

HEALTH & SAFETY CODE

CHAPTER 532. ORGANIZATION OF TEXAS DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION

Sec. 532.001. COMPOSITION OF DEPARTMENT. (a) The Texas Department of Mental Health and Mental Retardation is composed of:

- (1) the Texas Board of Mental Health and Mental Retardation;
- (2) the commissioner of mental health and mental retardation; and
- (3) a staff under the direction of the commissioner.

(b) The department also includes community services operated by the department and the following facilities:

- (1) the central office of the department;
- (2) the Austin State Hospital;
- (3) the Big Spring State Hospital;
- (4) the Kerrville State Hospital;
- (5) the Rusk State Hospital;
- (6) the San Antonio State Hospital;
- (7) the Terrell State Hospital;
- (8) the North Texas State Hospital;
- (9) the Abilene State School;
- (10) the Austin State School;
- (11) the Brenham State School;
- (12) the Corpus Christi State School;
- (13) the Denton State School;
- (14) the Lubbock State School;
- (15) the Lufkin State School;
- (16) the Mexia State School;
- (17) the Richmond State School;
- (18) the San Angelo State School;
- (19) the San Antonio State School;
- (20) the El Paso State Center;
- (21) the Rio Grande State Center; and
- (22) the Waco Center for Youth.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 821, Sec. 3, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 500, Sec. 1, eff. May 31, 1997; Acts 1999, 76th Leg., ch. 543, Sec. 1, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 893, Sec. 1, eff. June 14, 2001.

Sec. 532.002. SUNSET PROVISION. The Texas Department of Mental Health and Mental Retardation is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that Act, the department is abolished and this chapter expires September 1, 2011.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 4.07, eff. Nov. 12, 1991; Acts 1999, 76th Leg., ch. 1187, Sec. 1, eff. Sept. 1, 1999.

Sec. 532.003. COMPOSITION OF BOARD. (a) The board is composed of nine members appointed by the governor with the advice and consent of the senate.

(b) The members must be representatives of the public who have demonstrated interest in mental health, mental retardation, developmental disabilities, or the health and human services system. At least one member must be a consumer of services for persons with mental illness or mental retardation or a family member of a consumer of those services.

(c) Appointments to the board shall be made without regard to the race, color, handicap, sex, religion, age, or national origin of the appointees.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 208, Sec. 1, eff. Aug. 28, 1995; Acts 1995, 74th Leg., ch. 821, Sec. 4, eff. Sept. 1, 1995.

Sec. 532.0035. BOARD TRAINING. (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training session that complies with this section.

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

- (1) the legislation that created the department and board;
- (2) the programs operated by the department;
- (3) the roles and functions of the department;
- (4) the rules of the department with an emphasis on the

rules that relate to disciplinary and investigatory authority;

(5) the current budget for the department;
(6) the results of the most recent formal audit of the department;

(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 department or the Texas Ethics Commission.

(c) A person appointed to the board 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. 1187, Sec. 2, eff. Sept. 1, 1999.

Sec. 532.004. RESTRICTIONS ON BOARD APPOINTMENT AND MEMBERSHIP AND ON DEPARTMENT EMPLOYMENT. (a) A person is not eligible for appointment as a board member if the person or the person's spouse:

(1) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the department or receiving funds from the department; or

(2) uses or receives a substantial amount of tangible goods, services, or funds from the department, other than:

(A) compensation or reimbursement authorized by law for board membership, attendance, or expenses; or

(B) as a parent or guardian of a client or patient receiving services from the department.

(b) An officer, employee, or paid consultant of a trade association in the field of mental health or mental retardation may not be a member of the board or an employee of the department.

(c) A person who is the spouse of an officer, employee, or paid consultant of a trade association in the field of mental health or mental retardation may not be a board member or a department employee grade 17 or over, including exempt employees, according to the position classification schedule under the General Appropriations Act.

(d) A person may not serve as a member of the board or act as the general counsel to the department if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department.

