HUMAN RESOURCES CODE

TITLE 6. SERVICES FOR THE ELDERLY

CHAPTER 101A. STATE SERVICES FOR THE AGING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 101A.001. DEFINITIONS. In this chapter:

(1) "Commissioner" means the commissioner of aging and disability services.

(2) "Department" means the Department of Aging and Disability Services.

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

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Text of section effective until April 01, 2025

Sec. 101A.002. COMMISSIONER'S POWERS AND DUTIES; EFFECT OF CONFLICT WITH OTHER LAW. To the extent a power or duty given to the commissioner by this chapter or another law relating to state services for the aging conflicts with Section 531.0055, Government Code, Section 531.0055 controls.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 2.102, eff. April 1, 2025.

Text of section effective on April 01, 2025

Sec. 101A.002. COMMISSIONER'S POWERS AND DUTIES; EFFECT OF CONFLICT WITH OTHER LAW. To the extent a power or duty given to the commissioner by this chapter or another law relating to state services for the aging conflicts with any of the following provisions of the Government Code, the Government Code provision controls:

(1) Subchapter A, Chapter 524;

(2) Section 524.0101;

(3) Sections 524.0151(a)(2) and (b);

(4) Section 524.0202; and

(5) Section 525.0254.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 2.102, eff. April 1, 2025.

Sec. 101A.003. COOPERATION WITH FEDERAL AND STATE AGENCIES. (a) The department is the state agency designated to handle federal programs relating to the aging that require action within the state and that are not the specific responsibility of another state agency under federal or state law.

(b) The department is not intended to supplant or to take over from the counties and municipalities of this state or from other state agencies or facilities any of the specific responsibilities relating to services for the aging that they hold. The department shall cooperate with federal and state agencies, counties, and municipalities and private agencies or facilities in the state in accomplishing the purposes of this chapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

SUBCHAPTER B. POWERS AND DUTIES OF DEPARTMENT AND EXECUTIVE COMMISSIONER

Sec. 101A.051. RULES. The executive commissioner shall adopt rules governing the functions of the department under this chapter, including rules that prescribe the policies and procedures followed by the department in the administration of any local services programs, employment programs for the aged, volunteer programs for the aged, or other programs.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.052. GENERAL FUNCTIONS OF DEPARTMENT RELATED TO AGING SERVICES. (a) The department shall provide expertise and advice to state agencies and the legislature and other elected officials on aging issues, including recommendations to meet the needs of this state's elderly population.

(b) The department shall develop and strengthen the services available for the aged in the state by coordinating services provided by governmental and private agencies and facilities.

(c) The department shall extend and expand services for the aged by coordinating the interest and efforts of local communities in studying the problems of the aged citizens of this state.

(d) The department shall encourage, promote, and aid in the establishment of area agencies on aging for the development of programs and services on a local level that improve the living conditions of the aged by enabling them to more fully enjoy and participate in family and community life.

(e) The department shall sponsor voluntary community rehabilitation and recreational facilities to improve the general welfare of the aged.

(f) The department shall cooperate with state and federal agencies and other organizations in conducting studies and surveys on the special problems of the aged in matters such as mental and physical health, housing, family relationships, employment, income, vocational rehabilitation, recreation, transportation, insurance, legal rights, and education. The department shall make appropriate reports and recommendations to the governor and to state and federal agencies.

(g) The department shall conduct research and long-range planning regarding long-term care, community care, and other issues that affect elderly individuals.

(h) The department shall make recommendations to the governor, the legislature, and state agencies regarding:

(1) opportunities to coordinate programs for elderly individuals;

(2) unnecessary duplication in providing services to

elderly individuals; and

(3) gaps in services to elderly individuals.

(i) The department shall:

(1) cooperate with the Texas Department of Housing and Community Affairs to provide affordable housing for elderly individuals and for families in which an elderly individual is head of the household;

(2) assess the need for housing for elderly individuals and for families in which an elderly individual is head of the household in different localities;

(3) set standards relating to the design and construction of housing for elderly individuals;

(4) provide planning assistance to builders; and

(5) publicize the availability of the housing program to potential developers and residents.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.053. OLDER AMERICANS ACT; STATE PLAN. (a) The department shall develop this state's plan on aging, as required by the Older Americans Act of 1965 (42 U.S.C. Section 3001 et seq.).

