

Biennial Report on Emergency Medical Services Provider Licensing Requirements

**As Required by
Texas Health and Safety Code
Section 773.05713**



TEXAS
Health and Human
Services

Texas Department of
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Executive Summary

This report is provided by the Texas Department of State Health Services (DSHS) in accordance with the requirements of [Senate Bill 8](#) (S.B. 8) and [House Bill 3556](#) (H.B. 3556), 83rd Texas Legislature, Regular Session, 2013. This legislation amended the [Texas Health and Safety Code, Chapter 773](#) by adding Sections [773.05711](#), [773.05712](#), and [773.05713](#) relating to the addition of emergency medical services (EMS) provider license requirements. This report is due not later than December 1 of each even-numbered year.

S.B. 8 and H.B. 3556 addressed fraud in the EMS industry and growth in the number of private EMS providers in Texas. The bills placed more stringent requirements on applicants for initial provider licensure and for existing providers applying for renewal licensure. These bills also instituted a temporary moratorium on the issuance of new EMS provider licenses for the period of September 1, 2013 to August 31, 2014. During this period, only new EMS provider applicants who met specific exceptions were licensed by DSHS. From September 1, 2018 to August 31, 2020, DSHS acted on nine EMS provider licenses because of the legislative changes in S.B. 8 and H.B. 3556.

Overall, the efforts of the Texas Legislature through S.B. 8 and H.B. 3556, as well as administrative actions by the Center for Medicare and Medicaid Services (CMS), Texas Medical Board, the Texas Health and Human Services Commission, and DSHS have had a notable impact on EMS providers across the State. Regarding the oversupply of EMS providers, as of August 31, 2020, Harris County has 132 EMS providers (from the all-time high of 397 in August 2011), and the number statewide is 744 (from 1,237). Based on programmatic evidence, the decrease in the number of providers is not known to have negatively impacted the availability of adequate emergency medical services in Texas.

1. Introduction

During the 83rd Legislative Session, the Texas Legislature addressed concerns about Medicaid fraud and suspected fraud by emergency medical services (EMS) providers. A factor related to these concerns was the growth of private EMS providers, particularly in the Houston area. In response, the Legislature passed Senate Bill 8 (S.B. 8) and House Bill 3556 (H.B. 3356) (83rd Legislature, Regular Session, 2013).

These bills amend Sections [773.0571](#), [773.05711](#), [773.05712](#) and [773.05713](#) of the Health and Safety Code. S.B. 8 and H.B. 3556 tightened the requirements on applicants for initial provider licensure and for existing providers applying for renewal licensure. The legislation included provisions which: imposed a prohibition on applicants who have been excluded from participation in the Medicare and Medicaid programs; required a letter of credit for those applicants who have been in business less than ten (10) years; required that the applicant possess sufficient professional experience and qualifications to provide emergency medical services; and specified certain education and training requirements of the Administrator of Record (AOR).

These bills also placed a temporary moratorium on the issuance of new EMS provider licenses for the period of September 1, 2013 to August 31, 2014. During this period, only new EMS provider applicants who met specific exceptions were licensed by the Department of State Health Services (DSHS).

Health and Safety Code, Section 773.05713, requires that DSHS submit a biennial legislative report on the effect of Sections 773.05711 and 773.05712 that includes:

- The total number of applications for EMS provider licenses submitted to DSHS and the number of applications for which licenses were issued or licenses were denied by DSHS.
- The number of EMS provider licenses that were suspended or revoked by DSHS for violations of those Sections and a description of the types of violations that led to the license suspension or revocation.
- The number of occurrences and types of fraud committed by licensed EMS providers related to those Sections.

- The number of complaints made against licensed EMS providers for violations of those Sections and a description of the types of complaints.
- The status of any coordination efforts of DSHS and the Texas Medical Board related to those Sections.

