

OCCUPATIONS CODE

TITLE 3. HEALTH PROFESSIONS

SUBTITLE A. PROVISIONS APPLYING TO HEALTH PROFESSIONS GENERALLY

CHAPTER 101. HEALTH PROFESSIONS COUNCIL

SUBCHAPTER A. HEALTH PROFESSIONS COUNCIL

Sec. 101.001. HEALTH PROFESSIONS COUNCIL. In this chapter, "council" means the Health Professions Council.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 101.002. COMPOSITION OF COUNCIL. The council consists of 14 members, with one member appointed by each of the following:

- (1) the Texas Board of Chiropractic Examiners;
- (2) the State Board of Dental Examiners;
- (3) the Texas Optometry Board;
- (4) the Texas State Board of Pharmacy;
- (5) the Texas State Board of Podiatric Medical Examiners;
- (6) the State Board of Veterinary Medical Examiners;
- (7) the Texas Medical Board;
- (8) the Texas Board of Nursing;
- (9) the Texas State Board of Examiners of Psychologists;
- (10) the Texas Funeral Service Commission;
- (11) the entity that regulates the practice of physical therapy;
- (12) the entity that regulates the practice of occupational therapy;
- (13) the health licensing division of the Department of State Health Services; and
- (14) the governor's office.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 682, Sec. 1.01, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 553, Sec. 2.013, eff. Feb. 1, 2004.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 889 (H.B. [2426](#)), Sec. 31, eff.

September 1, 2007.

Sec. 101.003. OFFICERS. The council shall elect from the council's members a presiding officer and assistant presiding officer to conduct the business of the council.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 101.004. COMPENSATION OF MEMBERS. A member of the council is not entitled to receive compensation or a per diem for the member's service on the council.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 101.005. COUNCIL STAFF. The council may employ staff or designate staff for the council from the employees of the regulatory agencies listed in Section 101.002 as necessary for the council to carry out the council's duties.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 101.006. BUDGET. The council shall adopt an annual budget that is funded by a prorated assessment paid by the regulatory agencies listed in Section 101.002.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 101.007. DUTIES OF COUNCIL. The council shall:

(1) administer the functions provided by this chapter;
and

(2) provide a means for the regulatory agencies represented on the council to coordinate administrative and regulatory efforts.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. TELEPHONE COMPLAINT SYSTEM

Sec. 101.051. TELEPHONE COMPLAINT SYSTEM. The council shall establish and operate a toll-free telephone complaint system to provide assistance and referral services for persons making a complaint relating to a health profession regulated by the state.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 101.0515. APPLICABILITY OF SUBCHAPTER. This subchapter does not apply to the Texas Funeral Service Commission. Added by Acts 2001, 77th Leg., ch. 682, Sec. 1.02, eff. Sept. 1, 2001.

Sec. 101.052. TELEPHONE LISTING. A state agency that regulates a health profession shall list the toll-free telephone number of the complaint system with the agency's regular telephone number.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 101.053. CONFIDENTIALITY. A complaint, adverse report, or other information regarding the content of a complaint in the possession of the council or its employee or agent relating to a person initiating a complaint or the license holder who is the subject of the complaint is privileged and confidential and is not subject to discovery, subpoena, or other means of legal compulsion for release to anyone other than:

(1) a council employee or agent involved in collecting complaint information;

(2) the specific council member agency or board responsible for regulating the health profession in which the person who is the subject of the complaint is a license holder; or

(3) an employee or agent of the member agency or board who is involved in the discipline of license holders.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER C. TRAINING PROGRAM

Sec. 101.101. TRAINING PROGRAM. (a) The council shall establish a training program for the governing bodies of state agencies that regulate health professions.