(b) The department shall conduct a statewide needs assessment for long-term care and other services for older individuals and their caregivers. The assessment shall include input from:

(1) area agencies on aging;

(2) regional and local state agency staff; and

(3) community-based organizations.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

SUBCHAPTER C. PROGRAMS AND SERVICES

Sec. 101A.101. COMMUNITY SENIOR CITIZENS EMPLOYMENT PROGRAMS. (a) In this section, "suitable employment" means employment that is commensurate with the individual's skills and ability and for which compensation is paid equal to the federal

minimum wage rate.

(b) The Texas Workforce Commission may administer a community program for persons 55 years of age or older who lack suitable employment and have family incomes under federal poverty guidelines.

(c) The Texas Workforce Commission may contract with a public agency or a private, nonprofit organization with experience in managing similar programs to employ persons under this program in providing recreation, beautification, conservation, or restoration services, or public service employment positions for state, county, city, or regional governments or school districts. The Texas Workforce Commission may not contract with an organization that is not a subscriber under the state workers' compensation law or that does not pay the federal minimum wage rate or the prevailing wage rate for the particular job, whichever is greater.

(d) The state shall finance 80 percent of the cost of the program, and the governments receiving the services shall finance 20 percent of the cost.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.102. VOLUNTARY COMMUNITY SERVICES PROGRAMS. (a) The department shall ensure that state funds appropriated to the department for programs to recruit elderly persons to perform voluntary community services or for programs under Senior Corps are disbursed to local public agencies or private, nonprofit corporations that operate those programs.

(b) A public agency or private, nonprofit corporation may not receive state money under this section if it is not able to qualify for federal matching money for the same purpose.

(c) The executive commissioner by rule shall establish guidelines or formulas to determine the proportion of state money distributed to each public agency or private, nonprofit corporation under this section. The executive commissioner by rule may establish additional qualifications to receive the state money.

(d) State funds disbursed under this section may not be used

to pay compensation to volunteer workers, except for participants in the Foster Grandparent and Senior Companion Programs of Senior Corps, or for purposes other than financing the operation or administration of the volunteer programs, but it may be used to defray expenses incurred by volunteers in the performance of volunteer work. The executive commissioner by rule may further limit the purposes for which the state money may be spent.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.103. TEXAS CARES PROGRAM. (a) The executive commissioner by rule may establish and the department may operate a Texas Cares program to provide persons eligible for discount drug price programs offered by pharmaceutical companies with:

(1) information regarding the availability of those programs; and

(2) in appropriate circumstances, assistance in enrolling in those programs.

(b) The department may solicit and accept gifts, grants, and donations from any source to use in funding the Texas Cares program.

(c) The executive commissioner shall design the Texas Cares program to meet the primary goal of increasing awareness in appropriate populations of the availability of discount drug price programs offered by pharmaceutical companies. To the extent that adequate resources are available, the department shall:

(1) make information regarding discount drug price programs readily available on the department's Internet site;

(2) maintain a toll-free telephone number through which a person may obtain information regarding discount drug price programs; and

(3) make brochures or other written informational materials regarding discount drug price programs available on request by a pharmacist, physician, representative of an organization serving senior citizens, or other interested person.

(d) The department may:

(1) conduct community outreach and education activities to increase awareness of the availability of discount

drug price programs offered by pharmaceutical companies;

(2) solicit and train volunteers to perform functions associated with the Texas Cares program, including:

(A) providing assistance to eligible persons in enrolling in discount drug price programs offered by pharmaceutical companies; and

(B) conducting community outreach and education activities; and

(3) coordinate operation of the Texas Cares program with the activities of area agencies on aging.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.104. PUBLIC INFORMATION ON COST OF LONG-TERM CARE. The department shall develop programs to provide information to the public relating to:

(1) the cost of long-term care;

(2) the limits on Medicaid eligibility;

(3) the adequacy or inadequacy of other financing options, including Medicare; and

(4) possible methods of financing long-term care, including group insurance policies and other methods designed to assist individuals.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.105. SERVICES OF OTHER AGENCIES. The department may accept services performed by other agencies to accomplish the purposes of this chapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.106. REVIEW OF ADMINISTRATIVE COSTS AND PROGRAMS. (a) The executive commissioner by rule shall define "administrative costs" as used in this section. However, if a standard definition of administrative costs is required by law to be used by state agencies, the executive commissioner shall use

that definition.

