

# On The Record . . .

Official Newsletter of BERTOLINO LLP

September 2024



[Click here to share with a friend or colleague](#)

## Our Firm

Tony R. Bertolino, Esq.  
*Managing Partner*

Sheri L. Middlemas  
*Chief Operating Officer*

Troy Beaulieu, Esq.  
*Director of Legal Services*

LaJuana Acklin, Esq.  
*Senior Associate Attorney*

Kerry Bloodsaw, Esq.  
*Associate Attorney*

London de la Teja  
*Accounts Receivable Manager*

Melissa Hooper  
*Paralegal [Certificated]*

Lesa Surber  
*Paralegal [Certificated]*

Cimone Murphree  
*Project Liaison*

Jasen Dalus  
*Client Success Liaison*

## What is the Texas Education Agency's "Do Not Hire" Registry and What Effect Could It Have on My Teaching Career?

by Tony Bertolino, Esq.

The Texas Education Agency (TEA) licenses, oversees and regulates Texas teachers, superintendents, and other education professionals. This agency ensures that these professionals comply with the laws and regulations that apply to them. The State Board for Educator Certification (SBEC) is the TEA division that handles educator disciplinary proceedings. They also administer the Do Not Hire Registry, a database of individuals disqualified from employment in public schools.



### The TEA Do Not Hire Registry

The TEA Registry of Persons Note Eligible for Employment in Public Schools, known as the Do Not Hire Registry, became operative in January 2020. The Texas legislature created the Do Not Hire Registry to list persons available to the public whom the SBEC has disqualified from employment in public schools. Public schools include not only state public school districts, but also districts of innovation, charter schools, regional education service centers, or shared service arrangements.

The TEA places a person's name on the Do Not Hire Registry when a person has committed a certain type of misconduct or criminal history to the extent that they are ineligible for teaching or educational

certificates or their certificates have been revoked. Tex. Edu. Code §22.092 states that certain individuals must be listed on the Do Not Hire Registry:

- A person determined by the SBEC to be ineligible for educator certification based on a national criminal history review for certain open-enrollment charter school employees;
- A person determined by the SBEC to be ineligible for employment as a non-certified employee based on their criminal history record information;
- A person who is ineligible for employment based on criminal history record information received by the SBEC relating to a conviction or placement on deferred adjudication community supervision for some criminal offenses;
- A person whose certification or permit is revoked by the SBEC on a finding that the person engaged in certain types of misconduct; and
- A person determined by the commissioner to have engaged in abuse or misconduct related to a student.

When the TEA lists an individual's name on the Do Not Hire Registry, they are designated "under investigation" or "not eligible for hire." If an SBEC investigation has concluded that the person committed no misconduct or wrongdoing, that person's name will not appear on the Do Not Hire Registry.

### **Reporting Information to the TEA for the Do Not Hire Registry**

Tex. Edu. Code §22.093 requires the superintendent or directors of school districts, districts of innovation, open-enrollment charter schools, other charter entities, regional education service centers, or shared services arrangements to report certain circumstances to the TEA. This mandatory reporting requirement furnishes the TEA with the information necessary to include

individuals on the Do Not Hire Registry. The misconduct that superintendents and directors must report includes the following:

- An employee's employment is terminated and there is evidence that the employee:
  - o Abused or otherwise committed an unlawful act with a student or minor; or
  - o Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor; or
- The employee resigned, and there is evidence that the employee engaged in the type of misconduct described above.

Furthermore, certain criminal offenses qualify individuals for inclusion on the Do Not Hire Registry. Suppose an individual is convicted of or placed on deferred adjudication or community supervision for certain criminal offenses. In that case, they become ineligible for employment in public schools and must be included in the Do Not Hire Registry. Tex. Edu. Code §22.085 states that the following criminal offenses disqualify individuals from public school employment and merit inclusion on the Do Not Hire Registry:

- Any offense for which an individual is required to register as a sex offender;
- Any felony offense if the victim was under the age of 18 at the time that the offense was committed; or
- Any offense under the law of another state that is equivalent to a Texas offense would require sex offender registration or be a felony offense involving a victim under 18.

