk of the House

I certify that H.B. No. 1278 was passed by the Senate on May 26, 2015, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: 6-10-2015

Date

Greg Abbott
Governor
AN ACT
relating to the methods by which a political subdivision may submit contributions to the Texas Emergency Services Retirement System.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 865.014(c), Government Code, is amended to read as follows:
(c) Contributions required as provided by this section shall be paid at the times and in the manner that the state board prescribes by rule. Contributions required by this section shall be submitted by electronic funds transfer, by wire transfer, or as an automated clearinghouse withdrawal (ACH debit) unless the executive director grants an exception based on the difficulty of a participating department's use of those payment methods. Contributions that are not paid within the time required by the state board accrue interest at the most recent assumed actuarial rate of return on investments of the fund.

SECTION 2. This Act takes effect September 1, 2015.
I certify that H.B. No. 1707 was passed by the House on April 16, 2015, by the following vote: Yeas 146, Nays 0, 2 present, not voting.

I certify that H.B. No. 1707 was passed by the Senate on May 20, 2015, by the following vote: Yeas 31, Nays 0.

APPROVED: 5-30-2015

Date

Governor

FILED IN THE OFFICE OF THE SECRETARY OF STATE
9:00 AM  O'CLOCK

JUN 1 2015

Secretary of State
Chapter 399

H.B. No. 1790

AN ACT
relating to job performance on behalf of a fire fighter or police
officer who is recovering from an off-duty injury.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 143.073(d), Local Government Code, is
amended to read as follows:
(d) If a fire fighter or police officer is temporarily
disabled by an injury or illness that is not related to the person's
line of duty, the person may:
(1) use all sick leave, vacation time, and other
accumulated time before the person is placed on temporary leave or
(2) have another fire fighter or police officer
volunteer to do the person's work while the person is temporarily
disabled by the injury or illness.

SECTION 2. This Act takes effect September 1, 2015.
H.B. No. 1790

I certify that H.B. No. 1790 was passed by the House on May 8, 2015, by the following vote: Yeas 139, Nays 0, 1 present, not voting.

President of the Senate

Chief Clerk of the House

I certify that H.B. No. 1790 was passed by the Senate on May 20, 2015, by the following vote: Yeas 26, Nays 4.

Secretary of the Senate

APPROVED: 5-30-2015

Date

Governor
Chapter 1054

H.B. No. 2020

AN ACT relating to the scope of duties of an emergency medical technician-paramedic and a licensed paramedic.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 773, Health and Safety Code, is amended by adding Section 773.0496 to read as follows:

Sec. 773.0496. SCOPE OF EMERGENCY MEDICAL TECHNICIAN-PARAMEDIC AND LICENSED PARAMEDIC DUTIES. (a) In this section:

(1) "Advanced life support" means health care provided to sustain life in an emergency, life-threatening situation. The term includes the initiation of intravenous therapy, endotracheal or esophageal intubation, electrical cardiac defibrillation or cardioversion, and drug therapy procedures.

(2) "Direct supervision" means supervision of an emergency medical technician-paramedic or licensed paramedic by a licensed physician who is present in the same area or an area adjacent to the area where an emergency medical technician-paramedic or licensed paramedic performs a procedure and who is immediately available to provide assistance and direction during the performance of the procedure.

(b) Notwithstanding other law, a person who is certified under this chapter as an emergency medical technician-paramedic or a licensed paramedic, is acting under the delegation and direct
supervision of a licensed physician, and is authorized to provide
advanced life support by a health care facility may in accordance
with department rules provide advanced life support in the
facility's emergency or urgent care clinical setting, including a
hospital emergency room and a freestanding emergency medical care
facility.

SECTION 2. As soon as practicable after the effective date
of this Act, the executive commissioner of the Health and Human
Services Commission shall adopt any rules necessary to implement
Section 773.0496, Health and Safety Code, as added by this Act.

SECTION 3. 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, 2015.
I certify that H.B. No. 2020 was passed by the House on May 15, 2015, by the following vote: Yeas 130, Nays 0, 1 present, not voting.

I certify that H.B. No. 2020 was passed by the Senate on May 27, 2015, by the following vote: Yeas 31, Nays 0.

APPROVED: 6-13-2015

Date

Governor

FILED IN THE OFFICE OF THE SECRETARY OF STATE
6:30 O'CLOCK

Secretary of State
AN ACT
relating to a compact with other states regarding the licensure of
emergency medical services personnel and the authority of those
personnel to perform job duties in this state and other states.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle B, Title 9, Health and Safety Code, is
amended by adding Chapter 778A to read as follows:

CHAPTER 778A. RECOGNITION OF EMERGENCY MEDICAL SERVICES PERSONNEL
LICENSURE INTERSTATE COMPACT ("REPLICA")

Sec. 778A.001. EXECUTION OF INTERSTATE COMPACT. This
state enacts the EMS Personnel Licensure Interstate Compact and
enters into the compact with all other states legally joining in the
compact in substantially the following form:

EMS PERSONNEL LICENSURE INTERSTATE COMPACT.

Section 1. PURPOSE. In order to protect the public through
verification of competency and ensure accountability for patient
care related activities all states license emergency medical
services (EMS) personnel, such as emergency medical technicians
(EMTs), advanced EMTs and paramedics. This compact is intended to
facilitate the day to day movement of EMS personnel across state
boundaries in the performance of their EMS duties as assigned by an
appropriate authority and authorize state EMS offices to afford
immediate legal recognition to EMS personnel licensed in a member
state. This compact recognizes that states have a vested interest
in protecting the public's health and safety through their licensing and regulation of EMS personnel and that such state regulation shared among the member states will best protect public health and safety. This compact is designed to achieve the following purposes and objectives:

1. increase public access to EMS personnel;
2. enhance the states' ability to protect the public's health and safety, especially patient safety;
3. encourage the cooperation of member states in the areas of EMS personnel licensure and regulation;
4. support licensing of military members who are separating from an active duty tour and their spouses;
5. facilitate the exchange of information between member states regarding EMS personnel licensure, adverse action and significant investigatory information;
6. promote compliance with the laws governing EMS personnel practice in each member state; and
7. invest all member states with the authority to hold EMS personnel accountable through the mutual recognition of member state licenses.

Section 2. DEFINITIONS. In this compact:

A. "Advanced emergency medical technician (AEMT)" means: an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.
B. "Adverse action" means: any administrative, civil, equitable or criminal action permitted by a state's laws which may
be imposed against licensed EMS personnel by a state EMS authority or state court, including, but not limited to, actions against an individual's license such as revocation, suspension, probation, consent agreement, monitoring or other limitation or encumbrance on the individual's practice, letters of reprimand or admonition, fines, criminal convictions and state court judgments enforcing adverse actions by the state EMS authority.

C. "Alternative program" means: a voluntary, non-disciplinary substance abuse recovery program approved by a state EMS authority.

D. "Certification" means: the successful verification of entry-level cognitive and psychomotor competency using a reliable, validated, and legally defensible examination.

E. "Commission" means: the national administrative body of which all states that have enacted the compact are members.

F. "Emergency medical technician (EMT)" means: an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

G. "Home state" means: a member state where an individual is licensed to practice emergency medical services.

H. "License" means: the authorization by a state for an individual to practice as an EMT, AEMT, paramedic, or a level in between EMT and paramedic.

I. "Medical director" means: a physician licensed in a member state who is accountable for the care delivered by EMS personnel.
J. "Member state" means: a state that has enacted this compact.

K. "Privilege to practice" means: an individual's authority to deliver emergency medical services in remote states as authorized under this compact.

L. "Paramedic" means: an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

M. "Remote state" means: a member state in which an individual is not licensed.

N. "Restricted" means: the outcome of an adverse action that limits a license or the privilege to practice.

O. "Rule" means: a written statement by the interstate commission promulgated pursuant to Section 12 of this compact that is of general applicability; implements, interprets, or prescribes a policy or provision of the compact; or is an organizational, procedural, or practice requirement of the commission and has the force and effect of statutory law in a member state and includes the amendment, repeal, or suspension of an existing rule.

P. "Scope of practice" means: defined parameters of various duties or services that may be provided by an individual with specific credentials. Whether regulated by rule, statute, or court decision, it tends to represent the limits of services an individual may perform.

Q. "Significant investigatory information" means:

1. investigative information that a state EMS
authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proved true, would result in the imposition of an adverse action on a license or privilege to practice; or

2. investigative information that indicates that the individual represents an immediate threat to public health and safety regardless of whether the individual has been notified and had an opportunity to respond.

R. "State" means: any state, commonwealth, district, or territory of the United States.

S. "State EMS authority" means: the board, office, or other agency with the legislative mandate to license EMS personnel.

Section 3. HOME STATE LICENSURE. A. Any member state in which an individual holds a current license shall be deemed a home state for purposes of this compact.

B. Any member state may require an individual to obtain and retain a license to be authorized to practice in the member state under circumstances not authorized by the privilege to practice under the terms of this compact.

C. A home state's license authorizes an individual to practice in a remote state under the privilege to practice only if the home state:

1. currently requires the use of the National Registry of Emergency Medical Technicians (NREMT) examination as a condition of issuing initial licenses at the EMT and paramedic levels;

2. has a mechanism in place for receiving and investigating complaints about individuals;
3. notifies the commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding an individual;

4. no later than five years after activation of the compact, requires a criminal background check of all applicants for initial licensure, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation with the exception of federal employees who have suitability determination in accordance with 5 C.F.R. Section 731.202 and submit documentation of such as promulgated in the rules of the commission; and

5. complies with the rules of the commission.

Section 4. COMPACT PRIVILEGE TO PRACTICE. A. Member states shall recognize the privilege to practice of an individual licensed in another member state that is in conformance with Section 3.

B. To exercise the privilege to practice under the terms and provisions of this compact, an individual must:

1. be at least 18 years of age;

2. possess a current unrestricted license in a member state as an EMT, AEMT, paramedic, or state recognized and licensed level with a scope of practice and authority between EMT and paramedic; and

3. practice under the supervision of a medical director.

C. An individual providing patient care in a remote state under the privilege to practice shall function within the scope of practice authorized by the home state unless and until modified by
an appropriate authority in the remote state as may be defined in
the rules of the commission.

D. Except as provided in Section 4.C. of this compact, an
individual practicing in a remote state will be subject to the
remote state's authority and laws. A remote state may, in
accordance with due process and that state's laws, restrict,
suspend, or revoke an individual's privilege to practice in the
remote state and may take any other necessary actions to protect the
health and safety of its citizens. If a remote state takes action it
shall promptly notify the home state and the commission.

E. If an individual's license in any home state is
restricted or suspended, the individual shall not be eligible to
practice in a remote state under the privilege to practice until the
individual's home state license is restored.

F. If an individual's privilege to practice in any remote
state is restricted, suspended, or revoked the individual shall not
be eligible to practice in any remote state until the individual's
privilege to practice is restored.

Section 5. CONDITIONS OF PRACTICE IN A REMOTE STATE. An
individual may practice in a remote state under a privilege to
practice only in the performance of the individual's EMS duties as
assigned by an appropriate authority, as defined in the rules of the
commission, and under the following circumstances:

1. the individual originates a patient transport in a home
state and transports the patient to a remote state;

2. the individual originates in the home state and enters a
remote state to pick up a patient and provide care and transport of
the patient to the home state;

3. the individual enters a remote state to provide patient care and/or transport within that remote state;

4. the individual enters a remote state to pick up a patient and provide care and transport to a third member state; or

5. other conditions as determined by rules promulgated by the commission.

Section 6. RELATIONSHIP TO EMERGENCY MANAGEMENT ASSISTANCE COMPACT. Upon a member state's governor's declaration of a state of emergency or disaster that activates the Emergency Management Assistance Compact (EMAC), all relevant terms and provisions of EMAC shall apply and to the extent any terms or provisions of this compact conflicts with EMAC, the terms of EMAC shall prevail with respect to any individual practicing in the remote state in response to such declaration.

Section 7. VETERANS, SERVICE MEMBERS SEPARATING FROM ACTIVE DUTY MILITARY, AND THEIR SPOUSES. A. Member states shall consider a veteran, active military service member, and member of the National Guard and Reserves separating from an active duty tour, and a spouse thereof, who holds a current valid and unrestricted NREMT certification at or above the level of the state license being sought as satisfying the minimum training and examination requirements for such licensure.

B. Member states shall expedite the processing of licensure applications submitted by veterans, active military service members, and members of the National Guard and Reserves separating from an active duty tour, and their spouses.
C. All individuals functioning with a privilege to practice under this section remain subject to the adverse actions provisions of Section 8 of this compact.

Section 8. ADVERSE ACTIONS. A. A home state shall have exclusive power to impose adverse action against an individual's license issued by the home state.

B. If an individual's license in any home state is restricted or suspended, the individual shall not be eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

1. All home state adverse action orders shall include a statement that the individual's compact privileges are inactive. The order may allow the individual to practice in remote states with prior written authorization from both the home state and remote state's EMS authority.

2. An individual currently subject to adverse action in the home state shall not practice in any remote state without prior written authorization from both the home state and remote state's EMS authority.

C. A member state shall report adverse actions and any occurrences that the individual's compact privileges are restricted, suspended, or revoked to the commission in accordance with the rules of the commission.

D. A remote state may take adverse action on an individual's privilege to practice within that state.

E. Any member state may take adverse action against an individual's privilege to practice in that state based on the
factual findings of another member state, so long as each state
follows its own procedures for imposing such adverse action.

F. A home state's EMS authority shall investigate and take
appropriate action with respect to reported conduct in a remote
state as if such conduct had occurred within the home
state. In such cases, the home state's law shall control in
determining the appropriate adverse action.

G. Nothing in this compact shall override a member state's
decision that participation in an alternative program may be used
in lieu of adverse action and that such participation shall remain
non-public if required by the member state's laws. Member states
must require individuals who enter any alternative programs to
agree not to practice in any other member state during the term of
the alternative program without prior authorization from such other
member state.

Section 9. ADDITIONAL POWERS INVESTED IN A MEMBER STATE'S
EMS AUTHORITY. A member state's EMS authority, in addition to any
other powers granted under state law, is authorized under this
compact to:

1. issue subpoenas for both hearings and investigations
that require the attendance and testimony of witnesses and the
production of evidence; subpoenas issued by a member state's EMS
authority for the attendance and testimony of witnesses, and/or the
production of evidence from another member state, shall be enforced
in the remote state by any court of competent jurisdiction,
according to that court's practice and procedure in considering
subpoenas issued in its own proceedings; the issuing state EMS
authority shall pay any witness fees, travel expenses, mileage, and
other fees required by the service statutes of the state where the
witnesses and/or evidence are located; and

2. issue cease and desist orders to restrict, suspend, or
revoke an individual's privilege to practice in the state.

Section 10. ESTABLISHMENT OF THE INTERSTATE COMMISSION FOR
EMS PERSONNEL PRACTICE. A. The compact states hereby create and
establish a joint public agency known as the Interstate Commission
for EMS Personnel Practice.

1. The commission is a body politic and an
instrumentality of the compact states.

2. Venue is proper and judicial proceedings by or
against the commission shall be brought solely and exclusively in a
court of competent jurisdiction where the principal office of the
commission is located. The commission may waive venue and
jurisdictional defenses to the extent it adopts or consents to
participate in alternative dispute resolution proceedings.

3. Nothing in this compact shall be construed to be a
waiver of sovereign immunity.

B. Membership, Voting, and Meetings. 1. Each member state
shall have and be limited to one delegate. The responsible official
of the state EMS authority or his designee shall be the delegate to
this compact for each member state. Any delegate may be removed or
suspended from office as provided by the law of the state from which
the delegate is appointed. Any vacancy occurring in the commission
shall be filled in accordance with the laws of the member state in
which the vacancy exists. In the event that more than one board,
office, or other agency with the legislative mandate to license EMS personnel at and above the level of EMT exists, the governor of the state will determine which entity will be responsible for assigning the delegate.

2. Each delegate shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

3. The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

4. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Section 12 of this compact.