(b) To determine the administrative costs incurred by an entity, including an area agency on aging and including an entity that spends money distributed by the department under Section 101A.101 or 101A.102 in engaging in a program that is funded in any part by money derived from the department under this chapter, the department shall request appropriate information from the entity.

(c) The executive commissioner shall establish the maximum amount of administrative costs that may be incurred by the entity in engaging in the program.

(d) The department periodically shall review the actions of entities receiving funds from the department under this chapter and shall document its review. The review of an entity that spends money distributed under Section 101A.102 must include on-site evaluations of the entity and must include the review of documentation, which shall be required by the department, of the services performed by the aged in programs under Section 101A.102.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.107. REPORT ON UNIT COSTS. The department shall file with the Legislative Budget Board and the Governor's Office of Budget, Planning, and Policy a report that clearly identifies in a state fiscal year the unit cost of each service, other than services related to community service volunteering and subsidized employment services, provided by an area agency on aging. The report must be filed annually on or before the date specified by the Legislative Budget Board. The report must be in the form required by the Legislative Budget Board.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 856 (S.B. 800), Sec. 19, eff. September 1, 2021.

SUBCHAPTER D. OPTIONS FOR INDEPENDENT LIVING PROGRAM

Sec. 101A.151. DEFINITIONS. In this subchapter:

(1) "Case management" means the process of assessing service needs, developing a plan of care, and arranging for and monitoring delivery of care to an elderly person under this subchapter.

(2) "Case management unit" is an entity that coordinates and administers case management.

(3) "Elderly person" means a person who is 60 years of age or older.

(4) "Service area" means a geographical area of the state designated for purposes of planning, development, and overall administration of services provided under this subchapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.152. OPTIONS FOR INDEPENDENT LIVING PROGRAM. (a) The department shall establish a statewide Options for Independent Living program to help elderly persons remain at home despite limited self-care capacities and to prevent institutionalization.

(b) The Options for Independent Living program shall provide short-term support services to elderly persons for the purposes of:

(1) restoring functional capacities after illness or hospitalization; and

(2) educating and preparing elderly persons and their caregivers to provide self-care.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.153. PERSONS TO BE SERVED. (a) The Options for Independent Living program shall give priority to an elderly person who:

(1) has recently suffered a major illness or health care crisis or has recently been hospitalized;

(2) lives in a rural area;

(3) has insufficient caregiver support;

(4) has a mild to moderate impairment or a temporary severe impairment; and

(5) is in great economic or social need, with particular attention to low-income minority older persons.

(b) In awarding funding under this subchapter, the department shall serve priority populations consistent with the Older Americans Act of 1965 (42 U.S.C. Section 3001 et seq.).

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.154. PROVISION OF SERVICES. (a) Support services shall include:

(1) case management;

(2) homemaking assistance, including personal care;

(3) residential repair and modification;

(4) benefits counseling;

(5) respite care;

(6) emergency response;

(7) education and training for caregivers;

(8) home-delivered meals;

(9) transportation; and

(10) other appropriate services identified by the case manager and client through the assessment and care planning process.

(b) A case manager shall conduct an individual assessment of an elderly person's needs and shall, in consultation with the elderly person and the elderly person's family, create a plan of care that specifies the type, amount, frequency, and duration of support services the elderly person needs.

(c) A plan of care must coordinate the available public and private services and resources that are most appropriate to meet the elderly person's needs.

(d) An area agency on aging may not directly provide homemaker, home health, residential repair, respite, meal delivery, or transportation service unless the area agency:

(1) receives no response to a request for proposals that meets department standards; and

(2) has exhausted all other procurement options available under department rules.

(e) An area agency on aging that wants to provide directly a service not available through a local public or private entity must obtain approval from the department in accordance with department rules governing the granting of such approval.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.155. CASE MANAGEMENT UNITS. (a) The department shall designate one or more case management units for each service area to provide case management services according to department rules and standards.

(b) The department shall designate an area agency on aging as a case management unit for a service area. The area agency on aging may act as the case management unit, after obtaining approval from the department in accordance with department rules governing the granting of such approval, or the area agency on aging may subcontract with a local service agency or hospital to act as the case management unit.