The only exception to this section is if the individual committed the offense under Title 5 of the Texas Penal Code and was more than 30 years before the effective date of S.B. No. 9, 2007, or the date that the individual's employment will begin.

The individual must also have satisfied all terms and requirements of the conviction.

## Conclusion

Navigating the complex landscape of the Texas Education Agency (TEA) and the State Board for Educator Certification (SBEC) requires a deep understanding of the regulations and potential consequences for educators. The Do Not Hire Registry is a significant deterrent against misconduct, safeguarding the integrity of public education in Texas. For educators facing complaints or disciplinary actions, the stakes are incredibly high, with the potential to lose their certification and future employment opportunities.

---

## Honoring Kerry Bloodsaw's Five Years of Dedication and Success at Bertolino LLP!



I am delighted to celebrate our Associate Attorney, Kerry Bloodsaw, as we honor her five-year employment anniversary at Bertolino LLP. Kerry's journey with our law firm began in a very unique way, and her dedication and success have made her an indispensable part of our team.

Kerry initially joined us as a paralegal and quickly moved to the position of law clerk, bringing her knowledge and experience from practicing law in Georgia while she worked diligently towards obtaining her Texas law license. Her determination and commitment were evident from the moment she walked through our doors. Kerry's goal was clear: to become a licensed attorney in Texas and to earn her place as an Associate Attorney at our firm.

Over the past five years, Kerry has consistently delivered outstanding results for our clients. Her deep understanding of professional license defense law, coupled with her compassion and unwavering dedication, has led to numerous positive outcomes and immense client satisfaction. In fact, the many glowing online Google reviews she has received are a testament to her exceptional representation and commitment to our clients' success.

Kerry's impact extends beyond her legal practice. She is beloved by everyone at our law firm for her compassionate nature, friendliness and sense of humor. She is also very well respected for her extensive knowledge and experience in professional license defense law. Her ability to connect with clients and co-workers alike has made her a pillar of our firm.

In addition to her legal work, Kerry plays a vital role in our law firm's business development efforts. She actively participates in conferences, delivers

speeches, and conducts presentations to educate and inform professional license holders. Her efforts help our clients understand how to avoid complaints with licensing boards, further establishing our firm as a trusted resource in the field.

I am deeply proud to have Kerry Bloodsaw as an integral part of our Bertolino family. Her dedication, knowledge, and passion for her work have been key to our law firm's success. Please join me in congratulating Kerry on her five-year anniversary.

Here's to Kerry and many more years of excellence and growth ahead!

-- Tony R. Bertolino

## Hallmark Achievements

### Texas Board of Nursing v. FD

**Facts:** Our client, FD hired us to assist in obtaining his Texas nursing license after he passed the NCLEX. Our client passed the NCLEX but after the four year period established by the Board and as a result the Board denied his nursing license.



**Outcome:** The firm evaluated the relevant documentation, enabling statutes and Board rules. The Statute and Board rules did not inhibit the Board's discretion to issue a license if the Board failed to comply with their rules. After presenting the client's position based on the facts and law, the Board issued a license to our client. Client now can pursue his career passion in nursing.

### Texas Board for Physical Therapy Examiners v. MA

**Facts:** MA received a complaint from a former patient. The patient alleged that MA injured her back and side during a session.



**Outcome:** The firm provided a robust response including all medical records from the patient's file showing that MA only met with the patient on 2 minor occasions and that the patient's issues were ongoing over the course of the over 1-year period that she sought services. The firm provided argument that there was no way to prove causation based on the evidence and based on the patient's own description of the pain and the location of the pain. After a review of the evidence the Board dismissed the case.