5. The commission may convene in a closed, non-public meeting if the commission must discuss:
   a. non-compliance of a member state with its obligations under the compact;
   b. the employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;
   c. current, threatened, or reasonably anticipated litigation;
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d. negotiation of contracts for the purchase or
sale of goods, services, or real estate;
e. accusing any person of a crime or formally
censuring any person;
f. disclosure of trade secrets or commercial or
financial information that is privileged or confidential;
g. disclosure of information of a personal nature
where disclosure would constitute a clearly unwarranted invasion of
personal privacy;
h. disclosure of investigatory records compiled
for law enforcement purposes;
i. disclosure of information related to any
investigatory reports prepared by or on behalf of or for use of the
commission or other committee charged with responsibility of
investigation or determination of compliance issues pursuant to the
compact; or
j. matters specifically exempted from disclosure
by federal or member state statute.

6. If a meeting, or portion of a meeting, is closed
pursuant to this section, the commission's legal counsel or
designee shall certify that the meeting may be closed and shall
reference each relevant exempting provision. The commission shall
keep minutes that fully and clearly describe all matters discussed
in a meeting and shall provide a full and accurate summary of
actions taken, and the reasons therefore, including a description
of the views expressed. All documents considered in connection with
an action shall be identified in such minutes. All minutes and
documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

C. The commission shall, by a majority vote of the delegates, prescribe bylaws and/or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the compact, including but not limited to:

1. establishing the fiscal year of the commission;

2. providing reasonable standards and procedures:
   a. for the establishment and meetings of other committees; and
   b. governing any general or specific delegation of any authority or function of the commission;

3. providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets.

The commission may meet in closed session only after a majority of the membership votes to close a meeting in whole or in part. As soon as practicable, the commission must make public a copy of the vote to close the meeting revealing the vote of each member with no proxy votes allowed;

4. establishing the titles, duties and authority, and reasonable procedures for the election of the officers of the commission;
5. providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission; notwithstanding any civil service or other similar laws of any member state, the bylaws shall exclusively govern the personnel policies and programs of the commission;

6. promulgating a code of ethics to address permissible and prohibited activities of commission members and employees;

7. providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of the compact after the payment and/or reserving of all of its debts and obligations;

8. the commission shall publish its bylaws and file a copy thereof, and a copy of any amendment thereto, with the appropriate agency or officer in each of the member states, if any;

9. the commission shall maintain its financial records in accordance with the bylaws; and

10. the commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.

D. The commission shall have the following powers:

1. the authority to promulgate uniform rules to facilitate and coordinate implementation and administration of this compact; the rules shall have the force and effect of law and shall be binding in all member states;

2. to bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state EMS authority or other regulatory body responsible for EMS
personnel licensure to sue or be sued under applicable law shall not be affected;

3. to purchase and maintain insurance and bonds;
4. to borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;

5. to hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and to establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

6. to accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the commission shall strive to avoid any appearance of impropriety and/or conflict of interest;

7. to lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the commission shall strive to avoid any appearance of impropriety;

8. to sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

9. to establish a budget and make expenditures;
10. to borrow money;
11. to appoint committees, including advisory
committees comprised of members, state regulators, state
legislators or their representatives, and consumer
representatives, and such other interested persons as may be
designated in this compact and the bylaws;

12. to provide and receive information from, and to
coop3erate with, law enforcement agencies;

13. to adopt and use an official seal; and

14. to perform such other functions as may be
necessary or appropriate to achieve the purposes of this compact
consistent with the state regulation of EMS personnel licensure and
practice.

E. Financing of the Commission. 1. The commission shall
pay, or provide for the payment of, the reasonable expenses of its
establishment, organization, and ongoing activities.

2. The commission may accept any and all appropriate
revenue sources, donations, and grants of money, equipment,
supplies, materials, and services.

3. The commission may levy on and collect an annual
assessment from each member state or impose fees on other parties to
cover the cost of the operations and activities of the commission
and its staff, which must be in a total amount sufficient to cover
its annual budget as approved each year for which revenue is not
provided by other sources. The aggregate annual assessment amount
shall be allocated based upon a formula to be determined by the
commission, which shall promulgate a rule binding upon all member
states.

4. The commission shall not incur obligations of any
kind prior to securing the funds adequate to meet the same; nor
shall the commission pledge the credit of any of the member states,
except by and with the authority of the member state.

5. The commission shall keep accurate accounts of all
receipts and disbursements. The receipts and disbursements of the
commission shall be subject to the audit and accounting procedures
established under its bylaws. However, all receipts and
disbursements of funds handled by the commission shall be audited
yearly by a certified or licensed public accountant, and the report
of the audit shall be included in and become part of the annual
report of the commission.

F. Qualified Immunity, Defense, and Indemnification. 1.
The members, officers, executive director, employees and
representatives of the commission shall be immune from suit and
liability, either personally or in their official capacity, for any
claim for damage to or loss of property or personal injury or other
civil liability caused by or arising out of any actual or alleged
act, error, or omission that occurred, or that the person against
whom the claim is made had a reasonable basis for believing occurred
within the scope of commission employment, duties, or
responsibilities; provided that nothing in this paragraph shall be
construed to protect any such person from suit and/or liability for
any damage, loss, injury, or liability caused by the intentional or
willful or wanton misconduct of that person.

2. The commission shall defend any member, officer,
executive director, employee or representative of the commission in
any civil action seeking to impose liability arising out of any
actual or alleged act, error, or omission that occurred within the
scope of commission employment, duties, or responsibilities, or
that the person against whom the claim is made had a reasonable
basis for believing occurred within the scope of commission
employment, duties, or responsibilities; provided that nothing
herein shall be construed to prohibit that person from retaining
his or her own counsel; and provided further, that the actual or
alleged act, error, or omission did not result from that person's
intentional or willful or wanton misconduct.

3. The commission shall indemnify and hold harmless
any member, officer, executive director, employee, or
representative of the commission for the amount of any settlement
or judgment obtained against that person arising out of any actual
or alleged act, error or omission that occurred within the scope of
commission employment, duties, or responsibilities, or that such
person had a reasonable basis for believing occurred within the
scope of commission employment, duties, or responsibilities,
provided that the actual or alleged act, error, or omission did not
result from the intentional or willful or wanton misconduct of that
person.

Section 11. COORDINATED DATABASE. A. The commission shall
provide for the development and maintenance of a coordinated
database and reporting system containing licensure, adverse
action, and significant investigatory information on all licensed
individuals in member states.

B. Notwithstanding any other provision of state law to the
contrary, a member state shall submit a uniform data set to the
coordinated database on all individuals to whom this compact is applicable as required by the rules of the commission, including:

1. identifying information;
2. licensure data;
3. significant investigatory information;
4. adverse actions against an individual's license;
5. an indicator that an individual's privilege to practice is restricted, suspended or revoked;
6. non-confidential information related to alternative program participation;
7. any denial of application for licensure, and the reason or reasons for such denial; and
8. other information that may facilitate the administration of this compact, as determined by the rules of the commission.

C. The coordinated database administrator shall promptly notify all member states of any adverse action taken against, or significant investigative information on, any individual in a member state.

D. Member states contributing information to the coordinated database may designate information that may not be shared with the public without the express permission of the contributing state.

E. Any information submitted to the coordinated database that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the coordinated database.
Section 12. RULEMAKING. A. The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any member state.

C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

D. Prior to promulgation and adoption of a final rule or rules by the commission, and at least 60 days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

1. on the website of the commission; and

2. on the website of each member state EMS authority or the publication in which each state would otherwise publish proposed rules.

E. The notice of proposed rulemaking shall include:

1. the proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

2. the text of the proposed rule or amendment and the reason for the proposed rule;

3. a request for comments on the proposed rule from any interested person; and

4. the manner in which interested persons may submit
notice to the commission of their intention to attend the public
hearing and any written comments.

F. Prior to adoption of a proposed rule, the commission
shall allow persons to submit written data, facts, opinions, and
arguments, which shall be made available to the public.

G. The commission shall grant an opportunity for a public
hearing before it adopts a rule or amendment if a hearing is
requested by:

1. at least 25 persons;
2. a governmental subdivision or agency; or
3. an association having at least 25 members.

H. If a hearing is held on the proposed rule or amendment,
the commission shall publish the place, time, and date of the
scheduled public hearing.

1. All persons wishing to be heard at the hearing shall
notify the executive director of the commission or other designated
member in writing of their desire to appear and testify at the
hearing not less than 5 business days before the scheduled date of
the hearing.
2. Hearings shall be conducted in a manner providing
each person who wishes to comment a fair and reasonable opportunity
to comment orally or in writing.
3. No transcript of the hearing is required, unless a
written request for a transcript is made, in which case the person
requesting the transcript shall bear the cost of producing the
transcript. A recording may be made in lieu of a transcript under
the same terms and conditions as a transcript. This subsection
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shall not preclude the commission from making a transcript or recording of the hearing if it so chooses.

4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

J. The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

K. If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.

L. Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. meet an imminent threat to public health, safety,
or welfare;

2. prevent a loss of commission or member state funds;
3. meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
4. protect public health and safety.

M. The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

Section 13. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT. A. Oversight.

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.
2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the commission.

3. The commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission shall render a judgment or order void as to the commission, this compact, or promulgated rules.

B. Default, Technical Assistance, and Termination. 1. If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

   a. provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the commission; and

   b. provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred
during the period of default.

3. Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

4. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

6. The defaulting state may appeal the action of the commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

C. Dispute Resolution. 1. Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and non-member states.

2. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.
D. Enforcement. 1. The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. By majority vote, the commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

Section 14. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR EMS PERSONNEL PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT. A. The compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

B. Any state that joins the compact subsequent to the commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the compact becomes law in
that state. Any rule that has been previously adopted by the
commission shall have the full force and effect of law on the day
the compact becomes law in that state.

C. Any member state may withdraw from this compact by
enacting a statute repealing the same.

1. A member state's withdrawal shall not take effect
until six months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing
requirement of the withdrawing state's EMS authority to comply with
the investigative and adverse action reporting requirements of this
compact prior to the effective date of withdrawal.

D. Nothing contained in this compact shall be construed to
invalidate or prevent any EMS personnel licensure agreement or
other cooperative arrangement between a member state and a
non-member state that does not conflict with the provisions of this
compact.

E. This compact may be amended by the member states. No
amendment to this compact shall become effective and binding upon
any member state until it is enacted into the laws of all member
states.

Section 15. CONSTRUCTION AND SEVERABILITY. This compact
shall be liberally construed so as to effectuate the purposes
thereof. If this compact shall be held contrary to the constitution
of any state member thereto, the compact shall remain in full force
and effect as to the remaining member states. Nothing in this
compact supersedes state law or rules related to licensure of EMS
agencies.
SECTION 2. This Act takes effect September 1, 2015.
H.B. No. 2498

I certify that H.B. No. 2498 was passed by the House on May 12, 2015, by the following vote: Yeas 134, Nays 10, 2 present, not voting.

I certify that H.B. No. 2498 was passed by the Senate on May 25, 2015, by the following vote: Yeas 29, Nays 2.

APPROVED: 6-13-2015

Date

Secretary of the Senate
AN ACT

relating to allocation of money from the law enforcement officer standards and education fund.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Section 1701.157, Occupations Code, is amended to read as follows:

Sec. 1701.157. MONEY ALLOCATED AND USED FOR TRAINING OR CONTINUING EDUCATION.

SECTION 2. Section 1701.157(a), Occupations Code, is amended to read as follows:

(a) Not later than March 1 of each calendar year, the comptroller shall allocate money deposited during the preceding calendar year in the general revenue fund to the credit of the law enforcement officer standards and education fund account for expenses related to the continuing education of persons licensed under this chapter as follows:

(1) 20 percent of the money is allocated to all local law enforcement agencies in this state in equal shares; and

(2) 80 percent of the money is allocated to all local law enforcement agencies in this state in a share representing a fixed amount for each position in the agency, as of January 1 of the preceding calendar year, that is reserved to a person who:

(A) is licensed under this chapter;

(B) works as a peace officer or telecommunicator.
H.B. No. 2680

1 as defined by Section 1701.001, on the average of at least 32 hours
2 a week; and
3 (C) is compensated by a political subdivision of
4 this state at least at the minimum wage and is entitled to all
5 employee benefits offered to a peace officer or telecommunicator,
6 as applicable, by the political subdivision.
7 SECTION 3. This Act takes effect September 1, 2015.
I certify that H.B. No. 2680 was passed by the House on April 30, 2015, by the following vote: Yeas 138, Nays 1, 1 present, not voting.

I certify that H.B. No. 2680 was passed by the Senate on May 26, 2015, by the following vote: Yeas 31, Nays 0.

APPROVED: 6-11-2015

Date

Governor
AN ACT

relating to employment activities of certain emergency response personnel for purposes of the Texas Workers' Compensation Act.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 401, Labor Code, is amended by adding Section 401.026 to read as follows:

Sec. 401.026. APPLICABILITY TO CERTAIN EMERGENCY RESPONSE PERSONNEL. For purposes of this subtitle, the travel of a firefighter or emergency medical personnel en route to an emergency call is considered to be in the course and scope of the firefighter's or emergency medical personnel's employment.

SECTION 2. This Act takes effect September 1, 2015.
H.B. No. 2771
President of the Senate

I certify that H.B. No. 2771 was passed by the House on April 28, 2015, by the following vote: Yeas 142, Nays 0, 2 present, not voting.

Speaker of the House

Chief Clerk of the House

I certify that H.B. No. 2771 was passed by the Senate on May 22, 2015, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: 6-3-2015

Date

Governor

FILED IN THE OFFICE OF THE SECRETARY OF STATE
10:32 a.m. O'CLOCK
JUN 23 2015
Secretary of State
AN ACT

relating to peace officer identification cards.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 614.121, Government Code, as added by Chapter 938 (H.B. 3613), Acts of the 80th Legislature, Regular Session, 2007, is amended by adding Subdivision (3-a) to read as follows:

(3-a) "Qualified retired law enforcement officer" has the meaning assigned by 18 U.S. C. Section 926C.

SECTION 2. Subchapter H, Chapter 614, Government Code, as added by Chapter 938 (H.B. 3613), Acts of the 80th Legislature, Regular Session, 2007, is amended by adding Section 614.1241 to read as follows:

Sec. 614.1241. QUALIFIED RETIRED LAW ENFORCEMENT OFFICER. (a) On request of a qualified retired law enforcement officer who holds a certificate of proficiency under Section 1701.357, Occupations Code, a law enforcement agency or other governmental entity in this state shall issue an identification card to the qualified retired law enforcement officer if the law enforcement agency or other governmental entity:

(1) was the last entity to appoint or employ the qualified retired law enforcement officer as a peace officer; or

(2) appointed or employed the qualified retired law enforcement officer for 20 years or more and the officer is
receiving retirement or pension benefits as a result of that
service.

(b) The identification card must include:

(1) the full name of the qualified retired law
enforcement officer;

(2) a photograph of the qualified retired law
enforcement officer consistent with the qualified retired law
enforcement officer's appearance;

(3) the name of the law enforcement agency or other
governmental entity that issued the card to the qualified retired
law enforcement officer;

(4) if applicable, the signature of the person
authorizing the issuance of the card on behalf of the law
enforcement agency or other governmental entity to the qualified
retired law enforcement officer;

(5) a brief description of the qualified retired law
enforcement officer, including the qualified retired law
enforcement officer's height, weight, and eye color;

(6) the thumbprint of the qualified retired law
enforcement officer or a bar code with a unique identification
label for the qualified retired law enforcement officer;

(7) the date the qualified retired law enforcement
officer last served as a peace officer for the law enforcement
agency or other governmental entity;

(8) the date the law enforcement agency or other
governmental entity issued the card to the qualified retired law
enforcement officer; and
(9) a phone number operational 24 hours a day, seven
days a week, that a person may call to verify the validity of the
identification card.

(c) On the identification card, the law enforcement agency
or other governmental entity that issues the card shall print:

(1) "State of Texas" and the state seal; and

(2) "This identification card certifies that (insert
name of qualified retired law enforcement officer) is a qualified
retired law enforcement officer of (insert name of law enforcement
agency or other governmental entity that last appointed or employed
the qualified retired law enforcement officer)."

(d) The head of a law enforcement agency or other
governmental entity that issued the identification card shall
recover the identification card on the date the identification card
expires.