2. Background

Fraud in the Medicare and Medicaid programs has a long history as it relates to emergency medical services (EMS). A number of administrative actions preceded the passage of Senate Bill 8 (S.B. 8) and House Bill 3556 (H.B. 3556), 83rd Texas Legislature, Regular Session, 2013.

In 2004, the Governor's EMS and Trauma Advisory Council (GETAC) created a Medical Transportation Task Force to review licensing problems related to non-emergency inter-facility transport services and unregulated general medical transportation. The Legislature took into consideration the findings of the Task Force as they developed S.B. 8 and H.B. 3556.

In 2005, Department of State Health Services (DSHS) staff participated in the North Texas Healthcare Fraud Work Group, initiated by the U.S. Federal Bureau of Investigation (FBI). Participants in the workgroup included representatives from the health care insurance industry; EMS licensed providers; trade organizations; advocacy groups; and other governmental agencies that had an interest in combating fraud, waste, and abuse committed by EMS providers. DSHS staff had already been involved in discussions to decrease or stop fraud in EMS with the FBI, the Office of the Inspector General (OIG) of the U.S. Department of Health and Human Services, and the Texas Office of the Attorney General's Medicaid Fraud Control Unit. At that time, the geographic areas of interest by these groups were Dallas/Fort Worth and Houston.

In December 2006, DSHS staff participated in a federal seizure of 17 Texas EMS provider locations that were suspected of committing Medicaid fraud. This resulted in multiple criminal convictions, fines, restitution, and company closures. In spite of these efforts, the number of EMS providers in Texas continued to increase significantly, and the number of licensed EMS providers hit a statewide all-time high of 1,237 in August 2011 and 397 in Harris County. In this report, Harris County is highlighted as an important locality related to suspected Medicaid fraud committed by EMS providers.

During June 2011, DSHS staff visited more than 90 EMS provider offices in a single Houston zip code to verify compliance with [25 Texas Administrative Code §157.11](#), Requirements for an EMS Provider License. As a result of these efforts, 24 vehicle inspections were conducted, and staff discovered that 62 EMS providers were not

located at the physical address of record. Based on inspection findings, these EMS providers were referred to enforcement for adverse disciplinary action.

In October 2011, *The Houston Chronicle* highlighted the issue of Medicaid fraud by publishing a series of articles regarding fraud and suspected fraud committed by EMS providers in the Houston area. One of the articles highlighted an \$8 million fraud scheme committed by one person using four different private EMS provider companies. DSHS staff responded by implementing a number of strategies in an attempt to combat fraud from a regulatory perspective. Actions initiated by DSHS included: (1) increasing unannounced provider inspections in targeted areas; (2) expediting enforcement actions for violators; (3) collaborating with the Texas Medical Board (TMB) to strengthen the EMS medical director requirements by placing a cap on the number of EMS firms for which a single physician could serve as a medical director; and (4) re-educating EMS medical directors regarding their roles and responsibilities.

In July 2013, the Centers for Medicare & Medicaid Services (CMS) issued a notice announcing the first temporary enrollment moratorium under the Affordable Care Act to fight fraud in Medicare, Medicaid, and the Children's Health Insurance Plan (CHIP) programs. The moratorium halted the enrollment of new ground ambulance suppliers in the Houston metropolitan area for six months and was renewed by CMS multiple times due to the oversupply of EMS providers. As a result of the 2013 moratorium, CMS denied all new or pending applications from ground ambulance providers with practice locations in Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller counties. As of July 29, 2016, CMS expanded this local area moratorium to be effective statewide in Texas, Pennsylvania, and New Jersey for all non-emergency EMS providers. Due to Hurricane Harvey, the moratorium was lifted in Texas in September 2017.

3. Data on EMS Provider Licensing and Violations

The first reporting requirement of the Department of State Health Services (DSHS) to be in compliance with Senate Bill 8 (S.B. 8) and House Bill 3556 (H.B. 3556), 83rd Texas Legislature, Regular Session, 2013 and is to provide the total number of applications for emergency medical services (EMS) provider licenses submitted to DSHS, and the number of applications for which licenses were issued or denied by DSHS. All data for each reporting requirement below represent actions taken from September 1, 2018 to August 31, 2020.