## Does Your Regulated Business Have the Legal Expertise It Needs?

by Troy Beaulieu, Esq.

Today's legal landscape is constantly evolving and impacting licensed businesses. You should be free to focus your



energies on business development, growth and innovative new ideas and ways to provide products and services. Don't let regulatory legal matters bog you down and threaten your business. Whether you operate a pain clinic, an accounting firm, a mental health services business, a real estate brokerage, a plumbing services company or an insurance agency, your business operates in a heavily regulated arena with dynamic legal and policy changes. These noted industries reflect just a fraction of the types of businesses impacted by a dynamic regulatory compliance landscape. To reduce the risk to the business you built through hard work and dedication requires having a qualified and knowledgeable regulatory legal team ready to respond, whatever the challenge. Bertolino LLP can be your on-call legal team standing ready to:

- Provide thoughtful and proactive compliance counsel;
- Fight against complaint allegations levied at your business;
- Help employees with license application challenges;
- Advocate for your licensed employees when accusations are levied; and,
- Defend against professional and occupational license-oriented lawsuits brought by the government or private parties.

This article provides you with an overview of these four critical areas where regulatory legal services are essential to avoiding risk and damage to your business, its reputation and continued growth.

### **Utilize Proactive Compliance Consulting Services**

You may be expanding your business, developing a new product or service, or needing to assess a developing issue in your industry. As you do, questions such as these begin to arise:

- Are you permitted to advertise the way you'd like to pursue your marketing campaign?
- Do you have the necessary employees in place to satisfy compliance and oversight requirements?
- Are the proper records retention and destruction policies and protocols in place?
- Do you have the proper forms and processes in place for client acquisition and retention?

All these questions and more typically have significant regulatory compliance implications. Without a solid legal team to help you navigate these dynamic waters, you risk losing your competitive edge and getting mired in regulatory and compliance problems that threaten your business vision for the future. Hire a law firm focused on regulatory compliance that can proactively support your expansion and vision, provide sound legal counsel and reduce your legal risks. Vetting business goals through legal compliance counsel

today avoids problems tomorrow.

## **Protecting Your Licensed Business from Regulatory Complaints**

No matter how customer-centric you remain, how hard you train your staff and how proactive you are with compliance, complaints are inevitable in the regulatory world. When you get one, you want a law firm ready to advocate aggressively for your business. You must have a law firm ready to defend your business reputation and fight against fines, administrative penalties and disciplinary action that harms your business operations. You need lawyers who have a proven track record of success, skill and knowledge. Acquiring legal counsel in advance, lawyers whom you've already vetted and become acquainted with will free you to focus on running your business and not worrying about who to hire when time is limited.

## **Defending Licensed Employees from Complaints that Expose Your Business to Risk**

Your business runs smoothly and executes your vision for the future because of your dedicated employees. When their licenses come under fire from regulators, you need aggressive legal counsel who knows what they're doing and can fight to protect your employees. Without them, your business cannot grow and provide the services or products your clients or patients have come to rely on you for. Having lawyers who are familiar with the regulatory agency, the complaint process and a track record for developing winning arguments and strategy is critical to keeping your business's essential employees working towards the vision you have.

## **Fighting for Key Employees with License Application Challenges**

Many times, key employees you are adding to your business or who have been integral team players in the past are facing challenges with their license renewal or license upgrade applications. You may need them to acquire additional credentials, registrations or licenses and a snag has arisen during the interactions with regulators. When that happens, you need skilled professional license defense attorneys on your side to protect your employees critical to the continued success of your business. Don't wait until the problem is right in front of you. Take proactive action to prepare ahead of time so when problems arise you can move swiftly to solve them. Bertolino LLP stands ready to fight for your business and its employees immediately and aggressively. Don't lose the precious time needed to develop winning arguments and solid legal strategies.