SECTION 3. Section 614.127, Government Code, is amended to
read as follows:

Sec. 614.127. LOST OR STOLEN CARDS. If an identification
card issued under this subchapter is lost or stolen, the law
enforcement agency or other governmental entity that issued
[issuing] the card to the peace officer, reserve law enforcement
officer, honorably retired peace officer, or qualified retired law
enforcement officer shall issue a duplicate identification card to
the officer if the [may+

[1] require a peace officer, reserve law enforcement
officer, or honorably retired peace] officer submits [to submit] an
affidavit executed by the [peace officer, reserve law enforcement
H.B. No. 3212

officer, or honorably retired peace officer to the law enforcement agency or other governmental entity [issuing the card] stating that the identification card was lost or stolen[, and

(42) issue a duplicate identification card to the peace officer, reserve law enforcement officer, or honorably retired peace officer].

SECTION 4. This Act takes effect September 1, 2015.
I certify that H.B. No. 3212 was passed by the House on May 5, 2015, by the following vote: Yeas 145, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3212 on May 29, 2015, by the following vote: Yeas 143, Nays 0, 3 present, not voting.

I certify that H.B. No. 3212 was passed by the Senate, with amendments, on May 27, 2015, by the following vote: Yeas 31, Nays 0.

APPROVED: 6-13-2015

Governor

FILED IN THE OFFICE OF THE SECRETARY OF STATE
6:30 O'CLOCK JUN 19 2015
Secretary of State
AN ACT
relating to the transfer of certain occupational regulatory programs and the deregulation of certain activities and occupations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. REGULATORY PROGRAMS TRANSFERRED TO THE TEXAS DEPARTMENT OF LICENSING AND REGULATION

PART 1. TRANSFERS DURING BIENNium ENDING AUGUST 31, 2017

SECTION 1.001. Subchapter D, Chapter 51, Occupations Code, is amended by adding Section 51.2031 to read as follows:

Sec. 51.2031. RULES REGARDING HEALTH-RELATED PROGRAMS; PROVISION OF INFORMATION. (a) This section applies only to the regulation of the following professions by the department:

(1) athletic trainers;
(2) dietitians;
(3) hearing instrument fitters and dispensers;
(4) midwives;
(5) orthotists and prosthetists; and
(6) speech-language pathologists and audiologists.

(a-1) The commission may not adopt a new rule relating to the scope of practice of or a health-related standard of care for a profession to which this section applies unless the rule has been proposed by the advisory board established for that profession.

The commission shall adopt rules prescribing the procedure by which
violation of this chapter or a rule adopted or order issued under this chapter may not exceed $1,000 for each violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

SECTION 1.254. Section 1952.001, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by adding Subdivision (2-a) and amending Subdivisions (3) and (4) to read as follows:

(2-a) "Commission" means the Texas Commission of Licensing and Regulation.

(3) "Department" means the Texas Department of Licensing and Regulation [State Health Services].

(4) "Executive director [commissioner]" means the executive director [commissioner] of the department [Health and Human Services Commission].

SECTION 1.255. The heading to Subchapter B, Chapter 1952, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

SUBCHAPTER B. POWERS AND DUTIES [OF EXECUTIVE COMMISSIONER AND DEPARTMENT]

SECTION 1.256. Section 1952.051, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1952.051. GENERAL POWERS AND DUTIES [RULES]. (a) The executive director shall administer and enforce this chapter.

(b) The commission [executive commissioner] by rule shall[+ (41)] adopt standards and education requirements
S.B. No. 202

consistent with those established under Chapter 654, Government Code, for the registration of:

(1) [44] code enforcement officers; and
(2) [41] code enforcement officers in training and
[(2) prescribe application forms for original and renewal certificates of registration].

SECTION 1.257. Section 1952.053(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) The register must include:
(1) the name, residence, date of birth, and social security number of the applicant;
(2) the name and address of the employer or business of the applicant;
(3) the date of the application;
(4) the education and experience qualifications of the applicant;
(5) the action taken by the department regarding the application and the date of the action;
(6) the serial number of any certificate of registration issued to the applicant; and
(7) any other information required by commission [department] rule.

SECTION 1.258. Subchapter B, Chapter 1952, Occupations Code, is amended by adding Section 1952.055 to read as follows:

Sec. 1952.055. ADVISORY COMMITTEE. The department may establish an advisory committee to provide advice and
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Section 1.259. Section 1952.102, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1952.102. ELIGIBILITY TO REGISTER AS CODE ENFORCEMENT OFFICER. To be eligible to receive a certificate of registration as a code enforcement officer, a person must:

1. submit an application in the manner and on the form prescribed by the executive director;
2. have at least one year of full-time experience in the field of code enforcement;
3. pass the examination required by the department;
4. pay the application, examination, and registration fees; and
5. meet any other requirements prescribed by this chapter or by commission rule.

Section 1.260. Section 1952.103(a), Occupations Code, is amended to read as follows:

(a) An applicant for a certificate of registration under this chapter who has less than one year of full-time experience in code enforcement is entitled to receive a certificate of registration as a code enforcement officer in training on:

1. passing the examination described by Section 1952.102(3); and
2. paying the required fees; and
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(3) meeting any other requirement prescribed by this
chapter or by commission rule.

SECTION 1.261. The heading to Section 1952.105, Occupations
Code, is amended to read as follows:

Sec. 1952.105. TERM [RENEWAL OR REINSTATEMENT] OF
CERTIFICATE; RENEWAL.

SECTION 1.262. Section 1952.105(a), Occupations Code, as
amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
2015, is amended to read as follows:

(a) A certificate of registration issued under this chapter
expires on the second anniversary of the date of issuance and may be
renewed biennially on payment of the required renewal fee and on
completion of the continuing education requirements prescribed by
commission [department] rule.

SECTION 1.263. Section 1952.1051, Occupations Code, as
amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
2015, is amended to read as follows:

Sec. 1952.1051. CONTINUING EDUCATION. The commission
[executive commissioner] by rule shall prescribe continuing
education requirements for code enforcement officers and code
enforcement officers in training that:

(1) establish the number of hours of continuing
education required for renewal of a certificate of registration;

(2) establish an approved curriculum that includes
material regarding changes in applicable law; and

(3) provide that the approved curriculum may be taught
by suitable public agencies and by private entities approved by the
SECTION 1.264. Section 1952.151, Occupations Code, is amended to read as follows:

Sec. 1952.151. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION.

(a) The commission or executive director [department] may deny a person's application for a certificate of registration if the person's certificate or license to engage in code enforcement or a related profession has been revoked by another licensing entity in this state or another state for:

(1) unprofessional conduct;
(2) fraud, deceit, or negligence; or
(3) misconduct in the practice of code enforcement or a related profession.

(b) The commission or executive director [department] shall suspend or revoke a certificate of registration issued under this chapter if the commission or executive director [department] determines that the certificate holder:

(1) engaged in fraud or deceit in obtaining a certificate; or
(2) is grossly negligent, incompetent, or guilty of misconduct in the practice of code enforcement.

SECTION 1.265. Section 1952.252(a), Occupations Code, is amended to read as follows:

(a) The amount of an [the] administrative penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not be less than $50 or more than $5,000 for each violation. Each day a violation continues or occurs is a
Section 1.266. Section 1953.001, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by amending Subdivisions (1) and (2) and adding Subdivision (1-a) to read as follows:

(1) "Commission" means the Texas Commission of Licensing and Regulation.

(1-a) "Department" means the Texas Department of Licensing and Regulation [State Health Services].

(2) "Executive director [commissioner]" means the executive director [commissioner] of the department [Health and Human Services Commission].

Section 1.267. The heading to Subchapter B, Chapter 1953, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Subchapter B. Powers and Duties [Of Executive Commissioner and Department]

Section 1.268. Section 1953.051, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1953.051. General Powers and Duties [Of Department].

(a) The executive director shall administer and enforce this chapter.

(b) The department shall:

(1) administer continuing education requirements; and

(2) prescribe necessary forms.

Section 1.269. Subchapter B, Chapter 1953, Occupations Cycle.
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Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by adding Section 1953.0512 to read as follows:

Sec. 1953.0512. ADVISORY COMMITTEE. The department may establish an advisory committee to provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.

SECTION 1.270. Section 1953.102, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1953.102. ELIGIBILITY REQUIREMENTS. (a) To be eligible to receive a certificate of registration as a professional sanitarian, a person must:

(1) hold at least a bachelor's degree from an accredited college or university that includes at least 30 semester hours in basic or applied science;

(2) complete any additional training in the basic sciences or public health the department [executive commissioner] determines necessary to effectively serve as a professional sanitarian; and

(3) have at least two years of full-time experience in sanitation.

(b) The commission [executive commissioner] by rule may establish other qualifications for registration.

SECTION 1.271. Section 1953.104(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

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(a) The department shall issue a certificate of registration as a professional sanitarian to a person who:

(1) applies in the manner and on the form prescribed by the executive director [department];

(2) pays the registration fee set by the commission [executive commissioner] by rule;

(3) meets the eligibility requirements prescribed by Section 1953.102; and

(4) passes an examination under Subchapter D.

SECTION 1.272. Section 1953.105(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) The department shall issue a certificate of registration as a sanitarian in training to a person who:

(1) is employed in sanitation;

(2) meets the eligibility requirements prescribed by Section 1953.102, other than the requirements relating to experience;

(3) pays a registration fee prescribed by the commission [executive commissioner] by rule for a sanitarian in training; and

(4) passes an examination under Subchapter D.

SECTION 1.273. The heading to Section 1953.106, Occupations Code, is amended to read as follows:

Sec. 1953.106. RENEWAL [OR REINSTATEMENT] OF CERTIFICATE.

SECTION 1.274. Section 1953.106(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
S.B. No. 202

2015, is amended to read as follows:

(a) To renew a certificate of registration under this chapter, a professional sanitarian must:

(1) pay to the department a renewal fee prescribed by the commission [executive commissioner] by rule; and

(2) provide proof of completion of continuing education requirements [contact hours as] prescribed by the commission by rule [executive commissioner].

SECTION 1.275. Section 1953.151(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) An applicant for a certificate of registration may not take the examination unless the applicant pays the examination fee prescribed by the commission [executive commissioner] by rule.

SECTION 1.276. Section 1953.201, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1953.201. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION.

(a) The commission or executive director [department] may deny a person's application for a certificate of registration if:

(1) the person's certificate or license to engage in a profession in this state or elsewhere has been revoked for unprofessional conduct, fraud, deceit, negligence, or misconduct in the practice of the profession; or

(2) satisfactory proof is presented to the commission or executive director [department] establishing that the person has been found guilty of unprofessional conduct, fraud, deceit,
negligence, or misconduct in the practice of a profession.

(b) The commission or executive director [department] may suspend or revoke a certificate of registration if the certificate holder:

(1) practiced fraud or deceit in obtaining the certificate; or

(2) acted in a manner constituting gross negligence, incompetency, or misconduct in the practice of sanitation.

SECTION 1.277. Section 1953.302(a), Occupations Code, is amended to read as follows:

(a) The amount of an [the] administrative penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not be less than $50 or more than $5,000 for each violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

SECTION 1.278. Section 1958.001, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by amending Subdivisions (1) and (2) and adding Subdivision (1-a) to read as follows:

(1) "Commission" means the Texas Commission of Licensing and Regulation.

(l-a) "Department" means the Texas Department of Licensing and Regulation [State Health Services].

(2) "Executive director [commissioner]" means the executive director [commissioner] of the department [Health and Human Services Commission].

SECTION 1.279. Section 1958.051, Occupations Code, is
S.B. No. 202

(30) Sections 145.011(a) and (b);
(31) Section 145.012;
(32) Section 145.0122;
(33) Section 145.015;
(34) Chapter 345;
(35) Chapter 385;
(36) Chapter 441; and
(37) Chapter 781.

SECTION 3.031. The following provisions of the Occupations Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are repealed:

(1) Section 351.005(c);
(2) Chapter 352;
(3) Sections 353.002(2) and (4);
(4) Section 353.005;
(5) Subchapter B, Chapter 353;
(6) Section 353.202;
(7) Section 353.2025;
(8) Section 353.203;
(9) Section 353.204(b); and
(10) Section 353.205.

SECTION 3.032. On the effective date of this Act, a license, permit, certification of registration, or other authorization issued under a law that is repealed by this article expires.

SECTION 3.033. The changes in law made by this article do not affect the validity of a disciplinary action or other proceeding that was initiated before the effective date of this Act.
S.B. No. 202

and that is pending before a court or other governmental entity on
the effective date of this Act.

SECTION 3.034. (a) An offense under or other violation of
a law that is repealed by this article is governed by the law in
effect when the offense or violation was committed, and the former
law is continued in effect for that purpose.
(b) For purposes of this section, an offense or violation
was committed before the effective date of this Act if any element
of the offense or violation occurred before that date.

SECTION 3.035. The repeal of a law by this article does not
entitle a person to a refund of an application, licensing, or other
fee paid by the person before the effective date of this Act.

ARTICLE 4. EFFECTIVE DATE

SECTION 4.001. (a) Except as provided by Subsection (b) of
this section, this Act takes effect September 1, 2015.
(b) Part 2 of Article 1 of this Act takes effect September 1,
2017.
I hereby certify that S.B. No. 202 passed the Senate on May 14, 2015, by the following vote: Yeas 31, Nays 0; May 26, 2015, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 27, 2015, House granted request of the Senate; May 30, 2015, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

I hereby certify that S.B. No. 202 passed the House, with amendments, on May 25, 2015, by the following vote: Yeas 143, Nays 1, one present not voting; May 27, 2015, House granted request of the Senate for appointment of Conference Committee; May 28, 2015, House adopted Conference Committee Report by the following vote: Yeas 146, Nays 0, two present not voting.

Approved:

Date

Governor

SECRETARY OF STATE

Secretary of State

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Chapter 1138

AN ACT

relating to the continuation and functions of the Texas Workforce Commission.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 132, Education Code, is amended by adding Section 132.025 to read as follows:

Sec. 132.025. REQUIRED POSTING. To facilitate a prospective student's informed selection among career schools and colleges, the commission shall include in its searchable directory of career schools and colleges maintained on its Internet website information regarding any formal enforcement action taken by the commission against a school or college, including:

(1) any revocation of the school's or college's certificate of authority;

(2) any assessment of administrative penalties against the school or college; and

(3) any suspension of admission of students to the school or college.

SECTION 2. Section 1001.104, Education Code, is amended to read as follows:

Sec. 1001.104. HOSPITAL AND REHABILITATION FACILITIES. (a) The agency shall enter into a memorandum of understanding with the state agency responsible for administering the vocational rehabilitation program under Subtitle C, Title 4, Labor Code,
S.B. No. 208

[Texas Rehabilitation Commission] and the department for the interagency development of curricula and licensing criteria for hospital and rehabilitation facilities that teach driver education.

(b) The agency shall administer comprehensive rules governing driver education courses adopted by mutual agreement among the agency, the state agency responsible for administering the vocational rehabilitation program under Subtitle C, Title 4, Labor Code [Texas Rehabilitation Commission], and the department.

SECTION 3. The heading to Section 411.104, Government Code, is amended to read as follows:

Sec. 411.104. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS WORKFORCE COMMISSION; SECURITY SENSITIVE POSITIONS.

SECTION 4. Effective September 1, 2016, Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.1041 to read as follows:

Sec. 411.1041. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS WORKFORCE COMMISSION; VOCATIONAL REHABILITATION AND OTHER SERVICES. (a) The Texas Workforce Commission, in connection with the administration of vocational rehabilitation services and other services and programs under Subtitle C, Title 4, Labor Code, is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant selected for employment with the commission whose potential duties include direct contact with
clients to provide those services;

(2) an applicant for those services from the commission; or

(3) a client receiving those services from the commission.

(b) Criminal history record information obtained by the commission under Subsection (a) may not be released or disclosed to any person except on court order or with the written consent of the person who is the subject of the criminal history record information.

SECTION 5. Section 2308.3155(b), Government Code, is amended to read as follows:

(b) The commission shall adopt rules to administer the Texas Rising Star Program, including:

(1) guidelines for rating a child-care provider who provides child care to a child younger than 13 years of age, including infants and toddlers, enrolled in the subsidized program; and

(2) a timeline and process for regularly reviewing and updating the quality standards used to determine the rating system that includes the commission's consideration of input from interested parties regarding those standards.