(e) For purposes of this section, a trade association is a nonprofit, cooperative, voluntarily joined 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 interest.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 532.005. TERMS. Board members serve six-year terms.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 532.006. CHAIRMAN. The governor shall designate a board member as chairman.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 532.007. REMOVAL OF BOARD MEMBERS. (a) It is a ground for removal from the board if a member:

(1) is not eligible for appointment to the board at the time of appointment as provided by Section 532.004(a);

(2) does not maintain during service on the board the qualifications required by Section 532.004(a);

(3) violates a prohibition established by Section 532.004(b), (c), or (d);

(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 board meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.

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

(c) If the commissioner has knowledge that a potential ground for removal exists, the commissioner shall notify the chairman of the board of the ground. The chairman shall then notify the governor that a potential ground for removal exists.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 532.009. REIMBURSEMENT FOR EXPENSES; PER DIEM. A board member is entitled to receive:

(1) reimbursement for actual and necessary expenses incurred in discharging the member's duties; and

(2) the per diem compensation as provided by appropriation for each day the member actually performs official duties.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 532.010. BOARD MEETINGS. (a) The board shall hold at least four regular meetings each year in the city of Austin on dates set by board rule. The board shall adopt rules that provide for holding special meetings.

(b) A board meeting, other than a meeting to deliberate the appointment of the commissioner, is open to the public.

(c) The board shall adopt policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the board's jurisdiction.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 532.011. COMMISSIONER. (a) The commissioner of health and human services shall employ a commissioner in accordance with Section 531.0056, Government Code.

(b) To be qualified for employment as commissioner, a person must have:

(1) professional training and experience in the administration or management of comprehensive health care or human service operations; and

(2) proven administrative and management ability, preferably in the health care area.

(c) Repealed by Acts 1999, 76th Leg., ch. 1460, Sec. 13.01(3), eff. Sept. 1, 1999.

(d) The commissioner:

(1) has the administrative and decisional powers granted under this subtitle; and

(2) shall administer the department and this subtitle and ensure the effective administration of the department and its programs and services.

(e) The commissioner shall:

(1) establish qualifications for department personnel that balance clinical and programmatic knowledge and management experience; and

(2) standardize qualifications for personnel positions throughout the department.

(f) The commissioner shall:

(1) establish an organizational structure within the department that will promote the effective administration of this subtitle; and

(2) establish the duties and functions of the department's staff.

(g) The commissioner is responsible for implementation of the board's planning, policy, resource development and allocation, and oversight related to mental health and mental retardation services.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 8.150, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 821, Sec. 5, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1460, Sec. 2.21, 13.01(3) eff. Sept. 1, 1999.

Sec. 532.012. MEDICAL DIRECTOR. (a) The commissioner shall appoint a medical director.

(b) To be qualified for appointment as medical director, a person must:

(1) be a physician licensed to practice in this state; and

(2) have proven administrative experience and ability in comprehensive health care or human service operations.

(c) The medical director reports to the commissioner and is responsible for:

(1) oversight of the quality and appropriateness of clinical services delivered in department facilities or under contract to the department; and

(2) leadership in physician recruitment and retention and peer review.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 821, Sec. 6, eff. Sept. 1, 1995.

Sec. 532.014. HEADS OF DEPARTMENTAL FACILITIES. (a) The commissioner shall appoint the head of each facility the department administers.

(b) The head of a facility serves at the will of the commissioner.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 821, Sec. 7, eff. Sept. 1, 1995.

Sec. 532.015. RULES AND POLICIES. (a) The board shall adopt rules and develop basic and general policies to guide the department in administering this subtitle. The rules and policies must be consistent with the purposes, policies, principles, and standards stated in this subtitle.

(b) The board shall adopt policies that clearly define the respective responsibilities of the board and the staff of the department.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 532.016. PERSONNEL. (a) The commissioner shall develop an intra-agency career ladder program. The program shall require intra-agency posting of all nonentry level positions concurrently with any public posting.

(b) The commissioner shall develop a system of annual job performance evaluations. All merit pay for department employees must be based on the system established under this subsection.

(c) The department shall provide to its members and employees, as often as necessary, information regarding their qualifications under this subtitle and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(d) The commissioner or the commissioner's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the department to avoid the unlawful employment practices described by Chapter 21, Labor Code;

(2) an analysis of the extent to which the composition of the department's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law; and

(3) procedures by which a determination can be made of significant underutilization in the department work force of all persons for whom federal or state guidelines encourage a more equitable balance and reasonable methods to appropriately address those areas of significant underutilization.