(b) Before a member of a governing body may assume the member's duties and before the member may be confirmed by the senate, the member must complete at least one course of the training

program established under this section.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 101.102. PROGRAM REQUIREMENTS. The training program must provide information to a participant regarding:

(1) the enabling legislation that created the governing body to which the member is appointed;

(2) the programs operated by the state agency governed by the governing body;

(3) the role and functions of that state agency;

(4) the rules of that state agency with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for that state agency;

(6) the results of the most recent formal audit of that state agency;

(7) the requirements of the:

(A) open meetings law, Chapter 551, Government Code;

(B) open records law, Chapter 552, Government Code; and

(C) administrative procedure law, Chapter 2001, Government Code;

(8) the requirements of the conflict of interest laws and other laws relating to public officials; and

(9) any applicable ethics policies adopted by that state agency or the Texas Ethics Commission.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER D. REPORTING REQUIREMENTS

Sec. 101.151. ANNUAL REPORT. (a) The council shall prepare an annual report that includes:

(1) a statistical compilation of enforcement actions taken by a regulatory agency listed in Section 101.002;

(2) recommendations for statutory changes to improve the regulation of the health care professions; and

(3) other relevant information and recommendations

determined necessary by the council.

(b) The council shall send the report to the governor, the lieutenant governor, and the speaker of the house of representatives not later than February 1 of each year.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER E. GROUNDS FOR LICENSE REVOCATION OR DENIAL

Sec. 101.201. FALSE, MISLEADING, OR DECEPTIVE ADVERTISING.

(a) A person may not use advertising that is false, misleading, deceptive, or not readily subject to verification.

(b) False, misleading, or deceptive advertising or advertising not readily subject to verification includes advertising that:

(1) makes a material misrepresentation of fact or omits a fact necessary to make the statement as a whole not materially misleading;

(2) makes a representation likely to create an unjustified expectation about the results of a health care service or procedure;

(3) compares a health care professional's services with another health care professional's services unless the comparison can be factually substantiated;

(4) contains a testimonial;

(5) causes confusion or misunderstanding as to the credentials, education, or licensing of a health care professional;

(6) represents that health care insurance deductibles or copayments may be waived or are not applicable to health care services to be provided if the deductibles or copayments are required;

(7) represents that the benefits of a health benefit plan will be accepted as full payment when deductibles or copayments are required;

(8) makes a representation that is designed to take advantage of the fears or emotions of a particularly susceptible type of patient; or

(9) represents in the use of a professional name a

title or professional identification that is expressly or commonly reserved to or used by another profession or professional.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 101.203. OVERCHARGING OR OVERTREATING. A health care professional may not violate Section 311.0025, Health and Safety Code.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.011(a), eff. Sept. 1, 2001.

Sec. 101.204. REMEDIES. (a) A violation of this subchapter is subject to action by the appropriate health licensing agency as a ground for revocation or denial of a license.

(b) A violation of Section 101.201 is grounds for action under Section 17.47, 17.58, 17.60, or 17.61, Business & Commerce Code, by the consumer protection division of the office of the attorney general.

(c) A violation of Section 101.201 does not create a private cause of action, including an action for breach of warranty or for an implied contract or warranty for good and workmanlike service. Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER F. ENFORCEMENT

Sec. 101.251. CIVIL PENALTY. (a) A person who violates this chapter is liable to the state for a civil penalty in an amount not to exceed \$1,000 for each violation. Each day a violation occurs constitutes a separate violation.

(b) The attorney general may initiate an action under this section by filing suit in a district court in Travis County or in the county in which the violation occurred.

(c) The attorney general may recover reasonable expenses incurred in obtaining a civil penalty under this section, including court costs, reasonable attorney's fees, reasonable investigative costs, witness fees, and deposition expenses.

(d) A civil penalty recovered under this section shall be

deposited in the state treasury.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 101.252. INJUNCTION. (a) The attorney general or the appropriate health licensing agency may bring an action for an injunction to stop a violation or threatened violation of this chapter.

(b) The attorney general or health licensing agency may recover reasonable expenses incurred in obtaining an injunction under this section, including court costs, reasonable attorney's fees, reasonable investigative costs, witness fees, and deposition expenses.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 101.253. REMEDIES NOT EXCLUSIVE. The remedies provided by this chapter are in addition to any other remedy provided by law, including rules.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER G. OFFICE OF PATIENT PROTECTION

Sec. 101.301. GENERAL PROVISIONS. (a) In this subchapter:

(1) "Consumers as a class" means five or more individuals whose complaints are of the same or similar regulatory and factual circumstances and issues.

(2) "Licensing agency" means a health occupation regulatory agency that is a member of the council.