## **Battling Civil Lawsuits Brought by Government and Private Individuals**

Often regulatory issues either start with a civil lawsuit or can quickly expand into that arena. This could be because a private party files a lawsuit against you to recover money damages that they cannot recover from the regulatory complaint they've filed against your business. It could also be that [government regulators have sued you.](#) Often, spurred to action by a regulatory complaint, the government decides also to file a civil lawsuit, and the Texas Attorney General's Office has levied allegations against your business that expose you to financial consequences, attorney's fees demands and the possibility of an injunction preventing you from running your business, expanding your

services or marketing a new product. When that happens, you need regulatory lawyers ready to fight back and defend your business quickly, efficiently and effectively.

## Takeaways for Protecting Your Regulated Business

Today's legal compliance landscape is dynamic. You cannot operate a successful business where constantly evolving regulatory minefields are everywhere without partnering with skilled legal counsel to protect your business. Time is critical to the continued success of your business. Having proven regulatory attorneys on your team to keep your business out of trouble, and out of the courthouse will allow you and your employees to instead be in the board room, in the office, in the laboratory or on the factory floor so you can build, expand, innovate and grow your business. Bertolino LLP has the legal skill, knowledge and experience to meet these regulatory compliance, license / application defense and civil litigation defense needs. We stand ready to be proactive at reducing your risk and fighting aggressively to protect your business interests.



Engage with your regulatory agency like never before! It can be a challenge to navigate the laws that govern your license and profession. To help license holders take charge of their career, we've created a new educational resource: Know Your Regulator. Our unique resource provides professionals with important agency updates, insights, and opportunities to enhance their professional license.

Empower your license and career and stay ahead in your industry. Take advantage of our free educational resources by visiting **Know Your Regulator**.

Know Your Regulator: The  
Podcast that Inspires You to  
Engage

## Professional Recognition Days: September Calendar

Team Bertolino is grateful for the expertise and dedication of these professionals. Thank you for your outstanding contributions to your respective industries.

**September 4th:** National Newspaper Carrier Day

**September 8th:** National Dog Walker Appreciation Day; National Pediatric Hematology/Oncology Nurses Day; World Physical Therapy Day; Nephrology Nurses Week

**September 9th:** Emergency Services Day

**September 12th:** National Police Woman Day

**September 15th:** National Surgical Technologists Week

**September 17th:** National IT Professionals Day

**September 18th:** U.S. Air Force Day

**September 20th:** National Crime & Intelligence Analyst Appreciation Day





**September 25th:** National Food Service Workers Day; Research Administrators Day; World Pharmacist Day

**September 26th:** National Compliance Officer Day



### Bertolino LLP was honored to speak with CPAs in San Antonio at the TXCPA CPE Summit in August 2024

This annual conference is organized by the [Texas Society of Certified Public Accountants](#), one of the largest state-wide trade groups for certified public accountants. Director of Legal Services Troy Beaulieu spoke about records retention obligations and the connection this has to CPA licenses, clients and the state regulatory board – the [Texas State Board of Public Accountancy](#). The Firm was excited to speak with CPA's and other accounting professionals about the impact records retention has on their practice and how they can minimize their exposure to legal compliance risks associated with records retention challenges.

Bertolino LLP provides free state-wide legal education presentations to trade groups and professional / occupational license organizations interested in learning more about their state regulator and compliance obligations. For more information about this free educational opportunity check out the firm's [presentations webpage](#).

Side Bar ...

**Congratulations to Stacy Bediako, the 2024 Impact in Government Scholarship Award Winner!**



Contact Us

Visit Our Website

BERTOLINO LLP | (512) 476-5757 | 823 Congress Avenue, Suite 300, Austin, TX 78701  
www.bertolinolaw.com | info@bertolinolaw.com

BERTOLINO LLP | 823 Congress Avenue Suite 300 | Austin, TX 78701 US

[Unsubscribe](#) | [Update Profile](#) | [Constant Contact Data Notice](#)