(c) A case manager must be an employee of a case management unit.

(d) The department shall periodically review a case management unit.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.156. ADMINISTRATION OF PROGRAM. (a) The department shall administer the Options for Independent Living program through grants to area agencies on aging.

(b) Area agencies on aging shall maintain their service provision levels in effect on September 1, 1989, independent of the Options for Independent Living program. Funds made available under this program may not be used to supplant service funds for services provided on September 1, 1989.

(c) An area agency on aging that receives funds under this section shall ensure the availability of the services for which the

funds were granted.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.157. FEES. (a) The executive commissioner by rule shall establish a copayment system using a sliding scale that is based on an elderly person's income.

(b) An elderly person whose income exceeds the basic income and resources requirements for eligibility for the community care for aged and disabled program of the department, but whose income is less than 200 percent of that level, shall pay a portion of the cost of support services provided to the person by a case management unit according to the fee scale.

(c) An elderly person whose income exceeds 200 percent of the level established by the department for the community care for aged and disabled program shall pay the full cost of support services provided by a case management unit.

(d) A local case management unit shall collect and account for all fees imposed for services provided by the case management unit and shall submit reports to the department as prescribed by department rules.

(e) Fees collected shall be used to defray program costs and to expand the Options for Independent Living program.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

SUBCHAPTER E. FUNDING

Sec. 101A.201. AUTHORITY TO ACCEPT, EXPEND, AND TRANSFER FUNDS. The department may accept, expend, and transfer federal and state funds appropriated for programs authorized by federal and state law and administered by the department under this chapter. The department may accept, expend, and transfer funds received in relation to this chapter from any source, including a county, municipality, or public or private agency. The funds shall be deposited in the state treasury and may be used for the purposes of this chapter, subject to any conditions attached to the funds.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.202. CONTRIBUTIONS TO LOCAL ORGANIZATIONS: CERTAIN COUNTIES. (a) This section applies only to counties having a population of not less than 20,600 and not more than 20,800 and to cities and towns within those counties.

(b) Each county and each city or town to which this section applies may cooperate with the department in carrying out the department's purposes under this chapter on a local level by contributing funds to any local organization the functions of which are to cooperate with the department in carrying out those purposes. The organization must operate with the approval and sanction of the department.

(c) The operation of buildings, facilities, services, and programs by an organization for other community services or benefits does not prohibit the contribution of the funds under this section for the part of the organization's program for the aging if that part of the program is approved by the department.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 116, eff. September 1, 2023.

Sec. 101A.203. FUNDING TO AREA AGENCIES ON AGING. (a) The executive commissioner by rule shall adopt a formula that meets the intent of the Older Americans Act of 1965 (42 U.S.C. Section 3001 et seq.) for allocating among area agencies on aging funds that the department receives under the Act.

(b) The formula must provide for the allocation of the funds among the area agencies on aging according to the most recent population estimates available from the Health and Human Services Commission.

(c) The executive commissioner shall update the formula biennially and the department shall include the formula and population estimates in each state plan on aging.

(d) Unless otherwise provided for by department rules regarding the carryover of unexpended funds allocated under this section, at the end of a fiscal year excess unexpended funds of an area agency on aging's allocations for that fiscal year shall be deducted from the allocation for the new fiscal year and that same amount of new fiscal year funds shall be reallocated. The executive commissioner by rule shall adopt a reallocation formula that includes performance as a criterion, in addition to other criteria adopted by the executive commissioner.

(e) The funds that the department receives under the Older Americans Act of 1965 (42 U.S.C. Section 3001 et seq.) shall be allocated and reallocated to area agencies on aging under the formulas adopted under this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.204. TRUSTS FOR CERTAIN RECIPIENTS OF MEDICAL ASSISTANCE. (a) An area agency on aging may contract with one or more private attorneys to establish trusts described by 42 U.S.C. Section 1396p(d)(4)(B) for the benefit of recipients of medical assistance under Chapter 32 who, without the establishment of these trusts, would become ineligible for medical assistance.

(b) The department shall allocate available state funds to the area agencies on aging for use in contracting for the establishment of trusts under Subsection (a).

