TEXAS DEPARTMENT OF LICENSING AND REGULATION

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

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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' 86th 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

TDLR continues to monitor possible bills that were filed that may have an impact with any regulated programs. The most up to-date information will be posted on TDLR's web site at:

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

Some of the bills being watched include the following:

- HB 1560 and SB 714 relating to the continuation and functions of TDLR

- HB 887 relating to telemedicine medical services and telehealth services covered by certain health benefit plans or provided by a pharmacist
- HB 3244 relating to provision of certain message therapy instruction using distance learning
- HB 2788 relating to civil actions or arbitrations involving transportation network companies

COVID-19 Responses

TDLR has constructed a comprehensive COVID-19 Response with resource information on its web site. View all the components 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 and with a selected staff working in office for legislative session purposes.
- Most recently what the Governor's Executive Order means for licensees

Texas' Governor has issued specific waivers for certain licensing requirements for health profession programs.

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/

Certain health care practitioners who provide direct patient care must complete an approved human trafficking prevention training course in order to renew their license since September 1, 2020. The training course must be approved by the Texas Health and Human Service commission. TDLR programs impacted include Behavior Analysts, Dyslexia Therapy, Orthotics and Prosthetists and Podiatry.

Calendar

Meetings of the TDLR Commission and program Advisory groups are subject to considerations around COVID-19. 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 was to be presented in conjunction with Building Professional Institute (BPI) 02/16-17/2021. However, due to severe winter weather conditions the course was recorded and offered later for those who wished to attend. Specific details are available on the BPI web site, with the next course to be offered planned for 07/13-14/2021. Options are being considered to offer additional classes in 2021.

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

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 258,000 registered projects on record with 115,000 of those open projects. The number of inspections dipped significantly during the recent week of severe winter weather but is currently rising back to back to levels that have been

trending over the last year. The department projects a continuing 1% rise in these activities.

For the most-recently concluded fiscal quarter December - February, 23 Variance Applications were processed. Results are different from previous quarters: 4% disapprovals, 73% postponements, 8% approvals, 8% Mixed or Not Required.

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.

Since rolling out the TABS online project management system on December 3, 2018, the number of online users has grown to over 11,000.

Risks and Issues

Project registrations for plan review and inspection continue to avoid the compliance process. Some building officials still seem unaware of the state law requiring that certain projects be registered with TDLR. 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.

Because of the relative ease in managing projects through the TABS system, we anticipate being able to institute a RAS audit feature to ensure that not only are the RAS procedures being followed, but that Texas buildings and facilities will be more in compliance with the Texas Accessibility Standards.

It is no secret that the population of registered accessibility specialists (RAS) is aging. TDLR and the AB Program are taking every opportunity to disseminate information about the benefits of a RAS career. Our newest effort of a short video which will be promoted with education institutions with courses related to construction and design was posted on November 10, 2020 to YouTube and included in the “On the level” newsletter as well as letters sent to several higher

education institutes in the building trades. In recent years, it appears that around forty people become a RAS each year. It is not known how many new RASs are providing RAS services.

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; Texas Association for Behavior Analysis (www.txaba.org).

Driver Education Program, American Sign Language Driver Education Course

The Texas Department of Licensing and Regulation (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 structured, multisensory techniques. 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 defective human hearing.

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, over 900 licensees, 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.

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 1,600 podiatrists was transferred to TDLR on November 1, 2017. The primary stakeholder association is the Texas Podiatric Medical Association (https://www.txpma.org/).

Speech-Language Pathologists & Audiologists

Speech-language pathologists, close to 21,700 licensees in Texas, 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.

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 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 15 TNCs licensed in Texas

The following report covers the period of January 1, - March 1, 2021.

Reporting

TNC 2-year Pilot Program Report

A TNC's 2-year Pilot Program Report must contain the following data, at a minimum, to the legislature:

- Number of vehicles equipped to accommodate a passenger with a fixed-frame wheelchair that were available through the company's digital network in the market in which the pilot program was conducted at the time the program ended;
- Average time elapsed between the time a fixed-frame wheelchair passenger required a ride and the time the ride was began;

- The number of rides provided to fixed-frame wheelchair passengers; and
- The number of instances in which the company referred a fixed-frame wheelchair passenger to another provider because the passenger could not be accommodated by the company.

TNC Disability Compliance Report

The Compliance Report to TDLR includes the four data elements reported to the legislature as well as:

- The criteria for determining the four largest markets that the TNC operates in this state;
- Identifying the market(s) in which the TNC implemented their Accessibility Pilot Program;
- Explanation of the reason(s) for selecting the market(s);
- Detailed explanation of the services offered to persons with disabilities, including those using a fixed-frame wheelchair in the pilot program;
- A step-by-step explanation demonstrating the process for an individual to join and utilize the functions of the pilot program;
- A detailed plan that ensures referrals to alternate providers of fixed-frame wheelchair-accessible service are made in a manner that does not unreasonably delay the provision of service;
- The initial number of alternate providers;
- The average number of vehicles equipped to provide fixed-frame wheelchair accessible service; and
- The procedures to monitor and ensure alternate providers meet and maintain service levels that do not unreasonably delay fixed-frame wheelchair-accessible service.

As of December 2020, 11 TNCs have submitted Disability Compliance Reports.

Name of Company	License Date	Pilot Start	Report Received	Pilot Area
Rasier LLC (Uber)	1/3/2018	2/20/2018	5/21/2018	Austin
LYFT Inc	1/8/2018	1/1/2018	4/9/2018	Dallas
River North Transit LLC	1/9/2018	1/9/2018	4/17/2018	Arlington
Wingz, Inc	1/17/2018	4/1/2018	8/9/2018	Austin
Leep Rideshare Technology	4/3/2018	7/2/2018	10/12/2018	San Antonio
Sendaride, Inc.	8/30/2018	11/28/2018	5/17/2019	Dallas
Alto Operations Texas LLC.	10/5/2018	1/3/2019	5/30/2019	Dallas
ZUM Services Inc	11/13/2018	2/11/2019	7/3/2019	Dallas
Vibe Direct LLC	5/9/2019	8/7/2019[1]	7/24/2020	
Hopskipdrive, Inc	5/29/2019	8/27/2019[1]	12/11/2019	Houston
Aryv of Texas LLC	9/30/2019	12/29/2019[1,3]	10/5/2020	Medicade Rg 5

[1] - Date indicated is the rule deadline to begin a pilot program.

[2] - Date indicated is the rule deadline to submit a pilot program report.

[3] - Complaint Submitted

Technical Assistance

The TNC program received 29 calls and emails during this reporting period. Contacts to the Department are received through TNC@tdlr.texas.gov or via our Customer Service representatives.

TNC COVID-19 Response

Uber and Lyft are actively monitoring court closures that impact the ability to conduct background checks, to pull court records for TNC drivers' criminal background screenings conducted on an annual basis. They have developed a solution to ensure annual re-runs continue to the extent possible, checking all open courts and all courthouses that use electronic databases that remain available and will disqualify any driver whose check reveals disqualifying criminal history. They will also keep track of any closed courts that had to be skipped. Once those courts open, the report will re-run.