

HEALTH & SAFETY CODE

CHAPTER 103. TEXAS DIABETES COUNCIL

Sec. 103.001. DEFINITIONS. In this chapter:

(1) "Council" means the Texas Diabetes Council.

(2) "Person with diabetes" means a person diagnosed by a physician as having diabetes.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 103.002. COMPOSITION OF COUNCIL. (a) The Texas Diabetes Council is composed of 11 citizen members appointed from the public and one representative each from the department, the Texas Education Agency, the Texas Department of Human Services, the Texas Commission for the Blind, and the Texas Rehabilitation Commission.

(b) The governor, with the advice and consent of the senate, shall appoint the following citizen members:

(1) a licensed physician with a specialization in treating diabetes;

(2) a registered nurse with a specialization in diabetes education and training;

(3) a registered and licensed dietitian with a specialization in the diabetes education field;

(4) a person with experience and training in public health policy;

(5) three consumer members, with special consideration given to persons active in the Texas affiliates of the Juvenile Diabetes Foundation or the American Diabetes Association; and

(6) four members from the general public with expertise or demonstrated commitment to diabetes issues.

(b-1) In making appointments under this section, the governor shall attempt to appoint members of different minority groups including females, African-Americans, Hispanic-Americans, Native Americans, and Asian-Americans.

(c) The chairman of the board of each agency listed in Subsection (a) shall appoint that agency's representative. Agency representatives shall be nonvoting members of the council.

(d) Appointments to the council shall be made without regard to the race, color, disability, creed, sex, religion, age, or national origin of the appointees.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 165, Sec. 6.39, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1411, Sec. 12.01, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1170, Sec. 10.01, eff. Sept. 1, 2003.

Sec. 103.0024. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the council may not vote, deliberate, or be counted as a member in attendance at a meeting of the council until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the council;

(2) the programs operated by the council;

(3) the role and functions of the council;

(4) the rules of the council;

(5) the current budget for the council;

(6) the results of the most recent formal audit of the council;

(7) the requirements of:

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

(B) the public information law, Chapter 552, Government Code;

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

(D) other laws relating to public officials, including conflict-of-interest laws; and

(8) any applicable ethics policies adopted by the council or the Texas Ethics Commission.

(c) A person appointed to the council is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 1999, 76th Leg., ch. 1411, Sec. 12.03, eff. Sept. 1,

1999.

Sec. 103.0025. INFORMATION ABOUT STANDARDS OF CONDUCT. The commissioner or the commissioner's designee shall provide to members of the council, as often as necessary, information regarding the requirements for office under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers. Added by Acts 1999, 76th Leg., ch. 1411, Sec. 12.03, eff. Sept. 1, 1999.

Sec. 103.004. RESTRICTIONS ON COUNCIL APPOINTMENT, MEMBERSHIP, OR EMPLOYMENT. (a) A person is not eligible for appointment or service as a citizen member if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds at the council's direction;

(2) owns or controls directly or indirectly more than a 10 percent interest in a business entity or other organization receiving funds at the council's direction; or

(3) uses or receives a substantial amount of tangible goods, services, or funds from the department at the council's direction, other than compensation or reimbursement authorized by law for council membership, attendance, or expenses.

(b) A person who is required to register as a lobbyist under Chapter 305, Government Code, may not serve as a member of the council or act as the general counsel.

(c) An officer, employee, or paid consultant of a trade association in the field of health care may not be a member or employee of the council. A person who is the spouse of an officer, employee, or paid consultant of a trade association in the field of health care may not be a member of the council and may not be an employee, including an employee exempt from the state's position classification plan, who is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(d) For purposes of Subsection (c), a trade association is a nonprofit, cooperative, and voluntary association of business or professional competitors designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interests. Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 103.005. TERMS. (a) Council members appointed by the governor serve for staggered six-year terms, with the terms of three or four members expiring February 1 of each odd-numbered year.

(b) A council member appointed as a representative of an agency serves at the will of the appointing agency.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 269, Sec. 2, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1285, Sec. 3.01, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1170, Sec. 10.02, eff. Sept. 1, 2003.