- A total of 46 initial EMS provider license applications were submitted to DSHS: 33 licenses were issued, 6 applicants withdrew their application because they could not meet license requirements, and 7 were still being processed as of August 31, 2020.
- A total of 739 renewal applications for EMS provider licenses were submitted to DSHS: 687 were issued licenses, 52 had not completed the renewal process as of August 31, 2020.

The second reporting requirement is the number of EMS provider licenses that were suspended or revoked by DSHS for violations of Sections 773.05711 and 773.05712 and a description of the types of violations that led to the license suspension or revocation.

- One EMS provider license was revoked for not paying administrative penalty. The original administrative penalty was for operating without a medical director.
- One EMS provider license was suspended and then probated for operating without a medical director and not completing an administrator education course.
- One EMS provider surrendered their license for operating without a medical director.
- A total of three EMS providers were emergency suspended for operating without a medical director. The EMS providers came into compliance, the emergency suspension was lifted, and no further action was taken.
- A total of three EMS providers paid administrative fines for operating without a medical director.

The third reporting requirement is the number of occurrences and types of fraud committed by licensed EMS providers related to Health and Safety Code, Sections 773.05711 and 773.05712.

- A total of eight EMS providers were in violation of licensing requirements by not employing a medical director. One EMS provider was in violation for not completing the required administrator education course and not employing a medical director. These EMS providers were not authorized to provide EMS without meeting these licensing requirements; however, DSHS has no evidence of direct Medicaid billing fraud beyond these failures.

The fourth reporting requirement is the number of complaints made against licensed EMS providers for violations of Sections 773.05711 and 773.05712 and a description of the types of complaints.

- DSHS received no complaints concerning the letter of credit or Medicaid billing fraud. DSHS had eight EMS providers in violation of licensing requirements by not employing a medical director. One EMS provider was in violation for not completing the required administrator education course and not employing a medical director.

The fifth reporting requirement for DSHS is the status of any coordination efforts by DSHS and the Texas Medical Board (TMB) related to Sections 773.05711 and 773.05712.

- DSHS received no complaints or evidence of potential violations by medical directors; therefore, no medical directors were referred to TMB for possible violations, and no new coordination activities were initiated. DSHS and TMB continue to coordinate as needed.

4. Conclusion

Overall, the efforts of the Texas Legislature through Senate Bill 8 (S.B. 8) and House Bill 3556 (H.B. 3556), 83rd Texas Legislature, Regular Session, 2013, as well as administrative actions by the Center for Medicare and Medicaid Services (CMS), Texas Medical Board, the Texas Health and Human Services Commission, and DSHS have had a notable impact on EMS providers across the State. Regarding the oversupply of EMS providers, as of August 31, 2020, Harris County has 132 EMS providers (from the all-time high of 397 in August 2011) and the number statewide is at 744 (from 1,237). Based on programmatic evidence, the decrease in the number of providers is not known to have negatively impacted the availability of adequate emergency medical services in Texas.

From September 1, 2018 to August 31, 2020, DSHS acted on 9 EMS provider licenses because of the legislative changes in S.B. 8 and H.B. 3556. DSHS, in cooperation with many federal and state partners, will continue to monitor the EMS system in Texas and take action, as appropriate, to reduce fraud and prevent an oversupply within the industry.

List of Acronyms

Acronym	Full Name
AOR	Administrator of Record
CMS	Centers for Medicare & Medicaid Services
CHIP	Children's Health Insurance Program
DSHS	Texas Department of State Health Services
EMS	Emergency Medical Services
FBI	U.S. Federal Bureau of Investigation
GETAC	Governor's EMS and Trauma Advisory Council
HHSC	Texas Health and Human Services Commission
OIG	U.S. Health and Human Services Office of Inspector General
TMB	Texas Medical Board