SECTION 6. Effective September 1, 2016, Subchapter C, Chapter 91, Human Resources Code, is amended by adding Section 91.0211 to read as follows:

Sec. 91.0211. SERVICE DELIVERY BY TEXAS WORKFORCE COMMISSION. The Texas Workforce Commission has primary
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responsibility for providing vocational rehabilitation services
and other services and programs under Subtitle C, Title 4, Labor
Code, notwithstanding Section 91.021(a) and subject to receipt of
any required federal approval to administer those services and
programs. A power or duty under this chapter, including rulemaking
authority, of the department, the commissioner, or the executive
commissioner that is applicable to those services or programs is a
power or duty of the Texas Workforce Commission with respect to
those services or programs.

SECTION 7. Effective September 1, 2016, Subchapter C,
Chapter 111, Human Resources Code, is amended by adding Section
111.0511 to read as follows:

Sec. 111.0511. SERVICE DELIVERY BY TEXAS WORKFORCE
COMMISSION. The Texas Workforce Commission has primary
responsibility for providing vocational rehabilitation services
and other services and programs under Subtitle C, Title 4, Labor
Code, notwithstanding Section 111.051 and subject to receipt of any
required federal approval to administer those services and
programs. A power or duty under this chapter, including rulemaking
authority, of the department, the commissioner, or the executive
commissioner that is applicable to those services or programs is a
power or duty of the Texas Workforce Commission with respect to
those services or programs. All other state agencies engaged in
vocational rehabilitation services or related services or programs
shall coordinate those activities with the Texas Workforce
Commission.

SECTION 8. Effective September 1, 2016, Subchapter D,
Chapter 117, Human Resources Code, is amended by adding Section 117.0713 to read as follows:

Sec. 117.0713. SERVICE DELIVERY BY TEXAS WORKFORCE COMMISSION. The Texas Workforce Commission has primary responsibility for providing vocational rehabilitation services and other services and programs under Subtitle C, Title 4, Labor Code, notwithstanding Section 117.071 and subject to receipt of any required federal approval to administer those services and programs. A power or duty under this chapter, including rulemaking authority, of the department, the commissioner, or the executive commissioner that is applicable to those services or programs is a power or duty of the Texas Workforce Commission with respect to those services or programs.

SECTION 9. Section 21.0015, Labor Code, is amended to read as follows:

Sec. 21.0015. TEXAS WORKFORCE COMMISSION [CIVIL RIGHTS DIVISION]. The powers and duties exercised by the Commission on Human Rights under this chapter are transferred to the Texas Workforce Commission [civil rights division]. A reference in this chapter to the "commission" means the Texas Workforce Commission [civil rights division].

SECTION 10. Section 21.206, Labor Code, is amended to read as follows:

Sec. 21.206. DETERMINATION OF REASONABLE CAUSE; REVIEW BY COMMISSION [PANEL]. (a) If after investigation the executive director or the executive director's designee determines that there is reasonable cause to believe that the respondent engaged in an
unlawful employment practice as alleged in a complaint, the
executive director or the executive director's designee shall
review with the commission members (a panel of three commissioners)
the evidence in the record.

(b) If after the review at least two of the three commission
members (commissioners) determine that there is reasonable cause to
believe that the respondent engaged in an unlawful employment
practice, the executive director shall:

(1) issue a written determination incorporating the
executive director's finding that the evidence supports the
complaint; and
(2) serve a copy of the determination on the
complainant, the respondent, and other agencies as required by law.

SECTION 11. Section 21.453, Labor Code, is amended by
amending Subsection (a) and adding Subsection (a-1) to read as
follows:

(a) Except as provided by Subsection (a-1), the [the]
commission shall review the personnel policies and procedures of
each state agency on a six-year cycle to determine whether the
policies and procedures comply with this chapter.

(a-1) The commission by rule shall develop risk-assessment
criteria for determining the circumstances under which the
commission may conduct a review of the personnel policies and
procedures of a state agency more frequently than required by
Subsection (a). The risk-assessment criteria must include:

(1) data on complaints against a state agency;
(2) previous review findings; and
(3) any other related information collected and
maintained by the commission.

SECTION 12. Section 21.455, Labor Code, is amended by
adding Subsection (d) to read as follows:

(d) Annually, the commission shall:

(1) review the reimbursements received by the
commission under this section to ensure that the commission
recovers the expenses described by Subsection (a); and

(2) adjust the reimbursement rate if, as a result of
the most recent annual review, the commission determines that the
reimbursement rate is higher or lower than the rate required to
recover those expenses.

SECTION 13. Subchapter A, Chapter 61, Labor Code, is
amended by adding Section 61.006 to read as follows:

Sec. 61.006. NOTICE LANGUAGES. The commission shall:

(1) make available any notice the commission is
required to provide to an employee under this chapter in the two
languages that are most commonly spoken in this state; and

(2) ensure that employees are notified of an
employee's ability to request from the commission notice in either
language described by Subdivision (1).

SECTION 14. Section 61.051, Labor Code, is amended by
adding Subsection (e) to read as follows:

(e) The commission shall ensure that employees are notified
of an employee's ability to request from the commission a wage claim
form in either language described by Section 61.006.

SECTION 15. Chapter 214, Labor Code, is amended by adding
Section 214.009 to read as follows:

Sec. 214.009. RECOVERY OF COVERED UNEMPLOYMENT COMPENSATION DEBT THROUGH FEDERAL TREASURY OFFSET PROGRAM. (a) In this section, "program" means the federal Treasury Offset Program authorized by 26 U.S.C. Section 6402(f).

(b) The commission may collect the following covered unemployment compensation debt through the program:

(1) a past-due debt for erroneous payment of benefits due to fraud that has become final under law and remains uncollected;

(2) a past-due debt for erroneous payment of benefits due to a person's failure to report earnings, even if non-fraudulent, that has become final under law and remains uncollected;

(3) a past-due employer contribution owed to the compensation fund for which the commission has determined the person to be liable and that remains uncollected; and

(4) any penalties and interest assessed by the commission on a debt described by Subdivision (1), (2), or (3).

(c) Before submitting covered unemployment compensation debt for recovery under the program, the commission must:

(1) notify the debtor by regular United States mail that the commission plans to recover the debt through the offset of any federal tax refund;

(2) provide the debtor at least 60 days following the date the notice is provided under Subdivision (1) to present to the commission evidence that all or part of the debt is not:
(A) legally enforceable;
(B) due to fraud or unreported earnings; or
(C) a contribution owed to the compensation fund;

and

(3) consider any evidence presented by the debtor to
determine the amount of debt that is legally enforceable and owed.

(d) In considering evidence presented by a debtor under
Subsection (c), the commission may determine only whether the
debtor has demonstrated that the debt is not subject to recovery
through the program so that the commission is able to minimize
erroneous offsets. The commission may not review the initial
determination establishing the debtor's liability.

(e) The commission shall assess against the debtor the cost
of any administrative fee charged by the United States Department
of the Treasury for each offset. The commission may add the
assessed amount to the covered unemployment compensation debt that
is offset under the program.

SECTION 16. Section 301.006(b), Labor Code, is amended to
read as follows:

(b) Notwithstanding Subsection (a), the member of the
commission who represents the public shall serve as chair:

(1) when the commission acts under:
   (A) Chapter 21;
   (B) Subchapter D, Chapter 61; [removed]
   (C) Subchapter D, Chapter 212; or
   (D) Chapter 301, Property Code; and

(2) in commission hearings involving unemployment
insurance issues regarding tax coverage, contributions, or
reimbursements.

SECTION 17. Section 301.008, Labor Code, is amended to read
as follows:

Sec. 301.008. APPLICATION OF SUNSET ACT. The Texas
Workforce Commission is subject to Chapter 325, Government Code
(Texas Sunset Act). Unless continued in existence as provided by
that chapter, the commission is abolished September 1, 2027 [2015].

SECTION 18. Section 301.009(a), Labor Code, is amended to
read as follows:

(a) The commission shall have:

(1) a division of workforce development; [and]

(2) a division of unemployment compensation; and

(3) a civil rights division.

SECTION 19. Effective September 1, 2016, Subchapter D,
Chapter 301, Labor Code, is amended by adding Section 301.0675 to
read as follows:

Sec. 301.0675. VOCATIONAL REHABILITATION AND CERTAIN OTHER
SERVICES FOR PERSONS WITH DISABILITIES. Subject to federal
approval, if required, to administer vocational rehabilitation
services and other services and programs to persons with
disabilities under Subtitle C, Title 4, the commission has primary
responsibility for providing those services and programs.

SECTION 20. Section 301.153, Labor Code, is amended to read
as follows:

Sec. 301.153. GOVERNANCE; AUTHORITY [HUMAN RIGHTS
COMMISSION]. (a) [The division is governed by the human rights
commission, which consists of seven members as follows:

[(1) one member who represents industry;]

[(2) one member who represents labor; and]

[(3) five members who represent the public.]

[(b) The members of the human rights commission established under this section shall be appointed by the governor. In making appointments to the human rights commission, the governor shall strive to achieve representation on the human rights commission that is diverse with respect to disability, religion, age, economic status, sex, race, and ethnicity.]

[(c) The term of office of each commissioner is six years. The governor shall designate one commissioner to serve as presiding officer.]

[(d) A commissioner is entitled to reimbursement of actual and necessary expenses incurred in the performance of official duties.]

[(e) The [human rights] commission shall establish policies for the division and the executive director shall supervise the director in administering the activities of the division.]

[(f) The [human rights] commission is the state authority established as a fair employment practice agency and is authorized, with respect to an unlawful employment practice, to:

(1) grant relief from the practice;

(2) seek relief from the practice; or

(3) institute criminal proceedings.]

[(c) The commission shall administer Chapter 21 of this code]
and Chapter 301, Property Code, including the powers and duties
formerly exercised by the former Commission on Human Rights under
those laws.

(d) A reference in Chapter 21 of this code, Chapter 301,
Property Code, or any other law to the former Commission on Human
Rights means the commission.

SECTION 21. Section 301.154(a), Labor Code, is amended to
read as follows:

(a) The director shall be appointed by the executive
director [human rights commission] to administer the powers and
duties of the division.

SECTION 22. Subchapter I, Chapter 301, Labor Code, is
amended by adding Section 301.157 to read as follows:

Sec. 301.157. ANALYSIS OF STATE AGENCY DISCRIMINATION
COMPLAINTS; REPORT. (a) Each state fiscal year, the division
shall collect and analyze information regarding employment
discrimination complaints, other than complaints determined to be
without merit, filed with the division against a state agency. The
information must include:

(1) an analysis of the complaints, both by number and
by type; and

(2) key findings or trends the division identifies
during the division's review of state agency personnel policies and
procedures under Section 21.453.

(b) The commission shall include the results of the
division's analysis under this section in the commission's annual
report to the governor and the legislature. The division shall
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exclude from the report any identifying information of a complainant or a state agency complaint as necessary to maintain confidentiality required by the commission's contract with the federal Equal Employment Opportunity Commission or by other law.

SECTION 23. Section 302.0043(f), Labor Code, is amended to read as follows:

(f) Not later than January 15 of each odd-numbered year, the commission shall report to the legislature regarding the commission's findings regarding the effectiveness of the commission's child care program. The report must:

(1) include employment outcome information, disaggregated by local workforce development area, regarding parents receiving subsidized care under the program; and

(2) identify multiyear trends in the information collected and analyzed by the commission under this section, including trends in the information for at least the five state fiscal years preceding the date of the report.

SECTION 24. Subchapter A, Chapter 302, Labor Code, is amended by adding Section 302.00435 to read as follows:

Sec. 302.00435. SUBSIDIZED CHILD CARE PROGRAM; INPUT POLICY. The commission shall develop a policy for obtaining, through appropriate methods, input from interested parties regarding its subsidized child care program and for using that input in administering that program.

SECTION 25. Title 4, Labor Code, is amended by adding Subtitle C to read as follows:
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SUBTITLE C. VOCATIONAL REHABILITATION AND CERTAIN OTHER SERVICES
FOR PERSONS WITH DISABILITIES

CHAPTER 351. GENERAL PROVISIONS; RESPONSIBILITY FOR
ADMINISTRATION OF SERVICES

Sec. 351.001. DEFINITIONS. In this subtitle:

(1) "Department" means the Department of Assistive and
Rehabilitative Services.

(2) "Executive commissioner" means the executive
commissioner of the Health and Human Services Commission.

Sec. 351.002. RESPONSIBILITY FOR ADMINISTRATION OF
SERVICES AND PROGRAMS. (a) Notwithstanding any other provision of
this subtitle, the department shall administer the services and
programs under this subtitle until September 1, 2016. On that date,
the department shall cease administering the services and programs
and the commission shall begin administering the services and
programs, subject to receipt of any required federal approval.

(b) The department or commission, as appropriate, shall
seek federal approval, if required:

(1) for the commission, beginning on September 1, 2016, to administer the following services and programs under this
subtitle that the department operated before that date under the
federal Rehabilitation Act of 1973 (29 U.S.C. Sections 720 through
751):

(A) the vocational rehabilitation program for
individuals with visual impairments;

(B) the vocational rehabilitation program for
individuals with other disabilities;
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(C) the Independent Living Services Program for older individuals who are blind; and

(D) the Criss Cole Rehabilitation Center;

(2) for the commission, beginning on September 1, 2016, to administer the program for vending facilities operated by blind persons under Chapter 355, including the Business Enterprises Program under the Randolph-Sheppard Act (20 U.S.C. Section 107 et seq.), that the department operated before that date; and

(3) to designate within the commission the state unit under 29 U.S.C. Section 721 that is responsible for administering the state's vocational rehabilitation program.

(c) The Rehabilitation Council of Texas transfers to the commission on September 1, 2016.

(d) Subsections (b) and (c) and this subsection expire September 1, 2019.

Sec. 351.003. DESIGNATED STATE UNIT FOR VOCATIONAL REHABILITATION SERVICES. In accordance with the requirements of the federal Rehabilitation Act of 1973 (29 U.S.C. Section 701 et seq.), the commission shall establish a designated state unit within the commission that:

(1) is an organizational unit designated to be primarily responsible for and concerned with vocational rehabilitation of individuals with disabilities;

(2) has a full-time director;

(3) has a staff employed on the rehabilitation work of the organizational unit, all or substantially all of whom are employed full-time on such work; and
is located at an organizational level and has an
organizational status within the commission comparable to that of
other major organizational units of the commission.

Sec. 351.004. INTEGRATION OF VOCATIONAL REHABILITATION
PROGRAMS; PROGRAM STAFF. (a) Not later than August 31, 2018, the
commission shall integrate the vocational rehabilitation staff
from department offices into the commission's local workforce
development boards and centers.

(b) This section expires September 1, 2019.

Sec. 351.005. MEANING OF CERTAIN REFERENCES IN LAW. Until
the administration of this subtitle is transferred from the
department to the commission, a reference to the commission or the
executive director in this subtitle means the department,
commissioner of assistive and rehabilitative services, or
executive commissioner, as applicable.

CHAPTER 352. VOCATIONAL REHABILITATION SERVICES
SUBCHAPTER A. GENERAL PROVISIONS
Sec. 352.001. DEFINITIONS. In this chapter:

(1) "Direct services" means services provided to a
client by a commission employee, including counseling,
facilitating the purchase of services from a source other than the
commission, and purchasing equipment and other items and providing
other services necessary for the client to successfully complete a
commission program.

(2) "Direct services program" means a program operated
by the commission through which direct services are provided.

(3) "Individual with a disability" means an individual
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who has a physical impairment, including a visual impairment, or
mental impairment that constitutes a substantial impediment to
employment, but that is of a nature that rehabilitation services
may be expected to enable the individual to engage in a gainful
occupation.

(4) "Maintenance" means money payments not exceeding
the estimated cost of subsistence during vocational
rehabilitation.

(5) "Occupational license" means a license, permit, or
other written authorization required by a governmental entity as a
condition for engaging in an occupation.

(6) "Physical restoration" means medical, surgical,
or therapeutic treatment necessary to correct or substantially
reduce a substantial impediment to employment of an individual with
a disability within a reasonable period of time. The term includes
medical, surgical, dental, and psychiatric treatment, nursing
services, hospital care, convalescent home care, drugs, medical and
surgical supplies, and prosthetic appliances. The term excludes
treatment to cure acute or transitory conditions.

(7) "Prosthetic appliance" means an artificial device
necessary to support or replace a part of the body or to increase
the acuity of a sensory organ.

(8) "Rehabilitation training" means all necessary
training provided to an individual with a disability to compensate
for a substantial impediment to employment. The term includes
manual, preconditioning, prevocational, vocational, and
supplementary training and training to achieve broader and more
lucrative skills and capacities.