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

SUBCHAPTER F. OFFICE OF STATE LONG-TERM CARE OMBUDSMAN

Sec. 101A.251. DEFINITIONS. In this subchapter:

(1) "Commission" means the Health and Human Services Commission.

(1-a) "Local ombudsman entity" means a distinct unit or entity, consisting of representatives, designated by the state long-term care ombudsman to carry out the ombudsman program in a service area of the state.

(2) "Long-term care facility" means a facility that is licensed or regulated or that is required to be licensed or regulated by the commission under Chapter 242 or 247, Health and Safety Code.

(3) "Office" means the office of the state long-term care ombudsman, consisting of the state long-term care ombudsman and representatives who are employed by the commission.

(3-a) "Ombudsman program" means the program through which the functions and duties of the office are carried out, consisting of the office and all representatives.

(4) "Representative" means an employee or volunteer specifically designated by the office as a representative of the office.

(4-a) "Resident" means a resident of a long-term care facility.

(5) "State long-term care ombudsman" means the chief administrator of the office.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 900 (H.B. 3564), Sec. 1, eff. September 1, 2017.

Sec. 101A.252. OPERATION OF OFFICE. (a) The office shall operate and is subject to the commission's oversight in accordance with federal and state statute.

(b) The commission may operate the office directly or by contract or memorandum of agreement with a public agency or other appropriate private nonprofit organization. The commission, agency, or organization may not implement a policy that prohibits the office from performing its duties under this subchapter. The commission may not use an agency or organization that:

(1) is responsible for licensing or certifying long-term care services;

(2) is an association of long-term care facilities or of any other residential facility that serves persons with disabilities or who are 60 years of age or older, or that is an

affiliate of such an association; or

(3) has an ownership, operational, or investment interest in a long-term care facility.

(c) The commission shall consider the views of residents, provider organizations, advocacy groups, and area agencies on aging in planning and operating the office.

(d) The commission shall ensure that a person involved in designating the state long-term care ombudsman or in designating a representative does not have a conflict of interest.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 900 (H.B. 3564), Sec. 1, eff. September 1, 2017.

Sec. 101A.253. ROLE OF OFFICE. The office and the ombudsman program shall operate in cooperation with any regulatory agency funded and mandated by federal and state statute.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 900 (H.B. 3564), Sec. 1, eff. September 1, 2017.

Sec. 101A.254. POWERS AND DUTIES OF STATE LONG-TERM CARE OMBUDSMAN AND OFFICE. (a) The office has the powers and duties authorized and required by state and federal law.

(b) The office may use appropriate administrative, legal, and other remedies to assist residents as provided by commission rules.

(c) The office acts independently of the commission in the performance of its powers and duties under this subchapter.

(d) The state long-term care ombudsman has the authority to designate a local ombudsman entity or representative and to suspend or revoke that designation.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 900 (H.B. 3564), Sec. 1, eff. September 1, 2017.

Sec. 101A.255. OMBUDSMEN. (a) The office shall recruit volunteers and citizen organizations to participate in the ombudsman program. A paid staff member of an area agency on aging network or a nonprofit social service agency may be an ombudsman. An ombudsman is a representative.

(b) The office shall provide training to ombudsmen as required by this subchapter and federal law.

(c) The office shall coordinate ombudsman services with the protection and advocacy systems that exist for persons with developmental disabilities or mental illness.

(d) The office shall coordinate ombudsman services with state and local law enforcement agencies and courts of competent jurisdiction. The office is not authorized to compel those law enforcement agencies or courts to coordinate ombudsman services or other activities with the office.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 900 (H.B. 3564), Sec. 1, eff. September 1, 2017.

Sec. 101A.256. LEGAL COUNSEL. The commission shall ensure that the office receives adequate legal advice and representation without conflict of interest as defined by the Texas Disciplinary Rules of Professional Conduct. The attorney general shall represent the state long-term care ombudsman and a representative if a suit or other legal action is brought or threatened to be brought against that person in connection with the person's performance of the official duties of the ombudsman program.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 900 (H.B. 3564), Sec. 1, eff.

September 1, 2017.

Sec. 101A.257. INVESTIGATIONS. (a) The office shall have access to residents and shall, in accordance with commission rules, investigate and resolve complaints made by or on behalf of residents.