(3) "Office" means the office of patient protection.

(b) The council shall establish an office of patient protection within the council to represent the interests of consumers in matters before licensing agencies.

Added by Acts 2003, 78th Leg., ch. 305, Sec. 1, eff. Sept. 1, 2003.

Sec. 101.302. EXECUTIVE COMMITTEE; DIRECTOR. (a) The governor shall appoint an executive committee consisting of at least three members who are public members of the governing bodies of licensing agencies. The executive committee shall appoint a

director for the office. The director shall be responsible for administering the provisions of this subchapter.

(b) The director may not be:

(1) a health care professional licensed or certified by a licensing agency;

(2) financially involved with the provision of health care or with an entity that provides health care, including an entity regulated by a licensing agency;

(3) an officer, employee, or paid consultant of a trade association for a profession that is regulated by a licensing agency;

(4) an officer, employee, or paid consultant of a trade association for an entity regulated by the Texas Department of Insurance; or

(5) required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation related to a person or organization subject to regulation by a licensing agency.

Added by Acts 2003, 78th Leg., ch. 305, Sec. 1, eff. Sept. 1, 2003.

Sec. 101.303. ADMINISTRATIVE ATTACHMENT TO COUNCIL; REIMBURSEMENT. The office is located in the council but may not interfere with the other duties of the council. The office shall reimburse the council from fees received by the office under Section 101.307 for administrative costs incurred by the council in providing administrative support for the office.

Added by Acts 2003, 78th Leg., ch. 305, Sec. 1, eff. Sept. 1, 2003.

Sec. 101.304. PUBLIC INFORMATION PROVIDED BY OFFICE; STANDARD COMPLAINT FORM. (a) The office shall provide to the public information about the complaint process at each licensing agency.

(b) The office shall conduct a public awareness campaign to increase awareness of the telephone complaint system under Subchapter B.

(c) Through the use of the Internet and other information and communications media, the office shall provide information to

the public in easily understood language regarding the complaint procedures and sanctions processes used by the licensing agencies.

(d) The office, in cooperation with the licensing agencies, shall adopt a standard complaint form that may be used by a member of the public to file a complaint with a licensing agency. Each licensing agency shall accept the form adopted under this section in addition to any other form required by the agency.

Added by Acts 2003, 78th Leg., ch. 305, Sec. 1, eff. Sept. 1, 2003.

Sec. 101.305. POWERS AND DUTIES OF OFFICE. (a) The office shall:

(1) establish, in consultation with and on the approval of the council, protocols for interaction with licensing agencies;

(2) serve as the ombudsman for consumer complaints at the licensing agencies on the request of an individual consumer;

(3) assist consumers in obtaining information about the status of complaints; and

(4) review the Internet websites of licensing agencies and make recommendations to the agencies on making public information, including information relating to disciplinary actions, understandable to and easily accessible by the public.

(b) The office may:

(1) appear at or present information or testimony to a licensing agency on behalf of consumers as a class; and

(2) appeal the decisions of licensing agencies to the governing body of the appropriate licensing agency on behalf of consumers as a class but not for individual complainants.

(c) The office may not appeal an individual complainant's case before any agency.

(d) The office is entitled to access to:

(1) complaints received by a licensing agency, unless the access would jeopardize an ongoing investigation; and

(2) the public records of a licensing agency and the records of a licensing agency that are filed with the State Office of Administrative Hearings.

(e) The confidentiality requirements that apply to the

records of a licensing agency and the sanctions for disclosure of confidential information apply to the office and to information obtained by the office under Subsection (d).

Added by Acts 2003, 78th Leg., ch. 305, Sec. 1, eff. Sept. 1, 2003.

Sec. 101.306. MONITORING OF AGENCIES. (a) The office shall review and evaluate rules proposed for adoption by the licensing agencies and changes made to the statutes that govern the operation of the agencies and the professions regulated by the agencies.

(b) The office may report to the legislature and recommend to licensing agencies changes in agency rules that, in the office's judgment, would positively affect the interests of consumers.

(c) The office shall recommend changes to the statutes described by Subsection (a) to the Sunset Advisory Commission during the commission's review of the relevant licensing agency.