(9) "Substantial impediment to employment" means a physical or mental condition that obstructs or impairs, or if not corrected will probably obstruct or impair, an individual's performance in an occupation.

(10) "Vocational rehabilitation" or "vocational rehabilitation services" means services that are provided directly by the commission or through a public or private agency and that the commission determines are necessary to compensate an individual with a disability for a substantial impediment to employment so that the individual may engage in a remunerative occupation. The terms include:

(A) medical and vocational diagnosis;
(B) vocational guidance, counseling, and placement;
(C) rehabilitation training;
(D) physical restoration;
(E) transportation;
(F) occupational licenses;
(G) customary occupational tools and equipment;
(H) maintenance;
(I) training books and materials; and
(J) other goods and services for which the commission receives financial support under federal law.

Sec. 352.002. PURPOSE. It is the policy of this state to provide vocational rehabilitation services to eligible individuals with disabilities so that those individuals may prepare for and
engage in a gainful occupation.

Sec. 352.003. REHABILITATION COUNCIL OF TEXAS. (a) The
Rehabilitation Council of Texas operates in accordance with the
federal Rehabilitation Act Amendments of 1992, Pub. L. No. 102-569,
105-220.

(b) The Rehabilitation Council of Texas shall report to and
advise the commission on the council's activities and the results
of the council's work. For the purpose of performing its advisory
functions, the council shall work with the commission, the
executive director, and other commission staff.

(c) The commission shall adopt rules for the administration
of the council.

Sec. 352.004. RECEIPT AND DISBURSEMENT OF STATE AND FEDERAL
FUNDS. (a) The comptroller is custodian of federal funds received
by the state to implement federal law relating to vocational
rehabilitation.

(b) The commission shall certify for disbursement funds
available for the vocational rehabilitation program in accordance
with regulations.

(c) The comptroller shall disburse state and federal
vocational rehabilitation funds on certification by the
commission.

Sec. 352.005. GIFTS, DONATIONS, AND OTHER MONEY. (a) The
commission shall deposit all money paid to the commission under
this chapter in the state treasury. The money may be used only for
the administration of this chapter.
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(b) The commission may receive and use gifts and donations for carrying out the purposes of this chapter. A person may not receive payment for solicitation of any funds.

Sec. 352.006. MISUSE OF INFORMATION. Except for purposes directly connected with the administration of the vocational rehabilitation program and according to commission rules, no person may solicit, disclose, receive, use, or knowingly permit the use of records or other information concerning an applicant for or recipient of vocational rehabilitation services that is directly or indirectly acquired by an officer or employee of the state or its political subdivisions in the course of the person's official duties.

Sec. 352.007. CRIMINAL HISTORY RECORD INFORMATION. (a) The commission may obtain criminal history record information from the Texas Department of Criminal Justice and the Texas Department of Public Safety if the criminal history records relate to:

(1) an applicant selected for employment with the commission whose potential duties include direct contact with clients to provide vocational rehabilitation services or other services under this subtitle;

(2) an applicant for vocational rehabilitation services or other services under this subtitle from the commission; or

(3) a client receiving vocational rehabilitation services or other services under this subtitle.

(b) The Texas Department of Criminal Justice and the Texas
Department of Public Safety on request shall supply to the commission criminal history record information relating to applicants selected for employment with the commission whose potential duties include direct contact with clients to provide vocational rehabilitation services, applicants for vocational rehabilitation services from the commission, or vocational rehabilitation clients of the commission. The commission shall treat all criminal history record information as privileged and confidential and for commission use only.

(c) The commission by rule shall establish criteria for denying a person's application for employment with the commission to provide vocational rehabilitation services based on criminal history record information obtained as authorized by this section.

Sec. 352.008. HEARINGS. An applicant for or recipient of vocational rehabilitation services who is aggrieved by an action or inaction under this chapter is entitled to a hearing by the commission in accordance with law.

SUBCHAPTER B. GENERAL POWERS AND DUTIES

Sec. 352.051. VOCATIONAL REHABILITATION PROGRAM FOR INDIVIDUALS WITH DISABILITIES. (a) The commission shall conduct a program to provide vocational rehabilitation services to eligible individuals with disabilities.

(b) To achieve the purposes of the program, the commission may:

(1) cooperate with other public and private agencies in studying the problems involved in providing vocational rehabilitation and in establishing, developing, and providing
(2) enter into reciprocal agreements with other states to provide vocational rehabilitation for the residents of the states concerned; and

(3) conduct research and compile statistics relating to the vocational rehabilitation of individuals with disabilities.

Sec. 352.052. COOPERATION WITH FEDERAL GOVERNMENT; OBTAINING FEDERAL FUNDS. (a) The commission shall cooperate with the federal government to accomplish the purposes of federal laws relating to vocational rehabilitation for individuals with disabilities and closely related activities.

(b) The commission shall negotiate agreements or plans with the federal government and shall use efficient methods of administration and comply with other conditions required to secure the full benefits of the federal laws. If the commission determines that a provision of state law precludes conformity with a federal requirement and limits federal financial support, the commission may waive or modify the state law to the extent necessary to obtain the full benefits of the federal law.

(c) The commission may comply with any requirements necessary to obtain federal funds to be used for vocational rehabilitation services in the maximum amount and most advantageous proportion possible.

Sec. 352.053. CONTRACTS FOR SERVICE. (a) The commission shall include in its contracts with service providers under this chapter provisions relating to:

(1) clearly defined and measurable program
performance standards that directly relate to the service provided;
(2) clearly defined penalties for nonperformance of a contract term; and
(3) clearly specified accounting, reporting, and auditing requirements applicable to money received under the contract.

(b) The commission shall monitor a service provider's performance under a contract for service under this chapter. In monitoring performance, the commission shall:

(1) use a risk-assessment methodology to institute statewide monitoring of contract compliance of service providers; and

(2) evaluate service providers based on clearly defined and measurable program performance objectives.

Sec. 352.054. RATES FOR MEDICAL SERVICES. (a) The commission by rule shall adopt standards governing the determination of rates paid for medical services provided under this chapter. The rules must provide for an annual reevaluation of the rates.

(b) The commission shall establish a schedule of rates based on the standards adopted under Subsection (a). In adopting the rate schedule, the commission shall:

(1) compare the proposed rate schedule to other cost-based and resource-based rates for medical services, including rates paid under Medicaid and the Medicare program; and

(2) for any rate adopted that exceeds the Medicaid or Medicare rate for the same or a similar service, document the
reasons why the adopted rate reflects consideration of the best value, provider availability, and consumer choice.

(c) The commission shall provide notice to interested persons and allow those persons to present comments before adopting the standards and schedule of rates under Subsections (a) and (b).

Sec. 352.055. CONTRACT PAYMENT. The commission shall base payment under a contract for vocational rehabilitation services on outcome-based performance standards defined in the contract.

Sec. 352.056. CONTRACTS FOR ADAPTIVE TECHNOLOGY. The commission shall include in a contract under this chapter with a supplier of adaptive technology equipment provisions that require the supplier to provide training for clients receiving the adaptive technology equipment.

Sec. 352.057. LOANS FOR VISUAL AIDS. (a) The commission may establish a program to make loans to finance the purchase of technological aids for individuals with visual impairments. Interest on the loans may not exceed 10 percent per year.

(b) The commission may adopt rules to administer the loan program.

Sec. 352.058. SUBROGATION. (a) By providing a person rehabilitation services, including medical care services, under this subchapter, the commission is subrogated to the person's right of recovery from:

(1) personal insurance;

(2) another person for personal injury caused by the other person's negligence or wrongdoing; or

(3) any other source.
(b) The commission's right of subrogation is limited to the cost of the services provided.

(c) The commission may totally or partially waive the commission's right of subrogation when the commission finds that enforcement would tend to defeat the purpose of rehabilitation.

(d) The commission may adopt rules for the enforcement of the commission's right of subrogation.

Sec. 352.059. WORK INCENTIVES AND SUPPLEMENTAL SECURITY INCOME (SSI). The commission shall employ a person at the commission's central office to:

(1) train counselors to understand and use work incentives; and

(2) review cases to ensure that commission clients are informed of the availability of and assisted in obtaining work incentives and Supplemental Security Income (SSI) (42 U.S.C. Section 1381 et seq.).

SUBCHAPTER C. PROVISION OF AND ELIGIBILITY FOR VOCATIONAL REHABILITATION SERVICES

Sec. 352.101. INTEGRATION OF VOCATIONAL REHABILITATION PROGRAMS. (a) Not later than October 1, 2017, and subject to federal approval, the commission shall integrate into a single vocational rehabilitation program the following programs that are operated under the federal Rehabilitation Act of 1973 (29 U.S.C. Sections 720 through 751):

(1) the vocational rehabilitation program for individuals with visual impairments; and

(2) the vocational rehabilitation program for
individuals with other disabilities.

(b) Not later than October 1, 2017, to facilitate the integration of the vocational rehabilitation programs identified in Subsection (a), the commission shall at a minimum:

(1) reorganize the commission's vocational rehabilitation services in order to provide services based on an individual's functional need instead of an individual's type of disability;

(2) develop a plan to support specialization of vocational rehabilitation counselors in serving different client populations, including sufficient specialization in individuals with visual impairments to maintain expertise in serving that population;

(3) redesign performance measures for the provision of vocational rehabilitation services;

(4) consolidate policies for the provision of vocational rehabilitation services; and

(5) recommend the adoption of any rules necessary to implement this section.

(c) This section expires September 1, 2019.
are consistent with state and federal laws and that include:

1. a system of organization for the delivery of vocational rehabilitation services statewide;
2. eligibility requirements for vocational rehabilitation services;
3. requirements for the rehabilitation planning process;
4. the types of services that may be provided to a client through a vocational rehabilitation program; and
5. requirements for client participation in the costs of vocational rehabilitation services, including documentation that a client has sought benefits for which the client is eligible from sources other than the commission and that may assist the client in obtaining vocational rehabilitation goods or services.

(b) The commission shall annually assess the effectiveness of the state's vocational rehabilitation program.

Sec. 352.104. TRAINING AND SUPERVISION OF COUNSELORS.
(a) The commission shall provide specific guidance to vocational rehabilitation counselors in:

1. selecting vocational objectives according to a client's skills, experience, and knowledge;
2. documenting a client's impediment to employment;
3. selecting rehabilitation services that are reasonable and necessary to achieve a client's vocational objective;
4. measuring client progress toward the vocational objective, including the documented, periodic evaluation of the
(5) determining eligibility of employed and unemployed applicants for rehabilitation services using criteria defined by commission rule to document whether a client is substantially underemployed or at risk of losing employment.

(b) The commission by rule shall require monitoring and oversight of vocational rehabilitation counselor performance and decision making in accordance with this section.

Sec. 352.105. SPECIALIZED TRAINING FOR CERTAIN EMPLOYEES.

(a) The commission shall establish and require employee participation in a specialized training program for certain employees, including vocational rehabilitation transition specialists and transition counselors, whose duties involve assisting youth with disabilities to transition to post-schooling activities, services for adults, or community living.

(b) The training program must provide employees with information regarding:

(1) supports and services available from health and human services agencies, as defined by Section 531.001, Government Code, for:

(A) youth with disabilities who are transitioning into post-schooling activities, services for adults, or community living; and

(B) adults with disabilities;

(2) community resources available to improve the quality of life for:

(A) youth with disabilities who are

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transitioning into post-schooling activities, services for adults, or community living; and

(B) adults with disabilities; and

(3) other available resources that may remove transitional barriers for youth with disabilities who are transitioning into post-schooling activities, services for adults, or community living.

(c) In developing the training program required by this section, the commission shall collaborate with health and human services agencies, as defined by Section 531.001, Government Code, as necessary.

Sec. 352.106. PAYMENT OF SHIFT DIFFERENTIALS. The commission by rule may develop and implement policies allowing shift differentials to be paid to employees in the vocational rehabilitation program under this chapter.

Sec. 352.107. CLIENT ORIENTATION MATERIALS. The commission shall develop and distribute at intake client orientation materials for the vocational rehabilitation program that include information on the commission's decision-making criteria.

Sec. 352.108. COORDINATION WITH TEXAS EDUCATION AGENCY. (a) For purposes of this section, "transition services" means services provided to students with disabilities to assist the students in making the transition from secondary school to postsecondary education programs or competitive integrated employment.

(b) The commission and the Texas Education Agency shall collaborate to develop a mechanism to identify the areas of the
state with the greatest needs for transition services for students
with disabilities. The mechanism must account for the commission’s
limited resources and a school district’s needs, including:

(1) the school district’s resources for special
education;

(2) the number of students with disabilities in the
school district; and

(3) other factors that the commission and the Texas
Education Agency consider important.

(c) The commission and the Texas Education Agency shall
update the mechanism developed under Subsection (b) on a periodic
basis.

(d) The commission shall develop uniform, statewide
policies for transition services that include:

(1) the goal that a transition counselor initiate
contact with a student approximately three years before the student
is expected to graduate from high school;

(2) the minimum level of services to be provided to a
student at the time that a transition counselor initiates contact
with the student;

(3) standards, based on the mechanism developed under
Subsection (b), for assigning a transition counselor to a school
that ensure consistency among regions but that are not too
restrictive;

(4) expectations for transition counselors to develop
relationships with school personnel, including the employee
designated to serve as the school district’s designee on transition
and employment services under Section 29.011(b), Education Code; and

(5) expectations for regional commission staff to work with education service center representatives on a regular basis to identify areas of greatest need and to discuss local strategies for coordination between transition counselors and schools.

(e) The commission and the Texas Education Agency shall enter into a memorandum of understanding to comply with the policies under this section and to improve coordination between the agencies. The memorandum of understanding must include:

(1) strategies to better inform transition clients, clients' families, and school personnel regarding the commission's available services and contact information for commission transition counselors; and

(2) a process to be used by the commission and the Texas Education Agency to develop and update the mechanism used to identify students who may need services.

(f) On or after September 1, 2016, but not later than September 1, 2017:

(1) the commission and the Texas Education Agency shall develop the mechanism required in Subsection (b) and enter into the memorandum of understanding required in Subsection (e); and

(2) the commission shall develop the policies described in Subsection (d).

(g) Subsection (f) and this subsection expire September 1, 2018.
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SECTION 26. (a) Chapter 351, Labor Code, as added by this Act, is amended by adding Sections 351.0021 and 351.0022 to read as follows:

Sec. 351.0021. LEGISLATIVE OVERSIGHT COMMITTEE. (a) In this section, "committee" means the Legislative Oversight Committee established under this section.

(b) The Legislative Oversight Committee is created to facilitate the transfer of vocational rehabilitation services and other services and programs under this subtitle with, to the greatest degree possible, no negative effect on the delivery of services to clients.

(c) The committee is composed of 11 voting members, as follows:

(1) four members of the senate, appointed by the lieutenant governor;

(2) four members of the house of representatives, appointed by the speaker of the house of representatives; and

(3) three members of the public, appointed by the governor.

(d) The executive commissioner, the commissioner of assistive and rehabilitative services, and the executive director serve as ex officio, nonvoting members of the committee.

(e) A member of the committee serves at the pleasure of the appointing official.

(f) The lieutenant governor and the speaker of the house of representatives shall each designate a presiding co-chair from among their respective appointments.
(g) A member of the committee may not receive compensation for serving on the committee but is entitled to reimbursement for travel expenses incurred by the member while conducting the business of the committee as provided by the General Appropriations Act.

(h) The committee shall:

(1) facilitate the transfer of vocational rehabilitation services and other services and programs under this subtitle with, to the greatest degree possible, no negative effect on the delivery of services to clients;

(2) advise the executive director, the executive commissioner, and the commissioner of assistive and rehabilitative services concerning:

(A) the services and programs to be transferred under this subtitle and the funds and obligations that are related to the services and programs; and

(B) the transfer of the services and programs and related records, property, funds, and obligations from the department to the commission as provided by this subtitle; and

(3) meet at the call of either chair.

(i) Chapter 551, Government Code, applies to the committee.

(j) The committee shall submit a report to the governor, lieutenant governor, speaker of the house of representatives, and legislature not later than December 1 of each even-numbered year. The report must include an update on the progress of and issues related to the transfer of vocational rehabilitation services and other services and programs under this subtitle from the department.
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to the commission, including the need for any additional statutory
changes required to complete the transfer of services and programs
to the commission in accordance with this subtitle.