Sec. 103.006. CHAIRMAN. The governor shall designate a member of the council as the chairman of the council to serve in that capacity at the will of the governor.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 1411, Sec. 12.02, eff. Sept. 1, 1999.

Sec. 103.007. REMOVAL OF COUNCIL MEMBER. (a) It is a ground for removal from the council if a member:

(1) is not eligible for appointment to the council at the time of appointment as provided by Section 103.004(a);

(2) is not eligible to serve on the council as provided by Section 103.004(a);

(3) violates a prohibition established by Section 103.004(b) or (c);

(4) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(5) is absent from more than half of the regularly scheduled council meetings that the member is eligible to attend during each calendar year unless the absence is excused by majority vote of the council.

(b) The validity of an action of the council is not affected by the fact that it is taken when a ground for removal of a member of the council exists.

(c) If the chairman of the council has knowledge that a

potential ground for removal exists, the chairman shall notify the governor of its existence.

(d) The council shall inform its members as often as necessary of:

(1) the qualifications for office prescribed by this chapter; and

(2) their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 103.008. VACANCY. (a) The office of a member appointed by an agency becomes vacant when the person terminates employment with the agency or when the agency elects to replace the person as provided by Section 103.005.

(b) If the office of a member who is an agency representative becomes vacant, the chairman of the board of that agency shall appoint an agency representative to serve for the remainder of that member's term.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1285, Sec. 3.02, eff. Sept. 1, 1997.

Sec. 103.009. REIMBURSEMENT. (a) The department shall reimburse council and advisory committee members for travel and other necessary expenses incurred in performing official duties at the same rate provided for state employees in the General Appropriations Act.

(b) Funds for travel reimbursement shall be appropriated to the department.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 103.010. STAFF SUPPORT. Each agency represented on the council shall provide the council with periodic staff support of specialists as needed and may provide staff support to an advisory committee.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 103.0105. DIVISION OF POLICY AND MANAGEMENT RESPONSIBILITIES. The council shall develop and implement policies that clearly separate the policymaking responsibilities of the council and the management responsibilities of the commissioner and the staff of the department.

Added by Acts 1999, 76th Leg., ch. 1411, Sec. 12.04, eff. Sept. 1, 1999.

Sec. 103.011. ADVISORY COMMITTEES. (a) The council may establish advisory committees the council considers necessary and may determine the appropriate membership for each committee.

(b) The council shall specify the purpose and duties of each advisory committee and shall specify any product the committee is required to develop.

(c) Members of an advisory committee serve at the will of the council. The council may dissolve an advisory committee when necessary.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 103.012. MEETINGS. (a) The council shall meet at least quarterly and shall adopt rules for the conduct of its meetings.

(b) Any action taken by the council must be approved by a majority of the voting members present.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 269, Sec. 3, eff. Sept. 1, 1991.

Sec. 103.013. STATE PLAN. (a) The council shall develop and implement a state plan for diabetes treatment, education, and training to ensure that:

(1) this chapter is properly implemented by the agencies affected;

(2) incentives are offered for private sources to maintain present commitments and to assist in developing new programs; and

(3) a procedure for review of individual complaints about services provided under this chapter is implemented.

(b) The state plan may include provisions to ensure that:

(1) individual and family needs are assessed statewide and all available resources are coordinated to meet those needs; and

(2) health care provider needs are assessed statewide and strategies are developed to meet those needs.

(c) The council shall make written recommendations for performing its duties under this chapter to the board and the legislature. If the council considers a recommendation that will affect an agency not represented on the council, the council shall

seek the advice and assistance of the agency before taking action on the recommendation. The council's recommendations shall be implemented by the agencies affected by the recommendations.

(d) The council shall submit the state plan to the state agency designated as the state health planning and development agency not later than November 1 of each odd-numbered year.

(e) Each state agency affected by the state plan shall:

(1) determine what resources would be required to implement the portions of the state plan affecting that agency; and

(2) determine whether that agency will seek funds to implement that portion of the state plan.

