TEXAS DEPARTMENT OF LICENSING AND REGULATION

Ex Officio Report
to
Governor's Committee on People with Disabilities

January 14, 2022

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Executive Summary

The Texas Department of Licensing and Regulation continues to grow with the addition of new programs and expansion of some existing programs following Texas' 87th Legislative Session. Construction does not seem to take a break in Texas and requires a growing reliance on the Architectural Barriers Program for sound and consistent direction interpreting the Texas Accessibility Standards. In addition, the Driver Safety and Transportation Network Companies expand TDLR's reach to include transportation issues relevant to persons with disabilities. Health Professions programs bring a heightened TDLR emphasis on serving Texans with disabilities. COVID-19 response has brought a new dimension of oversight and caution to TDLR programs and staff. We continue to regulate all TDLR programs with persons of disabilities in mind.

Long-range strategic plans for people with disabilities

TDLR's Strategic Plan for 2021-2025, "Leading Texas to a Brighter Stronger Future" may be viewed at:

https://www.tdlr.texas.gov/StratPlan/2021/TDLR%20Strategic%20Plan%20FY%202021-25.pdf

Information related to the recently completed Sunset Review is included in the Strategic Plan.

87th Texas Legislative Session (Regular)

TDLR monitored bills that were filed that may impact any of TDLR's regulated programs. The most up to-date information is posted on TDLR's web site at:

https://www.tdlr.texas.gov/legislation.htm

Some of the tracked bills include the following:

- HB 1560 and SB 714 relating to the continuation and functions of TDLR until 2033 and provides a provision for all advisory boards to

meet virtually. This allows more flexibility for advisory board members and will continue to increase public participation.

- SB 40 relating to the use of telehealth in health professional programs administered by the Texas Department of Licensing and Regulation. This made permanent some waivers that were granted at the beginning of the COVID-19 pandemic so that patients could still receive services. This will ensure that they can continue receiving services via telehealth, a great benefit to both patients and practitioners.
- HB 3244 relating to provision of certain massage therapy instruction using distance learning. This will allow some aspects of massage therapy to be taught online to meet the demands of today's students while ensuring that all required hands-on training still takes place in a traditional setting.
- HB 2788 relating to civil actions or arbitrations involving transportation network companies. This bill did not pass.

COVID-19 Responses

TDLR has constructed a comprehensive COVID-19 Response with resource information on its web site at.

https://www.tdlr.texas.gov/covid19.htm

Some of the components include the following:

- Health-related information
- Work-from-home provisions for employees along with directions on coding work and leave entries in the CAPPS payroll system
- Lost income or revenue resources
- For specific programs: Distance Education, Remote Practical Instruction, Inspection Requirements, Private Property Towing, Continuing Education Requirements, and more
- Work-from-home will continue with an undefined end date, with limited staff working in office for essential duties.
- Links to Governor Abbott's Executive Orders and information on how they may impact licensees

On April 9, 2020, Governor Abbott issued specific waivers for certain health professions related to licensing requirements and telehealth. Emergency

rules were adopted in August 2021, which made the emergency waivers for telehealth unnecessary, so Governor Abbott rescinded the remaining emergency waivers effective September 1, 2021.

Human Trafficking

TDLR continues its involvement to address the challenges in preventing human trafficking in Texas. The Texas Attorney General's Office offers training to Uber drivers to spot the warning signs of human trafficking. More information is available at https://www.texasattorneygeneral.gov/

Starting September 1, 2020, certain health care practitioners who provide direct patient care must complete an approved human trafficking prevention training course before each license renewal. The training course must be approved by the Texas Health and Human Service Commission. TDLR programs impacted include Athletic Trainers, Behavior Analysts, Dietitians, Dyslexia Therapy, Hearing Instrument Fitters and Dispensers, Massage Therapy, Midwives, Orthotists and Prosthetists, Podiatry, and Speech-Language Pathologists and Audiologist.

Personnel updates

Mike Arismendez, a current deputy executive director of the Texas Department of Licensing and Regulation (TDLR), has been named executive director effective Feb. 1, 2022. He replaces longtime TDLR executive director Brian E. Francis, whose retirement becomes effective Jan. 31, 2022. Mike was appointed director by the Texas Commission of Licensing and Regulation by a unanimous vote during a meeting on Dec. 27, 2021. Commissioners thanked Brian for his leadership of the agency and welcomed Mike to the helm.

Calendar

Meetings of the TDLR Commission and program advisory groups are subject to COVID-19 considerations. The most up-to-date information will be posted on TLDR's web site at:

https://www.tdlr.texas.gov/meetings.htm

Texas Accessibility Academy (TAA) and two other courses on rules and law that regulate the Texas Accessibility Standards (TAS) were presented in conjunction with Building Professional Institute (BPI) on 11/01-03/2021 in the Austin metroplex. The next block of courses through BPI will be taught on 03/07-09/2022. Specific details are available on the BPI web site.