  (k) The committee is abolished August 31, 2019.

  (l) This section expires September 1, 2019.

Sec. 351.0022. TRANSITION PLAN. (a) The transfer of
vocational rehabilitation services and other services and programs
under this subtitle must be accomplished in accordance with a
transition plan developed by the executive director, the
commissioner of assistive and rehabilitative services, and the
executive commissioner that ensures that the transfer and provision
of services and programs are accomplished in a careful and
deliberative manner. Specifically, the transition plan must
include:

  (1) the specific steps and methods for the transfer or
disposition of all obligations, rights, contracts, leases,
records, property, and funds, including unexpended and unobligated
appropriations, relating to the services and programs transferred
from the department to the commission under this subtitle,
including the plans for leased office or building space and the
transition of data and information technology systems supporting
the services and programs;

  (2) the identification of all full-time equivalent
employee positions that are associated with the department's
administration of the services and programs to be transferred to
the commission, including the full-time equivalent employee
positions that are associated with the Health and Human Services
Commission's administrative support of those transferring services and programs;

(3) measures to ensure that unnecessary disruption to the provision of transferred services and programs does not occur;

(4) a strategy for integrating the department's vocational rehabilitation staff into the commission's local workforce development boards and centers as required by Section 351.004;

(5) a strategy for integrating vocational rehabilitation programs for individuals with visual impairments and for individuals with other disabilities as required by Section 352.101;

(6) a schedule for implementing the transfer of the services and programs; and

(7) a strategy for exchanging data with other state agencies that refer clients for vocational rehabilitation services.

(b) In developing the transition plan, the executive director, the commissioner of assistive and rehabilitative services, and the executive commissioner shall, before submitting the plan to the Legislative Oversight Committee and the governor as required by Subsection (d):

(1) hold public hearings in various geographic areas in this state regarding the plan; and

(2) solicit and consider input from appropriate stakeholders.

(c) To the extent allowed by federal law, public hearings
under Subsection (b) may be combined with other public hearings required under federal law in relation to the adoption of a state plan for vocational rehabilitation services.

(d) As soon as practicable after September 1, 2015, but not later than March 1, 2016, the executive director, the commissioner of assistive and rehabilitative services, and the executive commissioner shall submit the transition plan to the Legislative Oversight Committee and the governor. The Legislative Oversight Committee shall comment on and make recommendations regarding any concerns or adjustments to the transition plan the committee determines appropriate. The executive director, the commissioner of assistive and rehabilitative services, and the executive commissioner may not finalize the transition plan until the comments and recommendations of the committee regarding the transition plan have been reviewed and considered.

(e) The department, commission, and Health and Human Services Commission shall post on the agencies' respective Internet websites:

(1) the transition plan developed under this section;

(2) any adjustments to the transition plan recommended by the Legislative Oversight Committee;

(3) a statement regarding whether the recommended adjustments were adopted or otherwise incorporated; and

(4) if a recommended adjustment was not adopted, the justification for not adopting the adjustment.

(f) This section expires September 1, 2019.

(b) Not later than October 1, 2015:
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(1) the lieutenant governor, the speaker of the house of representatives, and the governor shall make the appointments to the Legislative Oversight Committee as required by Section 351.0021, Labor Code, as added by this section; and

(2) the lieutenant governor and the speaker of the house of representatives shall each designate a presiding co-chair of the Legislative Oversight Committee in accordance with Section 351.0021, Labor Code, as added by this section.

(c) This section takes effect only if S.B. No. 200, 84th Legislature, Regular Session, 2015, or similar legislation of the 84th Legislature, Regular Session, 2015:

(1) does not become law; or

(2) is enacted and becomes law, but does not provide for the establishment of a Health and Human Services Transition Legislative Oversight Committee to facilitate the consolidation of the health and human services system in this state.

SECTION 27. (a) Section 531.0203, Government Code, as added by S.B. No. 200, 84th Legislature, Regular Session, 2015, is amended by adding Subsection (d-1) to read as follows:

(d-1) The commissioner of assistive and rehabilitative services and the executive director of the Texas Workforce Commission serve as ex officio, nonvoting members of the committee in addition to the executive commissioner. This subsection expires August 31, 2019.

(b) Chapter 351, Labor Code, as added by this Act, is amended by adding Sections 351.0021 and 351.0022 to read as follows:
Sec. 351.0021. ADDITIONAL DUTIES OF HEALTH AND HUMAN SERVICES TRANSITION LEGISLATIVE OVERSIGHT COMMITTEE. (a) In this section, "committee" means the Health and Human Services Transition Legislative Oversight Committee established under Section 531.0203, Government Code.

(b) In addition to the requirements of Section 531.0203(h), Government Code, the committee shall:

(1) facilitate the transfer of vocational rehabilitation services and other services and programs under this subtitle with, to the greatest degree possible, no negative effect on the delivery of services to clients; and

(2) advise the executive director, the commissioner of assistive and rehabilitative services, and the executive commissioner concerning:

(A) the services and programs to be transferred under this subtitle and the funds and obligations that are related to the services and programs; and

(B) the transfer of the services and programs and related records, property, funds, and obligations from the department to the commission as provided by this subtitle.

(c) In addition to the requirements for the report specified by Section 531.0203(j), Government Code, the committee shall include in the report under that subsection an update on the progress of and issues related to the transfer of vocational rehabilitation services and other services and programs under this subtitle from the department to the commission, including the need for any additional statutory changes required to complete the
transfer of services and programs to the commission in accordance
with this subtitle.

(d) This section expires September 1, 2019.

Sec. 351.0022. TRANSITION PLAN. (a) In addition to the
requirements under Section 531.0204, Government Code, the
executive commissioner shall work with the executive director and
the commissioner of assistive and rehabilitative services to ensure
the transition plan under that section includes a plan for the
transfer of vocational rehabilitation services and other services
and programs from the department to the commission that ensures the
transfer is accomplished in a careful and deliberative manner.
Specifically, the transition plan must include:

(1) the specific steps and methods for the transfer or
disposition of all obligations, rights, contracts, leases,
records, property, and funds, including unexpended and unobligated
appropriations, relating to the services and programs transferred
from the department to the commission under this subtitle,
including the plans for leased office or building space and the
transition of data and information technology systems supporting
the services and programs;

(2) the identification of all full-time equivalent
employee positions that are associated with the department's
administration of the services and programs to be transferred to
the commission, including the full-time equivalent employee
positions that are associated with the Health and Human Services
Commission's administrative support of those transferring services
and programs;
(3) measures to ensure that unnecessary disruption to
the provision of transferred services and programs does not occur;
(4) a strategy for integrating the department's
vocational rehabilitation staff into the commission's local
workforce development boards and centers as required by Section
351.004;
(5) a strategy for integrating vocational
rehabilitation programs for individuals with visual impairments
and for individuals with other disabilities as required by Section
352.101;
(6) a schedule for implementing the transfer of the
services and programs; and
(7) a strategy for exchanging data with other state
agencies that refer clients for vocational rehabilitation
services.

(b) To the extent allowed by federal law, public hearings
held under Section 531.0204(c), Government Code, if appropriate,
may be combined with other public hearings required under federal
law in relation to the adoption of a state plan for vocational
rehabilitation services.

(c) The plan for the transfer of vocational rehabilitation
services and other services and programs required by this section
must be included as part of the transition plan submitted to the
Health and Human Services Transition Legislative Oversight
Committee, the governor, and the Legislative Budget Board under
Section 531.0204(e), Government Code, by the date prescribed by
that subsection. In addition, the plan must be separately
submitted to that committee and the governor as soon as practicable after September 1, 2015. The committee shall comment on the plan in conjunction with making comments on the transition plan as required by Section 531.0204(e), Government Code.

(d) If in making comments and recommendations on the transition plan under Section 531.0204(e), Government Code, the Health and Human Services Transition Legislative Oversight Committee has comments, concerns, or recommendations regarding the elements of the plan required by this section, the committee shall provide those comments, concerns, and recommendations to the executive director and the commissioner of assistive and rehabilitative services in addition to the executive commissioner. The executive director, the commissioner of assistive and rehabilitative services, and the executive commissioner may not finalize the plan required by this section until the comments, concerns, and recommendations of the committee specifically regarding that plan have been reviewed and considered.

(e) This section expires September 1, 2019.

(c) Not later than October 1, 2015, the lieutenant governor, the speaker of the house of representatives, and the governor shall make the additional appointments to the Health and Human Services Transition Legislative Oversight Committee required by Section 531.0203(d-1), Government Code, as added by this section.

(d) This section takes effect only if S.B. No. 200, 84th Legislature, Regular Session, 2015:

(1) is enacted and becomes law; and

(2) provides for the establishment of a Health and
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Human Services Transition Legislative Oversight Committee to facilitate the consolidation of the health and human services system in this state.

SECTION 28. Chapter 94, Human Resources Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is transferred to Subtitle C, Title 4, Labor Code, as added by this Act, redesignated as Chapter 355, Labor Code, and amended to read as follows:

CHAPTER 355 [94]. VENDING FACILITIES OPERATED BY BLIND PERSONS

Sec. 355.001 [94.001]. DEFINITIONS. In this chapter:

(1) "Blind person" means a person having not more than 20/200 visual acuity in the better eye with correcting lenses or visual acuity greater than 20/200 but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

[(1-a) "Department" means the Department of Assistive and Rehabilitative Services.

[(1-b) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.]

(2) "Vending facility" means a facility in which food, drinks, drugs, novelties, souvenirs, tobacco products, notions, or related items are sold regularly. The term excludes facilities consisting solely of vending machines that do not compete directly or indirectly with a facility that is or could be operated by a person with a disability.

(3) "State property" means land and buildings owned, leased, or otherwise controlled by the state.
(4) "Agency" means the state agency in charge of state property.

(5) "Disability" means a physical or mental condition that the commission [department] determines to constitute a substantial vocational disadvantage.

Sec. 355.002 [94.002]. LICENSE OR PERMIT REQUIRED. (a) No person may operate a vending facility or a facility with vending machines or other coin-operated devices on state property unless the person is licensed to do so by the commission [department] or is authorized to do so by an agency granted a permit to arrange for vending facilities.

(b) Subsection (a) does not apply to a building in which the Texas Facilities Commission leases space to a private tenant under Subchapter E, Chapter 2165, Government Code.

Sec. 355.003 [94.003]. LICENSING PROCEDURE. (a) On its own initiative or at the request of an agency that controls state property, the commission [department] shall survey the property, or blueprints and other available information concerning the property, to determine whether the installation of a vending facility is feasible and consonant with the commission's [department's] vocational rehabilitation objectives.

(b) If the installation of the facility is feasible, the commission [department] shall either license a blind person to operate a facility to be installed by the commission [department] or install a facility to be operated by a person with a disability who is not blind according to rules and procedures adopted by the commission [executive commissioner].
Sec. 355.004 [94.004]. LOCATION OF VENDING FACILITIES.
(a) With the concurrence of the agency in charge of state property, the commission [department] shall designate the location of vending facilities that have been requested by the agency.
(b) The agency responsible for state property shall alter the property to make it suitable for the proper operation of the vending facilities. To this end, the agency in charge of constructing new state property shall consult with the commission [department] during the planning stage on the construction.

Sec. 355.005 [94.005]. ISSUANCE OF LICENSES; ELIGIBILITY.
(a) The commission [department] may issue a license to operate its vending facilities on state property to blind citizens of the state who are capable of operating the facilities in a manner that is reasonably satisfactory to all parties concerned.
(b) Before issuing a license to a person, the commission [department] shall determine whether the person has the physical, psychological, and personal traits and abilities required to operate a vending facility in a satisfactory manner.
(c) The commission [department] shall maintain a roster of the names of each person who has been certified as suitable for licensing. If two or more equally qualified persons are listed on the roster and apply for a license to operate an available vending facility, the commission [department] shall issue the license to the person who is most in need of employment.
(d) The granting of a license does not vest the licensee with property or other rights which may constitute the basis of a cause of action, at law or in equity, against the state or its
Sec. 355.006 [94.006]. EXPIRATION, RENEWAL, AND REVOCATION OF LICENSES. (a) A license or general permit to operate a vending facility on state property is valid for a period of three years from the date it is issued.

(b) The commission [department] shall review each license or permit prior to its expiration and shall issue a new or different license or permit as the circumstances warrant.

(c) The commission [department] and the agency may consent mutually to revoke a general permit prior to its expiration if changed circumstances warrant that action.

(d) A blind person's wilful failure to comply with the commission's [department's] rules or the provisions of this chapter constitutes grounds for the automatic revocation of the person's license.

(e) The commission [executive commissioner] shall adopt substantive and procedural rules governing the revocation of licenses.

Sec. 355.007 [94.007]. OPERATION OF VENDING FACILITIES BY CERTAIN PERSONS WHO ARE NOT BLIND. If the commission [department] determines that a blind person could not properly operate a vending facility at a particular location, the commission [department] may survey the property to determine whether a person with a disability that is not of a visual nature could operate the facility in a proper manner.

Sec. 355.008 [94.008]. CLOSING CERTAIN FACILITIES PROHIBITED. Neither a vending facility operated by an individual

45
with a disability, nor a vending facility location surveyed by the commission [department], may be closed as a result of the transfer of state property from one agency to another, the alteration of a state building, or the reorganization of a state agency unless the commission [department] agrees to the closing.

Sec. 355.009 [94.009]. EMPLOYMENT OF ASSISTANTS. (a) If an individual licensed to operate a vending facility on state property requires an assistant, a qualified person with a disability of a visual nature must be given preference for employment. If the commission [department] determines that a person with a disability of a visual nature could not perform the labor for which an assistant is required, or if a person with a disability of a visual nature is not available, a person with a disability that is not of a visual nature must be given preference for employment. [If no person with a disability is available for the job, preference must be given to a person who is socially, culturally, economically, or educationally disadvantaged.]

(b) An assistant employed by a blind person licensed by the commission [department] must be approved by the commission [department], and the deliberate refusal of a blind licensee to comply with this section constitutes grounds for the revocation of the person's [his or her] license.

Sec. 355.010 [94.010]. COMPETING VENDING MACHINES. (a) If the commission [department] and an agency agree to the installation and operation of an additional vending facility or vending machine on property that already has a commission-sponsored [department-sponsored] vending facility, no additional permit or
license is required. However, the installation of a competing vending facility consisting of vending machines or other coin-operated devices must be authorized by the commission [department]. The commission's [department's] authorization must be made with a view toward providing the greatest economic benefits for blind persons consonant with supplying the additional services required at the building.

(b) State agencies shall cooperate and negotiate in good faith to accomplish the purposes of this chapter.

(c) Individuals with disabilities who operate vending facilities on state property are entitled to receive all commissions from vending machines installed on the same property. If two or more vending facilities are operated by individuals with disabilities in a building in which vending machines are installed, the commission [department] shall divide the commissions from the vending machines among the operators with disabilities in a manner that will achieve equity and equality in the incomes of those operators. If the commission [department] has decided not to locate a vending facility in a building, the agency to whom a general permit has been issued shall determine the assignment of the commissions from vending machines installed in the building.

Sec. 355.011 [94.011]. VENDING FACILITY EQUIPMENT AND STOCK. (a) The commission [department] may supply a blind vending facility operator with equipment and initial stock necessary for the operator to begin business.

(b) The commission [department] shall collect and set aside from the proceeds of the operation of its vending facilities enough
money:

(1) to insure a sufficient amount of initial stock for the facilities and for their proper maintenance;

(2) to pay the costs of supervision and other expenses incidental to the operation of the facilities; and

(3) to pay other program costs to the extent necessary to assure fair and equal treatment of the blind persons licensed to operate the facilities and to the extent allowed under federal programs that provide financial support to the commission.

(c) Except for purchasing and installing original equipment, the operation of commission-sponsored vending facilities must be as self-supporting and self-sustaining as possible. To achieve this end, the commission shall periodically review and, when necessary, revise its schedules for collecting and setting aside money from the proceeds of its vending facilities.

Sec. 355.012. DUTIES AND PRIVILEGES OF PARTIES.

(a) The commission may promulgate rules and initiate procedures necessary to implement this chapter.

(b) A blind person licensed to operate a vending facility on state property shall operate the facility in accordance with law and the commission's rules and policies.