(b) The state long-term care ombudsman shall ensure that each ombudsman designated under Section 101A.255 who investigates complaints has received proper training and has been approved by the office as qualified to investigate complaints.

(c) The office shall investigate a grievance made against a representative in accordance with commission rules and inform the person who made the grievance of the outcome of the investigation when the investigation is concluded.

(d) A long-term care facility shall cooperate with an investigation conducted by the state long-term care ombudsman or a representative, including an ombudsman designated under Section 101A.255.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 900 (H.B. 3564), Sec. 1, eff. September 1, 2017.

Sec. 101A.258. ACCESS TO RECORDS AND CONFIDENTIALITY. (a) The state long-term care ombudsman and representatives shall have access to patient care records of residents as provided by commission rules. Except as provided by Subsection (b), all records and information created or obtained by the state long-term care ombudsman or a representative remain confidential.

(a-1) The state long-term care ombudsman and representatives shall have access to patient care records of a resident if:

(1) the resident or the resident's legal representative consents to the access;

(2) the resident is unable to consent to the access and the resident has no legal representative; or

(3) access to the records is necessary to investigate a complaint and:

(A) a legal representative of the resident refuses to consent to the access;

(B) the state long-term care ombudsman or representative has reasonable cause to believe that the legal representative of the resident is not acting in the best interests of the resident; and

(C) the state long-term care ombudsman approves the access.

(b) The office shall ensure that the identity of a complainant or any resident may be disclosed only with the consent of the person or the person's legal representative or on court order.

(c) Files, records, and other information maintained as part of the ombudsman program may be disclosed only at the discretion of the state long-term care ombudsman.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 900 (H.B. 3564), Sec. 1, eff. September 1, 2017.

Sec. 101A.259. REPORTING SYSTEM. The office shall maintain a statewide ombudsman uniform reporting system to collect and analyze information relating to complaints and conditions in long-term care facilities as long as such system does not duplicate other state reporting systems. The office shall provide the information to the commission in accordance with federal law.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 900 (H.B. 3564), Sec. 1, eff. September 1, 2017.

Sec. 101A.260. ANALYSIS OF LAWS. (a) The office shall analyze and monitor the development and implementation of federal,

state, and local laws, rules, regulations, and policies relating to long-term care facilities and services and shall recommend any changes the office considers necessary.

(b) To the extent necessary to perform any duties under this subchapter, Section 556.006(a), Government Code, and Section 391.0116, Local Government Code, do not apply to the state long-term care ombudsman or a representative.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 900 (H.B. 3564), Sec. 1, eff. September 1, 2017.

Sec. 101A.261. PUBLIC INFORMATION. The office shall provide information and make recommendations to public agencies, legislators, and other persons about the problems and concerns of residents.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 900 (H.B. 3564), Sec. 1, eff. September 1, 2017.

Sec. 101A.262. REPORT. (a) The office shall prepare a report that contains:

(1) information and findings relating to the problems and concerns of residents; and

(2) policy, regulatory, and legislative recommendations to solve the problems, resolve the concerns, and improve the quality of the residents' care and lives.

(b) The report must be submitted to the governor and the presiding officer of each house of the legislature not later than November 1 of each even-numbered year.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 900 (H.B. 3564), Sec. 1, eff.

September 1, 2017.

Sec. 101A.263. LIMITATION OF LIABILITY. The state long-term care ombudsman or a representative is not liable for civil damages or subject to criminal prosecution for performing official duties unless the state long-term care ombudsman or representative acts in bad faith or with a malicious purpose.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 900 (H.B. 3564), Sec. 1, eff. September 1, 2017.

Sec. 101A.264. CRIMINAL PENALTY. (a) A person commits an offense if the person:

(1) by act or omission, wilfully interferes or attempts to interfere with the state long-term care ombudsman or a representative attempting to perform official duties; or

(2) commits or attempts to commit an act of retaliation or reprisal against any resident or employee of a long-term care facility for filing a complaint or providing information to the state long-term care ombudsman or a representative.

(b) An offense under this section is a Class B misdemeanor.

(c) The commission shall ensure that criminal sanctions will be initiated only after all administrative procedures are exhausted.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 900 (H.B. 3564), Sec. 1, eff. September 1, 2017.