Learn More: https://www.tdlr.texas.gov/ab/taa.htm

A new 2-hour course is being taught on 01/27/2022 at the annual Accessibility Professionals Association (APA) conference virtually. This course provides an update to many of the Registered Accessibility Specialists about the upcoming changes to TDLR and the Elimination of Architectural Barriers program. More details about APA can be found on their *website*.

Disability Program Updates

Architectural Barriers Program

Project registrations continue at almost 2,000 construction projects per month, new and renovations. The Texas Architectural Barriers online System (TABS) has over 278,000 registered projects on record with 120,938 of those open projects. Since rolling out the TABS online project management system on December 3, 2018, the number of online users has grown to over 13,719.

For the most-recently concluded fiscal quarter –September - November, 33 Variance Applications were processed. Results are different from previous quarters: 30% disapprovals, 64% postponements, 0% approvals, 6% Mixed or Not Required. These applications are examples where compliance with TAS could not be achieved due to existing constraints or postponed based on nature and use of the facility.

TechInfo inquiries keep staff busy with 70 -100 contacts each day. Topics include various aspects of the program: the standards, the law, the rules, TABS online registration, procedures for Registered Accessibility Specialists, etc. Most inquiries are received via techinfo@tdlr.texas.gov email. The remainder are telephone contacts.

Project registrations for plan review and inspection continue to avoid the compliance process. Last fiscal quarter over 3,000 notices were sent out in portions resulting in a higher than previous quarter number of plan reviews and inspections being performed and find that despite our efforts the number continues to rise. We have found some building officials still seem unaware of the state law requiring that certain projects be registered with TDLR and hope that our courses in conjunction with BPI may assist in educating those officials. There is evidence to indicate that some owners avoid the process altogether or start the process but do not complete the basic steps of registration, plan review and inspection. TDLR staff continue to refer violators found to our Enforcement Division for our investigators to review and process complaints.

The TABS system is continuing to be developed and improved. At the end of August 2021, we issued a large system update. This update included correcting system glitches as well as provided enhancements that removed redundancies within the system. TDLR staff will continue to work on updates correcting glitches and provide enhancements such as an audit feature to ensure RAS procedures.

TDLR has also begun development of an update to the TAS. Since issuance of the 2012 TAS there have been several additions to laws or rules that provide additional requirements beyond those within TAS. In an effort to consolidate the accessibility requirements into one area, as well as provide requirements to new technologies and needs, TDLR is proposing a 2022 TAS edition. This edition is intended to include requirements that mirror the proposed federal outdoor developed guidelines. It will integrate the new parking requirements from Rule 68.104 and the proposed public right of way guidelines allowed by Rule 68.102. Also added, will be requirements for electrical vehicle charging station and adult

changing tables. We will also be editing and clarifying some areas of the 2012 TAS that need further explanation. None of these edits will violate the federal ADA requirements. Our process will start with posting the proposed 2022 TAS changes and gathering input from the public as well as other stakeholders.

Behavior Analysts

Behavior analysts design, implement, and evaluate instructional and environmental modifications to produce socially significant improvements in human behavior. Behavior analysts provide services to individuals with intellectual disabilities and autism, among others.

The regulation of nearly 2,000 behavior analysts in Texas began on June 15, 2018. The primary stakeholder association is Texas Association for Behavior Analysis (www.txaba.org).

Driver Education Program, American Sign Language Driver Education Course

TDLR regulates and licenses
companies and instructors (about 3,750 licensees) for teen and adult driver education courses to obtain a Class C driver license in the state of Texas. Driver education is taken by thousands of students each year for whom these courses must be accessible.

Through a legislative initiative, TDLR has created a driver education course presented in American Sign Language for teens and adults. Education & Examination staff at TDLR report the project has been finished and is in action. TDLR does not keep statistics on usage of the materials. TDLR and GCPD separately disseminated information about the ASL course through list-serve.

Dyslexia Therapists and Practitioners

Dyslexia therapists and practitioners treat persons with dyslexia using multisensory structured language education. The Texas Education Code, Sec. 38.003, defines "dyslexia" as a disorder of constitutional origin manifested by a difficulty in learning to read, write, or spell, despite conventional instruction, adequate intelligence, and sociocultural opportunity. Over 950 licensed dyslexia therapists and practitioners work primarily in academic settings, although dyslexia therapists may also engage in private practice.
The primary stakeholder association is the Academic Language Therapy Association (https://www.altaread.org/).