Added by Acts 2003, 78th Leg., ch. 305, Sec. 1, eff. Sept. 1, 2003.

Sec. 101.307. FUNDING OF OFFICE. (a) To provide funding sufficient for the office to exercise the powers and duties prescribed by this subchapter:

(1) the initial licensing or registration fee charged by each licensing agency is increased by \$5; and

(2) the renewal fee charged by each licensing agency is increased by \$1 for each year for which the license or registration is renewed.

(b) The fee increases authorized under this section shall be collected in the same manner as the assessment under Section 101.006. The council may spend the fees collected under this section only to fund the activities of the office under this subchapter.

Added by Acts 2003, 78th Leg., ch. 305, Sec. 1, eff. Sept. 1, 2003.

SUBCHAPTER H. BILLING

Sec. 101.351. FAILURE TO PROVIDE BILLING INFORMATION. On the written request of a patient, a health care professional shall provide, in plain language, a written explanation of the charges

for professional services previously made on a bill or statement for the patient. This section does not apply to a physician subject to Section [101.352](#).

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Transferred from Occupations Code, Section 101.202 and amended by Acts 2007, 80th Leg., R.S., Ch. 997 (S.B. [1731](#)), Sec. 6, eff. September 1, 2007.

Sec. 101.352. BILLING POLICIES AND INFORMATION; PHYSICIANS.

(a) A physician shall develop, implement, and enforce written policies for the billing of health care services and supplies. The policies must address:

(1) any discounting of charges for health care services or supplies provided to an uninsured patient that is not covered by a patient's third-party payor, subject to Chapter [552](#), Insurance Code;

(2) any discounting of charges for health care services or supplies provided to an indigent patient who qualifies for services or supplies based on a sliding fee scale or a written charity care policy established by the physician;

(3) whether interest will be applied to any billed health care service or supply not covered by a third-party payor and the rate of any interest charged; and

(4) the procedure for handling complaints relating to billed charges for health care services or supplies.

(b) Each physician who maintains a waiting area shall post a clear and conspicuous notice of the availability of the policies required by Subsection (a) in the waiting area and in any registration, admission, or business office in which patients are reasonably expected to seek service.

(c) On the request of a patient who is seeking services that are to be provided on an out-of-network basis or who does not have coverage under a government program, health insurance policy, or health maintenance organization evidence of coverage, a physician shall provide an estimate of the charges for any health care services or supplies. The estimate must be provided not later than the 10th business day after the date of the request. A physician

must advise the consumer that:

(1) the request for an estimate of charges may result in a delay in the scheduling and provision of the services;

(2) the actual charges for the services or supplies will vary based on the patient's medical condition and other factors associated with performance of the services;

(3) the actual charges for the services or supplies may differ from the amount to be paid by the patient or the patient's third-party payor; and

(4) the patient may be personally liable for payment for the services or supplies depending on the patient's health benefit plan coverage.

(d) For services provided in an emergency department of a hospital or as a result of an emergent direct admission, the physician shall provide the estimate of charges required by Subsection (c) not later than the 10th business day after the request or before discharging the patient from the emergency department or hospital, whichever is later, as appropriate.

(e) A physician shall provide a patient with an itemized statement of the charges for professional services or supplies not later than the 10th business day after the date on which the statement is requested if the patient requests the statement not later than the first anniversary of the date on which the health care services or supplies were provided.

(f) If a patient requests more than two copies of the statement, a physician may charge a reasonable fee for the third and subsequent copies provided. The Texas Medical Board shall by rule set the permissible fee a physician may charge for copying, processing, and delivering a copy of the statement.

(g) On the request of a patient, a physician shall provide, in plain language, a written explanation of the charges for services or supplies previously made on a bill or statement for the patient.

(h) If a patient overpays a physician, the physician must refund the amount of the overpayment not later than the 30th day after the date the physician determines that an overpayment has been made. This subsection does not apply to an overpayment

subject to Section [1301.132](#) or [843.350](#), Insurance Code.

(i) In this section, "physician" means a person licensed to practice in this state.

Added by Acts 2007, 80th Leg., R.S., Ch. 997 (S.B. [1731](#)), Sec. 6, eff. September 1, 2007.