(c) The agency in charge of state property shall cooperate with the commission and its blind licensees to accomplish the purposes of this chapter. The agency shall also
furnish all necessary utility service, including connections and
outlets required for the installation of the facility, janitorial
and garbage disposal services where feasible, and other related
assistance.

Sec. 355.013 [94.013]. TRAINING PROGRAMS. The commission
department may establish training or experimentation locations
necessary to train blind persons who desire to be licensed to
operate vending facilities and to develop techniques which will
allow blind persons to operate the facilities or related types of
small businesses more efficiently and productively.

Sec. 355.014 [94.014]. CONFORMITY WITH FEDERAL STATUTES.
(a) This chapter shall be construed in a manner consistent with
the requirements of federal programs that provide financial
assistance to the commission [department].

(b) If a provision of this chapter conflicts with a federal
program requirement, the commission [department] may waive or
modify the provision to the extent necessary to secure the full
benefits of the federal program.

Sec. 355.015 [94.015]. APPLICATION OF CHAPTER. (a) This
chapter does not apply to:

(1) property over which the federal government
maintains partial or complete control;

(2) property maintained and operated by
state-supported institutions of higher education; provided,
however, that the commission [department] may enter into agreements
with state institutions of higher education concerning the use of
blind labor in vending facilities at the institutions; or
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(3) property purchased by the state or an agency of the state, property to which title is transferred from one state agency to another, or property control of which is transferred from one state agency to another, if:

(A) at the time of purchase or transfer of title or control, a vending facility is being operated on the property under lease, license, or contract; and

(B) prior to the time of purchase or transfer of title or control, the provisions of this chapter were rendered inapplicable to such property by this section or other law.

(b) This chapter does not apply to vending facilities operated by an institution for persons with mental illness or intellectual disabilities that is under the control of the Department of State Health Services, the Department of Aging and Disability Services, or a successor to one of those departments, if the vending facilities are operated without profit for the benefit of the patients at the institution.

(c) This chapter does not prohibit the commission [department] from selecting blind persons to operate other suitable types of vending facilities or business enterprises, and the chapter does not prohibit the installation of automated vending facilities serviced by blind persons.

Sec. 355.016 [94.016]. BUSINESS ENTERPRISES PROGRAM.

(a) The commission [department] is authorized to administer the Business Enterprises Program in accordance with the provisions of the Randolph-Sheppard Act (20 U.S.C. Section 107 et seq.).

(b) The commission [department] is authorized to administer
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1 a retirement program for individuals licensed to operate vending
2 facilities in accordance with applicable state and federal laws.
3
4 (c) A trust fund for a retirement program for individuals
5 licensed to operate vending facilities under the Business
6 Enterprises Program is established with the comptroller. This
7 trust fund will be set up in the state treasury.
8
9 (d) All federal vending machine income shall be credited to
10 this Business Enterprises Program trust fund. Vending machine
11 income, as defined by 34 C.F.R. Section 395.1(z), means receipts
12 (other than those of a blind vendor) from vending machine
13 operations on federal property, after deducting the cost of goods
14 sold (including reasonable service and maintenance costs) in
15 accordance with customary business practices of commercial vending
16 concerns, where the machines are operated, serviced, or maintained
17 by, or with the approval of, a department, agency, or
18 instrumentality of the United States, or commissions paid (other
19 than to a blind vendor) by a commercial vending concern which
20 operates, services, and maintains vending machines on federal
21 property for, or with the approval of, a department, agency, or
22 instrumentality of the United States.
23
24 (e) All expenditures authorized by the Randolph-Sheppard
25 Act from federal vending revenue funds shall be paid from the
26 Business Enterprises Program trust fund.
27
28 (f) The commission [department] may contract with a
29 professional management service to administer the Business
30 Enterprises Program trust fund. In administering the trust fund,
31 the professional management service may acquire, exchange, sell, or
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1 retain any kind of investment that a prudent investor, exercising
2 reasonable care, skill, and caution, would acquire, exchange, sell,
3 or retain under the circumstances, taking into consideration the
4 investment of all the assets of the trust fund.
5  
6 (g) With the approval of the comptroller, the commission
7 department] may select a commercial bank, depository trust
8 company, or other entity to serve as a custodian of the Business
9 Enterprises Program trust fund's securities, and money realized
10 from those securities, pending completion of an investment
11 transaction. Money realized from those securities must be:
12  
13 (1) reinvested not later than one business day after
14 the date it is received; or
15  
16 (2) deposited in the treasury not later than the fifth
17 business day after the date it is received.
18  
19 SECTION 29. Section 301.0015, Property Code, is amended to
20 read as follows:
21  
22 Sec. 301.0015. TEXAS WORKFORCE COMMISSION [CIVIL RIGHTS
23 DIVISION]. The powers and duties exercised by the Commission on
24 Human Rights under this chapter are transferred to the Texas
25 Workforce Commission [civil rights division]. A reference in this
26 chapter to the "commission" means the Texas Workforce Commission
27 [civil rights division].
28  
29 SECTION 30. The following provisions, including provisions
30 amended by, or redesignated and amended by, S.B. No. 219, Acts of
31 the 84th Legislature, Regular Session, 2015, are repealed:
32  
33 (1) Subchapter F, Chapter 419, Government Code;
34  
35 (2) Section 91.016(e), Human Resources Code;
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(3) Section 111.016, Human Resources Code;

(4) Section 111.061, Human Resources Code;

(5) Section 117.058, Human Resources Code;

(6) Subchapters E and F, Chapter 117, Human Resources Code; and

(7) Sections 301.151(3) and 301.152, Labor Code.

SECTION 31. (a) Except as provided by Subsection (b) of this section, not later than September 1, 2016, the Texas Workforce Commission shall adopt all rules, policies, and procedures required by the changes in law made by this Act.

(b) Not later than September 1, 2017, the Texas Workforce Commission shall adopt all rules, policies, and procedures required by Subtitle C, Title 4, Labor Code, as added by this Act.

(c) Section 301.157, Labor Code, as added by this Act, applies beginning with the annual report submitted to the governor and the legislature by the Texas Workforce Commission that covers the state fiscal year ending August 31, 2015.

SECTION 32. On the effective date of this Act, the human rights commission that governed the Texas Workforce Commission civil rights division under Section 301.153, Labor Code, before the effective date of this Act is abolished. The validity of an action taken by the human rights commission before that date is not affected by the abolition. The changes in law made by this Act do not affect a case or proceeding pending under Chapter 21, Labor Code, or Chapter 301, Property Code, on the effective date of this Act.

SECTION 33. (a) On September 1, 2016, subject to receipt
of federal approval, if required, for the Texas Workforce Commission to administer vocational rehabilitation services and other services and programs under Subtitle C, Title 4, Labor Code, as added by this Act:

(1) those services and programs and related powers, duties, functions, and activities, including rulemaking authority, are transferred to the Texas Workforce Commission;

(2) all obligations and contracts of the Department of Assistive and Rehabilitative Services that are related to a transferred service or program are transferred to the Texas Workforce Commission;

(3) all property and records in the custody of the Department of Assistive and Rehabilitative Services, including information technology systems, that are related to a transferred service or program and all funds appropriated by the legislature and other money for the service or program shall be transferred to the Texas Workforce Commission; and

(4) all complaints, investigations, or contested cases that are pending before the Department of Assistive and Rehabilitative Services that are related to a transferred service or program are transferred without change in status to the Texas Workforce Commission.

(b) After a transfer of services and programs occurs under Subsection (a) of this section, a rule or form adopted by the executive commissioner of the Health and Human Services Commission or by the Department of Assistive and Rehabilitative Services, as applicable, that relates to a transferred service or program is a
rule or form of the Texas Workforce Commission and remains in effect until altered by the Texas Workforce Commission.

(c) After a transfer of services and programs occurs under Subsection (a) of this section, a reference in law to the executive commissioner of the Health and Human Services Commission or the Department of Assistive and Rehabilitative Services that relates to a transferred service or program means the Texas Workforce Commission.

(d) After a transfer of services and programs occurs under Subsection (a) of this section, a license, permit, or certification in effect that was issued by the Department of Assistive and Rehabilitative Services and that relates to a transferred service or program is continued in effect as a license, permit, or certification of the Texas Workforce Commission.

SECTION 34. (a) As soon as practicable after the effective date of this Act, the Texas Workforce Commission and the Health and Human Services Commission, in consultation with the Texas Facilities Commission, shall develop a plan for leased office or building space where staff that will be affected by the transfer of the administration of services and programs to the Texas Workforce Commission under this Act are located. The plan developed under this section must:

(1) identify all leased office or building space where staff that will be affected by the transfers are located or co-located;

(2) identify the term and costs of each existing lease;
(3) identify the feasibility of canceling a lease or consolidating office or building space based on the factors set out in state law, including the General Appropriations Act;

(4) identify the location of each leased office or building space and its proximity to relevant client populations;

and

(5) include a recommendation for either the cancellation or continued use of each leased office or building space based on the best values for the state.

(b) The plan for leased office or building space required by Subsection (a) of this section must be included in the transition plan as specified by Section 351.0022, Labor Code, as added by this Act.

SECTION 35. (a) As soon as practicable after the effective date of this Act, but not later than October 1, 2015, the Health and Human Services Commission, the Department of Assistive and Rehabilitative Services, and the Texas Workforce Commission shall complete the development of a plan for transitioning data and information technology systems that support the administration of services and programs under Subtitle C, Title 4, Labor Code, as added by this Act, from the Department of Assistive and Rehabilitative Services and the Health and Human Services Commission to the Texas Workforce Commission. The Legislature finds that planning for the timely and successful transition of data and information technology systems is essential to the administration of these services and programs.

(b) The plan developed under this section must:
(1) identify the purpose or need for each of the data and information technology systems;
(2) identify how the data and information technology systems will be used;
(3) identify the date the data and information technology system will be shared with the Texas Workforce Commission;
(4) identify the persons or classes of persons at each agency who require access to information to implement the plan;
(5) require the appropriate privacy and security controls for access;
(6) limit the disclosure of personal information to the minimum amount necessary to accomplish the purpose of the plan; and
(7) to the extent federal approval is required to implement any part of the plan, require the agencies to obtain the required federal approvals before implementing that part of the plan.

(c) Notwithstanding any other law, not later than October 1, 2015, the agencies shall share information as needed to implement the plan developed under this section, subject to the plan's requirements and execution of all agreements necessary to ensure the privacy, security, and confidentiality of the information.

(d) The agencies shall coordinate activities under the plan as needed to reflect any changes in circumstances or direction.

(e) The plan for transitioning data and information technology systems that support the administration of services and
programs under Subtitle C, Title 4, Labor Code, as added by this Act, required by Subsection (a) of this section must be included in the transition plan as specified by Section 351.0022, Labor Code, as added by this Act.

SECTION 36. The Department of Assistive and Rehabilitative Services and the Texas Workforce Commission shall actively seek any required federal approval to transfer the administration of services and programs under Subtitle C, Title 4, Labor Code, as added by this Act, from the department to the commission on September 1, 2016.

SECTION 37. Except as otherwise provided by this Act, this Act takes effect September 1, 2015.
S.B. No. 208

I hereby certify that S.B. No. 208 passed the Senate on May 11, 2015, by the following vote: Yeas 25, Nays 6; and that the Senate concurred in House amendments on May 29, 2015, by the following vote: Yeas 28, Nays 3.

I hereby certify that S.B. No. 208 passed the House, with amendments, on May 26, 2015, by the following vote: Yeas 145, Nays 0, two present not voting.

Approved: 6-16-2015

FILED IN THE OFFICE OF THE SECRETARY OF STATE 6:30 O'CLOCK

Secretary of State
AN ACT
relating to the prescription, administration, and possession of certain opioid antagonists for the treatment of suspected opioid overdoses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 483, Health and Safety Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. OPIOID ANTAGONISTS

Sec. 483.101. DEFINITIONS. In this subchapter:

(1) "Emergency services personnel" includes firefighters, emergency medical services personnel as defined by Section 773.003, emergency room personnel, and other individuals who, in the course and scope of employment or as a volunteer, provide services for the benefit of the general public during emergency situations.

(2) "Opioid antagonist" means any drug that binds to opioid receptors and blocks or otherwise inhibits the effects of opioids acting on those receptors.

(3) "Opioid-related drug overdose" means a condition, evidenced by symptoms such as extreme physical illness, decreased level of consciousness, constriction of the pupils, respiratory depression, or coma, that a layperson would reasonably believe to be the result of the consumption or use of an opioid.

(4) "Prescriber" means a person authorized by law to
S.B. No. 1462

prescribe an opioid antagonist.

Sec. 483.102. PRESCRIPTION OF OPIOID ANTAGONIST; STANDING ORDER. (a) A prescriber may, directly or by standing order, prescribe an opioid antagonist to:

(1) a person at risk of experiencing an opioid-related drug overdose; or

(2) a family member, friend, or other person in a position to assist a person described by Subdivision (1).

(b) A prescription issued under this section is considered as issued for a legitimate medical purpose in the usual course of professional practice.

(c) A prescriber who, acting in good faith with reasonable care, prescribes or does not prescribe an opioid antagonist is not subject to any criminal or civil liability or any professional disciplinary action for:

(1) prescribing or failing to prescribe the opioid antagonist; or

(2) if the prescriber chooses to prescribe an opioid antagonist, any outcome resulting from the eventual administration of the opioid antagonist.

Sec. 483.103. DISPENSING OF OPIOID ANTAGONIST. (a) A pharmacist may dispense an opioid antagonist under a valid prescription to:

(1) a person at risk of experiencing an opioid-related drug overdose; or

(2) a family member, friend, or other person in a position to assist a person described by Subdivision (1).
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(b) A prescription filled under this section is considered as filled for a legitimate medical purpose in the usual course of professional practice.

(c) A pharmacist who, acting in good faith and with reasonable care, dispenses or does not dispense an opioid antagonist under a valid prescription is not subject to any criminal or civil liability or any professional disciplinary action for:

(1) dispensing or failing to dispense the opioid antagonist; or

(2) if the pharmacist chooses to dispense an opioid antagonist, any outcome resulting from the eventual administration of the opioid antagonist.

Sec. 483.104. DISTRIBUTION OF OPIOID ANTAGONIST; STANDING ORDER. A person or organization acting under a standing order issued by a prescriber may store an opioid antagonist and may distribute an opioid antagonist, provided the person or organization does not request or receive compensation for storage or distribution.

Sec. 483.105. POSSESSION OF OPIOID ANTAGONIST. Any person may possess an opioid antagonist, regardless of whether the person holds a prescription for the opioid antagonist.

Sec. 483.106. ADMINISTRATION OF OPIOID ANTAGONIST. (a) A person who, acting in good faith and with reasonable care, administers or does not administer an opioid antagonist to another person whom the person believes is suffering an opioid-related drug overdose is not subject to criminal prosecution, sanction under any
professional licensing statute, or civil liability, for an act or omission resulting from the administration of or failure to administer the opioid antagonist.

(b) Emergency services personnel are authorized to administer an opioid antagonist to a person who appears to be suffering an opioid-related drug overdose, as clinically indicated.

Sec. 483.107. CONFLICT OF LAW. To the extent of a conflict between this subchapter and another law, this subchapter controls.

SECTION 2. The change in law made by this Act relating to conduct that is grounds for imposition of a disciplinary sanction applies only to conduct that occurs on or after September 1, 2015. Conduct that occurs before September 1, 2015, is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose.

SECTION 3. The change in law made by this Act relating to conduct that is the basis for civil liability applies only to conduct that occurs on or after September 1, 2015. Conduct that occurs before September 1, 2015, is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose.

SECTION 4. The change in law made by this Act relating to conduct that constitutes a criminal offense applies only to an offense committed on or after September 1, 2015. For purposes of this section, an offense is committed before September 1, 2015, if any element of the offense occurs before that date. An offense committed before September 1, 2015, is governed by the law in effect
S.B. No. 1462

1 on the date the offense was committed, and the former law is
2 continued in effect for that purpose.
3

SECTION 5. This Act takes effect September 1, 2015.

I hereby certify that S.B. No. 1462 passed the Senate on
April 22, 2015, by the following vote: Yeas 30, Nays 0; and that
the Senate concurred in House amendment on May 29, 2015, by the
following vote: Yeas 31, Nays 0.