Hearing Instrument Fitters & Dispensers

Hearing instrument fitters & dispensers, almost 900 licensees, use audiometers and other methods to measure the hearing of those individuals affected by hearing impairment. Through those tests, fitters & dispensers are authorized to select, adapt, and sell a hearing instrument to help improve or correct impaired human hearing.

The Hearing Instrument Fitters and Dispensers (HFD) Advisory Board met on August 6 to propose emergency telehealth rules. These rules were adopted by the Commission on August 10 and went into effect on September 1, 2021. These rules were adopted to replace the emergency waivers granted by Governor Abbott. The HFD Advisory Board proposed telehealth rules published in the Texas Register for public comment, which ended on October 10, 2021. The proposed rules were adopted by the Commission during its meeting on December 7, 2021 and went into effect on December 30, 2021. The adopted rules incorporate the emergency rules on a permanent basis.

The primary stakeholder association is the Texas Hearing Aid Association (http://www.texashearingaids.org/).

Orthotists & Prosthetists

Orthotists engage in the science and practice of measuring, designing, fabricating, assembling, fitting, adjusting, or servicing a medical device designed to provide for the support, alignment, prevention, or correction of a neuromuscular or musculoskeletal disease, injury, or deformity. Prosthetists engage in the science and practice of measuring, designing, fabricating, assembling, fitting, adjusting, or servicing a medical device used to replace a missing limb, appendage, or other external human body part.
Both professions provide services in TDLR-licensed orthotic and prosthetic facilities under orders from a licensed physician or podiatrist. There are approximately 900 licensees under the Orthotists and Prosthetists program at TDLR.

The primary stakeholder association is the Texas Association of Orthotists & Prosthetists (http://www.taop.org/).

Podiatry

Podiatry is defined as the treatment of or offer to treat any disease, disorder, physical injury, deformity, or ailment of the human foot by any system or method. The term includes podiatric medicine.

Among their duties, podiatrists sign the written statement that accompanies the application for Disabled Person Placards and License Plates. Texas Transportation Code Chapter 681 "Privileged Parking" provides that the required notarized written statement or written prescription that accompanies the initial application for a disabled person identification placard or license plate can be issued by a person licensed to practice podiatry in this state or a state adjacent to this state ... for a person with a mobility problem caused by a disorder of the foot that limits or impairs that person's ability to walk.

The regulation of over 1,150 podiatrists and over 400 podiatric medical radiological technicians was transferred to TDLR on September 1, 2017. The

primary stakeholder association is the Texas Podiatric Medical Association (https://www.txpma.org/).

Speech-Language Pathologists & Audiologists

Speech-language pathologists (SLPs) evaluate, prevent, and treat speech, language, and swallowing disorders in individuals by applying non-medical principles, methods, and procedures for measurement, testing, appraisal, prediction, consultation, counseling, habilitation, rehabilitation, or instruction.

Audiologists provide services to help treat or modify communicative disorders involving speech, language, or auditory or vestibular function or other aberrant behavior relating to hearing loss.

There are over 23,000 licensees in the speech-language pathologist and audiologist program at TDLR, which include SLPs, SLP interns, SLP assistants, Audiologists, Audiology interns, and Audiology Assistants.

The Speech-Language Pathologists and Audiologists (SPA) Advisory Board met on August 6 to propose emergency telehealth rules. These rules were adopted by the Commission on August 10 and went into effect on September 1, 2021. These rules were adopted to replace the emergency waivers granted by Governor Abbott. The SPA Advisory Board proposed telehealth rules which were published in the Texas Register for public comment. The proposed rules were adopted by the Commission during its meeting on December 7, 2021 and went into effect on December 30, 2021. The adopted rules incorporate the emergency rules on a permanent basis.

The primary stakeholder associations are the Texas Speech-Language Hearing Association (http://www.txsha.org/) and the Texas Academy of Audiology (https://texasaudiology.org/).

Transportation Network Company Report

Executive Summary

The Transportation Network Company (TNC) program at TDLR is responsible for the regulation and licensing of TNCs throughout the state. Legislation effective since May of 2017 requires each TNC to establish a pilot program in one of their four largest markets servicing persons requiring the use of fixed-frame wheelchair accessible vehicles. The Pilot program is to begin no later than the 90th day after the date the company is issued a permit.

The initial Report is due to TDLR after the 100th day of beginning their pilot program and TNCs may submit supplemental reports to the department every 90th day after that. This pilot program takes place over the course of 2 years and is reported to the state legislature at its conclusion.

The Department works closely with TNCs and people with disabilities to capture suggestions for enhancing and improving the program and its services. As such, Administrative Rules regulating TNCs were adopted on October 20, 2017, by TDLR and became effective on December 1, 2017. The first TDLR license for a TNC was issued on January 3, 2018. There are currently 18 TNCs licensed in Texas