(f) Not later than November 1 of each even-numbered year, each state agency affected by the state plan shall report to the council, the Legislative Budget Board, and the Governor's Office of Budget and Planning:

(1) information determined under Subsection (e); and

(2) each deviation from the council's proposed plan, including an explanation for the deviation.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 103.014. POWERS AND DUTIES. (a) The council shall address contemporary issues affecting health promotion services in the state, including:

(1) professional and patient education;

(2) successful diabetes education strategies;

(3) personnel preparation and continuing education;

(4) state expenditures for treatment of chronic diseases;

(5) screening services; and

(6) public awareness.

(b) The council shall advise the legislature on legislation that is needed to develop further and maintain a statewide system of quality education services for all persons with diabetes. The council may develop and submit legislation to the legislature or comment on pending legislation that affects persons with diabetes.

(c) The council may:

(1) compile and publish regional directories of services for persons with diabetes;

(2) design or adapt and publish a handbook in English and Spanish relating to diet, exercise, and other self-care management skills for persons with diabetes;

(3) study the feasibility of a statewide hotline for persons with diabetes; and

(4) study the standards and structure of pilot programs to provide diabetes education and training in this state.

(d) The council may engage in studies that it determines are necessary or suitable under the state plan as provided by this chapter.

(e) The department shall accept funds appropriated for the purposes of this chapter and shall allocate those funds. The council shall make recommendations to the department concerning the allocation of funds.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 103.015. GIFTS AND GRANTS. (a) The council may receive gifts and grants from any public or private source to perform its duties under this chapter. The department shall accept the gifts on behalf of the council and shall deposit any funds accepted under this section to the credit of a special account in the general revenue fund.

(b) The department may retain five percent of any monetary gifts accepted on behalf of the council to cover its costs in administering this section.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 103.016. PUBLIC INFORMATION AND PARTICIPATION; COMPLAINTS. (a) The council shall prepare information of public interest describing the functions of the council and describing council procedures by which complaints are filed with and resolved by the council. The council shall make the information available to the general public and appropriate state agencies.

(b) The council by rule shall establish methods by which consumers or service recipients are notified of the name, mailing address, and telephone number of the council for the purpose of directing complaints to the council.

(c) The council shall develop and implement policies that provide the public with a reasonable opportunity to appear before the council and to speak on any issue under the jurisdiction of the

council.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 103.017. PUBLIC AWARENESS AND TRAINING. (a) The department, the Texas Commission for the Blind, the Texas Rehabilitation Commission, the Texas Department of Human Services, and the Texas Education Agency shall work with the council to jointly develop, produce, and implement a general public awareness strategy focusing on diabetes, its complications, and techniques for achieving good management. Each agency shall pay for the costs of producing and disseminating information on diabetes to clients served by that agency.

(b) The strategy developed under Subsection (a) must include a plan under which the council provides public awareness information through businesses, civic organizations, and similar entities.

(c) The department, the Texas Commission for the Blind, the Texas Rehabilitation Commission, the Texas Department of Human Services, and the Texas Education Agency may jointly develop and implement a statewide plan for conducting regional training sessions for public and private service providers, including institutional health care providers, who have routine contact with persons with diabetes.

(d) The council must approve the strategies and plans developed under this section.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 6.40, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1285, Sec. 4.01, eff. Sept. 1, 1997.

Sec. 103.0175. MATERIALS FOR SCHOOL-BASED AND SCHOOL-LINKED CLINICS. The council, in consultation with the department, shall develop and make available materials that provide information about diabetes to be distributed to students and the parents of students by health clinics at public primary or secondary schools. Added by Acts 1997, 75th Leg., ch. 1285, Sec. 4.01, eff. Sept. 1, 1997.

Sec. 103.018. ANNUAL REPORT. The department shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by or for the council during the preceding fiscal year. The form of the annual report and the reporting time are as provided by the General Appropriations Act.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 103.019. AUDIT. The financial transactions pertaining to the council are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 39, eff. Sept. 1, 1991.