(e) The policy statement must:

(1) be updated annually;

(2) be reviewed by the Commission on Human Rights for compliance with Subsection (d)(1); and

(3) be filed with the governor's office.

(f) The governor shall deliver a biennial report to the legislature based on the information received under Subsection (e)(3). The report may be made separately or as a part of other biennial reports made to the legislature.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1999, 76th Leg., ch. 1187, Sec. 3, eff. Sept. 1, 1999.

Sec. 532.017. ANNUAL REPORTS. (a) 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 the department during the preceding fiscal year. The report must be in the form and reported in the time provided by the General Appropriations Act.

(b) The report must include the activities of the Interstate Compact on Mental Health, the amount and types of transfers by the department in and out of the state using the compact, and an accounting of any funds received and disbursed by the office of the Interstate Compact on Mental Health Administrator for Texas.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 532.018. AUDITS. (a) The financial transactions of the department are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

(b) The director of the internal audit unit shall report directly to the commissioner.

(c) Each audit report shall be submitted directly to the board.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 532.019. PUBLIC INTEREST INFORMATION AND COMPLAINTS. (a) The department shall prepare information of public interest describing the functions of the department and the procedures by which complaints are filed with and resolved by the department. The department shall make the information available to the public and appropriate state agencies.

(b) The board by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the department for the purpose of directing complaints to the department. The board may provide for that notification:

(1) on each registration form, application, or written contract for services of an entity regulated under this subtitle or of an entity the creation of which is authorized by this subtitle;

(2) on a sign that is prominently displayed in the place of business of each entity regulated under this subtitle or of each entity the creation of which is authorized by this subtitle; or

(3) in a bill for service provided by an entity regulated under this subtitle or by an entity the creation of which is authorized by this subtitle.

(c) If a written complaint is filed with the department relating to an entity regulated by the department, the department, at least quarterly and until final disposition of the complaint, shall notify the complainant and the entity regulated by the department of the status of the complaint unless notice would jeopardize an undercover investigation.

(d) The department shall keep an information file about each complaint filed with the department relating to an entity regulated by the department.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 532.020. ADVISORY COMMITTEES. (a) The board shall appoint a medical advisory committee and any other advisory committees the board considers necessary to assist in the effective administration of the department's mental health and mental retardation programs.

(b) The department may reimburse committee members for travel costs incurred in performing their duties at the rates authorized for state officers and employees under the General Appropriations Act.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 532.021. CITIZENS' PLANNING ADVISORY COMMITTEE. (a) The board shall appoint a citizens' planning advisory committee that is composed of:

(1) three persons who have demonstrated an interest in and knowledge of the department system and the legal, political, and economic environment in which the department operates;

(2) three persons who have expertise in the development and implementation of long-range plans; and

(3) three members of the public.

(b) In addition to the requirements of Subsection (a), at least one member must be a consumer of services for persons with mental illness or a family member of a consumer of those services, and at least one member must be a consumer of services for persons with mental retardation or a family member of a consumer of those services.

(c) The committee shall:

(1) advise the department on all stages of the development and implementation of the long-range plan required by Section 533.032;

(2) review the development, implementation, and any

necessary revisions of the long-range plan;

(3) review the department's biennial budget request and assess the degree to which the request allows for implementation of the long-range plan; and

(4) advise the board on:

(A) the appropriateness of the long-range plan;

(B) any identified problems related to the implementation of the plan;

(C) any necessary revisions to the plan; and

(D) the adequacy of the department's budget request.

(d) The board shall review the committee's reports in conjunction with information provided by the department on the long-range plan or the biennial budget request.

(e) The board shall allow the committee opportunities to appear before the board as needed.

(f) Before a board meeting relating to the development, implementation, or revision of the department's long-range plan, the department shall, in a timely manner, provide the committee with any information that will be presented to the board.

(g) Before submitting the department's biennial budget request to the board for discussion or approval, the department shall, in a timely manner, provide the committee with a copy of the budget request.

(h) The department shall provide the committee with the staff support necessary to allow the committee to fulfill its duties.

(i) The committee shall provide copies of its reports to the board, governor, lieutenant governor, speaker of the house of representatives, and appropriate legislative committees.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.