I hereby certify that S.B. No. 1462 passed the House, with
amendment, on May 26, 2015, by the following vote: Yeas 146,
Nays 0, two present not voting.

Approved:

6 - 16 - 2015

Governor
AN ACT

relating to the regulation of emergency medical services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 773, Health and Safety
Code, is amended by adding Section 773.0496 to read as follows:

Sec. 773.0496. SCOPE OF EMERGENCY MEDICAL
TECHNICIAN-PARAMEDIC AND LICENSED PARAMEDIC DUTIES. (a) In this
section:

(1) "Advanced life support" means health care provided
to sustain life in an emergency, life-threatening situation. The
term includes the initiation of intravenous therapy, endotracheal
or esophageal intubation, electrical cardiac defibrillation or
cardioversion, and drug therapy procedures.

(2) "Direct supervision" means supervision of an
emergency medical technician-paramedic or licensed paramedic by a
licensed physician who is present in the same area or an area
adjacent to the area where an emergency medical
technician-paramedic or licensed paramedic performs a procedure
and who is immediately available to provide assistance and
direction during the performance of the procedure.

(b) Notwithstanding other law, a person who is certified
under this chapter as an emergency medical technician-paramedic or
a licensed paramedic, is acting under the delegation and direct
supervision of a licensed physician, and is authorized to provide
advanced life support by a health care facility may in accordance
with department rules provide advanced life support in the
facility's emergency or urgent care clinical setting, including a
hospital emergency room and a freestanding emergency medical care
facility.

SECTION 2. Section 773.050, Health and Safety Code, is
amended by adding Subsection (i) to read as follows:

(i) The department may develop and administer at least twice
each calendar year a jurisprudence examination to determine the
knowledge that an applicant for an emergency medical services
provider license or emergency medical services personnel
certification has of this chapter, department rules, and any other
applicable laws affecting the applicant's activities regulated
under this chapter. Department rules must specify who must take the
examination on behalf of an entity applying for an emergency
medical services provider license.

SECTION 3. Section 773.0571, Health and Safety Code, as
amended by Chapters 1089 (H.B. 3556) and 1311 (S.B. 8), Acts of the
83rd Legislature, Regular Session, 2013, is reenacted and amended
to read as follows:

Sec. 773.0571. REQUIREMENTS FOR PROVIDER LICENSE. The
department shall issue to an emergency medical services provider
applicant a license that is valid for two years if the department is
satisfied that:

(1) the applicant has adequate staff to meet the
staffing standards prescribed by this chapter and the rules adopted
under this chapter;

S.B. No. 1899

(2) each emergency medical services vehicle is adequately constructed, equipped, maintained, and operated to render basic or advanced life support services safely and efficiently;

(3) the applicant offers safe and efficient services for emergency prehospital care and transportation of patients;

(4) the applicant:

(A) possesses sufficient professional experience and qualifications to provide emergency medical services; and

(B) 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 employs a medical director; [and]

(7) the applicant operates out of a physical location in compliance with Section 773.05715;

(8) the applicant owns or has a long-term lease agreement for all equipment necessary for safe operation of an emergency medical services provider, as provided by Section 773.05716; and

(9) [464] the applicant complies with the rules adopted under this chapter.

SECTION 4. Section 773.05713, Health and Safety Code, is amended to read as follows:
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, reported in the manner required by Section 773.0605(d); and

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

SECTION 5. Subchapter C, Chapter 773, Health and Safety Code, is amended by adding Sections 773.05715 and 773.05716 to read as follows:
S.B. No. 1899

Sec. 773.05715. PHYSICAL LOCATION REQUIRED. (a) An emergency medical services provider must have a permanent physical location as the provider's primary place of business. An applicant for an emergency medical services provider license must demonstrate proof of the location of the primary place of business in the manner required by the department.

(b) The physical location may be owned or leased by the emergency medical services provider.

(c) The emergency medical services provider must remain in the same physical location for the period of licensure, unless the department approves a change in location.

(d) The emergency medical services provider must maintain all patient care records in the physical location that is the provider's primary place of business, unless the department approves an alternate location.

(e) Only one emergency medical services provider may operate out of a single physical location.

Sec. 773.05716. NECESSARY EQUIPMENT. (a) An emergency medical services provider must own or hold a long-term lease for all equipment necessary for the safe operation of an emergency medical services provider, including emergency medical services vehicles, heart rate monitors, defibrillators, stretchers, and any other equipment the department determines is required.

(b) An applicant for an emergency medical services provider license must demonstrate proof of compliance with this section in the manner required by the department.
Code, is amended by adding Section 773.0605 to read as follows:

Sec. 773.0605. COMPLAINTS AND INVESTIGATIONS. (a) The department shall track and keep records of:

(1) each complaint received by the department regarding emergency medical services providers and emergency medical services personnel;

(2) each investigation initiated by the department under this chapter; and

(3) each disciplinary action initiated by the department under this chapter.

(b) The department shall develop a formal process to refer complaints outside the department's jurisdiction to the appropriate agency for disposition.

(c) The department shall track the types of complaints received outside the department's jurisdiction. The department shall separately track complaints outside the department's jurisdiction relating to potential billing fraud and make information relating to those complaints available to the appropriate state agency.

(d) The department shall annually report statistical information regarding each complaint received, and each investigation or disciplinary action initiated, under this chapter. The report must include:

(1) the reason and basis for each complaint;

(2) the origin of each investigation, including whether the investigation:

(A) resulted from a complaint brought by a
consumer; (B) resulted from a complaint brought by another source; or
(C) was initiated by the department in the absence of a complaint;
(3) the average time to resolve each complaint from the date the complaint is received;
(4) the disposition of each investigation, including:
(A) the number of investigations commenced in which no disciplinary action was taken, and the reasons no disciplinary action was taken;
(B) the number of investigations resulting in disciplinary action, and the disciplinary actions taken; and
(C) the number of complaints referred to another agency for disposition; and
(5) the number, type, and age of each open investigation at the end of each fiscal year.
(e) The department shall make the report required by Subsection (d) available to the public through publication on the department's website and on request.
(f) The department may not include in the report required by Subsection (d) any information, including personal information, that could be used to identify an individual involved in or the location of a complaint that has been dismissed or has not reached a final determination.

SECTION 7. Section 773.0611, Health and Safety Code, is amended by adding Subsection (d) to read as follows:
(d) The department may use an inspection performed by an entity to which the department has delegated inspection authority as a basis for a disciplinary action under Section 773.061.

SECTION 8. As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall adopt any rules necessary to implement Section 773.0496, Health and Safety Code, as added by this Act.

SECTION 9. (a) The changes in law made by Sections 773.05715 and 773.05716, Health and Safety Code, as added by this Act, apply only to a person that applies for a license or renews a license as an emergency medical services provider on or after September 1, 2015.

(b) The Department of State Health Services shall develop the formal process required by Section 773.0605(b), Health and Safety Code, as added by this Act, as soon as practicable after the effective date of this Act.

(c) The Department of State Health Services may use an inspection performed by an entity to which the department has delegated inspection authority as a basis for a disciplinary action, as provided by Section 773.0611(d), Health and Safety Code, as added by this Act, regardless of whether the inspection was performed before, on, or after the effective date of this Act.

SECTION 10. 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, 2015.
S.B. No. 1899

President of the Senate

I hereby certify that S.B. No. 1899 passed the Senate on May 12, 2015, by the following vote: Yeas 30, Nays 0; and that the Senate concurred in House amendment on May 28, 2015, by the following vote: Yeas 31, Nays 0.

Speaker of the House

I hereby certify that S.B. No. 1899 passed the House, with amendment, on May 24, 2015, by the following vote: Yeas 142, Nays 0, two present not voting.

Secretary of the Senate

Chief Clerk of the House

Approved:

6-13-2015

Date

Governor

FILED IN THE OFFICE OF THE SECRETARY OF STATE
6:30 p.m. O'CLOCK
JULY 2015

Secretary of State
AN ACT

relating to the issuance of specialty license plates for persons
who are deaf or hard of hearing and to deaf or hard of hearing driver
training for peace officers; authorizing a fee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 504, Transportation Code,
is amended by adding Section 504.204 to read as follows:

Sec. 504.204. PERSONS WHO ARE DEAF OR HARD OF HEARING.
(a) In this section, "deaf" and "hard of hearing" have the
meanings assigned by Section 81.001, Human Resources Code.
(b) The department shall design and issue specialty license
plates for a motor vehicle that is regularly operated by a person
who is deaf or hard of hearing. A license plate issued under this
section must include an emblem indicating that the person operating
the vehicle is deaf or hard of hearing.
(c) The initial application for specialty license plates
under this section must be accompanied by a written statement from a
physician who is licensed to practice medicine in this state or in a
state adjacent to this state or who is authorized by applicable law
to practice medicine in a hospital or other health facility of the
Department of Veterans Affairs. The statement must certify that
the person making the application is deaf or hard of hearing.
(d) The fee for a set of license plates issued under this
section is $8.
S.B. No. 1987

SECTION 2. Section 1701.253, Occupations Code, is amended by adding Subsection (1) to read as follows:

(1) As part of the minimum curriculum requirements, the commission shall establish a statewide comprehensive education and training program on procedures for interacting with drivers who are deaf or hard of hearing, as defined by Section 81.001, Human Resources Code, including identifying specialty license plates issued to individuals who are deaf or hard of hearing under Section 504.204, Transportation Code. An officer shall complete a program established under this subsection not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

SECTION 3. Not later than March 1, 2016, the Texas Commission on Law Enforcement shall establish the deaf or hard of hearing driver training program as required by Section 1701.253(1), Occupations Code, as added by this Act.

SECTION 4. This Act takes effect January 1, 2016.
S.B. No. 1987

President of the Senate

I hereby certify that S.B. No. 1987 passed the Senate on May 5, 2015, by the following vote: Yeas 31, Nays 0.

Speaker of the House

Secretary of the Senate

I hereby certify that S.B. No. 1987 passed the House on May 22, 2015, by the following vote: Yeas 134, Nays 6, two present not voting.

Chief Clerk of the House

Approved:

6-8-2015

Governor

FILED IN THE OFFICE OF THE SECRETARY OF STATE
4:50 pm O'clock
JUN 16 2015
Secretary of State
Accommodating Pregnant Workers

by: Vanessa A. Gonzalez
Partner, Bickerstaff Heath Delgado Acosta

On March 25, 2015, the United States Supreme Court decided a case that will affect employers and pregnancy discrimination claims across the country by making it easier for an employee to reach the jury, thus increasing the potential cost of defense to employers.

Pregnancy Discrimination Act

In 1978, Congress enacted the Pregnancy Discrimination Act (PDA) which amended Title VII of the Civil Rights Act of 1964 (Title VII). Among other things, Title VII prohibits sex discrimination in the workplace. The PDA of 1978 specifies that Title VII’s prohibition against sex discrimination applies to discrimination because of or on the basis of pregnancy, childbirth, or related medical conditions. The second clause of the PDA says that employers must treat “women affected by pregnancy … the same for all employment-related purposes … as other persons not so affected but similar in their ability or inability to work.”1 Now, in Young v. United Parcel Service, Inc. the Supreme Court has established the burden of proof, to reach a jury, for employees who file pregnancy discrimination lawsuits under the PDA.2

Young v. United Parcel Service

Ms. Young filed suit under the PDA against her employer, UPS, after UPS denied her request for light duty. Ms. Young was a UPS driver. After becoming pregnant, her doctor placed her on lifting restrictions. Ms. Young could not meet the lifting requirements of the UPS driver position, so she requested to be put on light duty. UPS had a policy that it would provide light duty only to those injured on the job, those disabled under the American’s with Disabilities Act (ADA), and drivers who lost their DOT certifications. Because Ms. Young did not fall within any of the categories under the UPS light duty policy, UPS denied her light duty request and put her on unpaid leave.

The lower court summarily dismissed Ms. Young’s lawsuit finding that: (1) Ms. Young did not prove she was treated differently than similarly situated non-pregnant workers, and (2) she was not “disabled” under the ADA.3 The court also found UPS had a legitimate nondiscriminatory reason for failing to accommodate pregnant women and Ms. Young had not created a fact issue for the jury as to whether the reason was pretextual.4

The Fourth Circuit Court of Appeals affirmed the lower court’s decision and stated “UPS has crafted a pregnancy-blind policy” that is “at least facially a ‘neutral and legitimate business practice,’ and not evidence of UPS’s discriminatory animus toward pregnant workers.”5 Ms.

1 42 U.S.C. §2000e(k).
2 http://www.supremecourt.gov/opinions/14pdf/12‐1226_k5fl.pdf
4 Id.
5 Young v United Parcel Service, Inc., 707 F. 3d 437, 446 (3013).
Young appealed to the United States Supreme Court which changed the test trial courts can use to dismiss pregnancy discrimination lawsuits before they ever reach a jury.

Now, for a pregnant employee to establish a claim under the PDA, based on disparate treatment for failure to accommodate, the pregnant employee must demonstrate that (1) she belongs to the protected class, (2) she sought accommodation, (3) the employer did not accommodate her, and (4) the employer did accommodate others “similar in their ability or inability to work.” 6 The employer may then seek to justify its refusal to accommodate the employee by relying on legitimate, nondiscriminatory reasons for denying the requested accommodation.7

If the employer offers an apparently legitimate, nondiscriminatory reason for its actions, the plaintiff may in turn show that the employer’s proffered reasons are in fact pretextual.8 The Supreme Court goes further to state an employee may reach a jury on this issue by providing sufficient evidence that the employer’s policies impose a significant burden on pregnant workers and the employer’s reasons are not sufficiently strong to justify the burden, but rather, when considered along with the burden imposed – give rise to an inference of intentional discrimination.9

The Supreme Court sent the case back to the Fourth Circuit to implement the new test and suggested, by way of example, Ms. Young might be able to establish an inference of discrimination because so many other categories of non-pregnant employees were accommodated with light duty and pregnant employees were not.10 A jury could find UPS’s legitimate non-discriminatory reasons for not accommodating pregnant workers was not sufficiently strong and instead gives rise to an inference of discrimination.11

The Court specifically instructs that the employer’s “reason normally cannot consist simply of a claim that it is more expensive or less convenient to add pregnant women to the category of those (similar in their ability or inability to work) whom the employer accommodates.”12 The new test implemented by the Supreme Court will make it easier for employee’s who file pregnancy discrimination claims under the PDA to get their claims in front of a jury.

**EEOC Guidelines**

In reaching its conclusion, the Supreme Court stated it could not rely on the EEOC’s guidance on the issue. Specifically, in July of 2014, shortly after the Supreme Court agreed to hear the *Young v. UPS* case, the EEOC issued guidelines that state, “[a]n employer may not refuse to treat a pregnant worker the same as other employees who are similar in their ability or inability to work by relying on a policy that makes distinctions based on the source of an employee’s limitations (e.g., a policy of providing light duty only to workers injured on the job).”13

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7 *Id.* at 21.
8 *Id.*
9 *Id.*
10 *Id.*
11 *Id.*
12 *Id.*
further added that “an employer may not deny light duty to a pregnant employee based on a policy that limits light duty to employees with on-the-job injuries.”

While the Supreme Court stated it would not follow this guidance from the EEOC in making its decision in the *Young v. UPS* case, it stated it had “no view” with regard to the EEOC’s guidance related to the new 2008 Amendments to the ADA. The Court specifically noted that Ms. Young’s case arose before the enactment of the Americans with Disabilities Amendments Act of 2008 (ADAA), which significantly broadened the definition of “disability” under the ADA. As interpreted by the EEOC, the new statutory definition requires employers to accommodate employees whose temporary lifting restrictions originated off the job. The Supreme Court specifically stated that it expressed “no view on these statutory and regulatory changes.”

**Conclusion**

Therefore, for new pregnancy discrimination claims, employees may attempt to establish that medical conditions related to their pregnancy qualify them as disabled under the ADAA of 2008. Under the ADAA, the employer can assert the undue hardship defense to any requests for reasonable accommodations. However, for claims brought under the PDA, employers will have to satisfy the “legitimate nondiscriminatory reason” defense set out in the *Young v. UPS* case and not rely on the expenses or inconveniences of the accommodation.

In light of the Supreme Court ruling, all private and government employers should have their employment policies reviewed by an employment law attorney. The employer may need to update its policies relating to pregnant employees and the availability of light duty, or other accommodations.

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14 Id., at 626:0028