

HUMAN RESOURCES CODE CHAPTER 81. TEXAS COMMISSION FOR THE DEAF AND
HARD OF HEARING

HUMAN RESOURCES CODE

TITLE 4. SERVICES FOR THE DEAF

CHAPTER 81. TEXAS COMMISSION FOR THE DEAF AND HARD OF HEARING

Sec. 81.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Commission for the Deaf and Hard of Hearing.

(2) "Deaf" means a hearing impairment of such severity that an individual must depend on visual methods to communicate.

(3) "Hard of hearing" means a hearing impairment that results in a loss of hearing function to an individual and in which the individual:

(A) relies on residual hearing; and

(B) may depend on visual methods to communicate.

(4) "Deaf-blind" means:

(A) being legally blind and possessing a hearing impairment of such severity that a person cannot understand most speech even with the use of optimum amplification; or

(B) having a medical diagnosis of deteriorating hearing and vision expected to lead to the condition described by Paragraph (A).

Acts 1979, 66th Leg., p. 2394, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1979, 66th Leg., p. 2431, ch. 842, art. 2, Sec. 3, eff. Sept. 1, 1979; Acts 1987, 70th Leg., ch. 343, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 183, Sec. 1, eff. May 26, 1989; Acts 1991, 72nd Leg., ch. 353, Sec. 9, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 835, Sec. 2, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 118, Sec. 1, eff. May 23, 2003.

Sec. 81.002. TEXAS COMMISSION FOR THE DEAF AND HARD OF HEARING. (a) The Texas Commission for the Deaf and Hard of Hearing is composed of nine members appointed by the governor with the advice and consent of the senate.

(b) Three members of the commission must be persons who are deaf or hard of hearing, two must be parents of persons who are deaf

or hard of hearing, two must be professionals serving persons who are deaf or hard of hearing, and two must be persons from the general public. A majority of the members shall be deaf.

(c) Except as provided by Subsection (b) of this section, appointments to the commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(d) A person may not be a member of the commission and may not be a commission employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of services for people who are deaf or hard of hearing; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of services for people who are deaf or hard of hearing.

(e) A person may not be a member of the commission or act as the general counsel to the commission 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 commission.

(f) A person is not eligible for appointment as a member of the commission if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization regulated by the commission or receiving funds from the commission;

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

(3) uses or receives a substantial amount of funds or tangible goods from the commission.

(g) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or

professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

Acts 1979, 66th Leg., p. 2394, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1979, 66th Leg., p. 2431, ch. 842, art. 2, Sec. 3, eff. Sept. 1, 1979; Acts 1985, 69th Leg., ch. 619, Sec. 1, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 167, Sec. 2.19(16), eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 343, Sec. 2, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 353, Sec. 10, 11, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 835, Sec. 3, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 122, Sec. 1, eff. Sept. 1, 1999.

Sec. 81.0021. REMOVAL OF COMMISSION MEMBERS. (a) It is a ground for removal from the commission if a member:

(1) does not have at the time of appointment the qualifications required by Subsection (b) of Section 81.002 of this code for appointment to the commission;

(2) does not maintain during the service on the commission the qualifications required by Subsection (b) of Section 81.002 of this code for appointment to the commission;

(3) violates a prohibition established by Subsection (d) or (e) of Section 81.002 of this code;

(4) is unable to discharge his duties for a substantial portion of the term for which he was appointed because of illness or disability; or

(5) is absent from more than one-half of the regularly scheduled commission meetings that the member is eligible to attend during each calendar year, except when the absence is excused by majority vote of the commission.

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

(c) If the executive director has knowledge that a potential ground for removal exists, he shall notify the chairman of the commission of such ground. The chairman of the commission shall then notify the governor and the attorney general that a potential

ground for removal exists. If the potential ground for removal involves the chairman, the executive director shall notify the next highest ranking officer of the commission, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1985, 69th Leg., ch. 619, Sec. 2, eff. Sept. 1, 1985.

Amended by Acts 1999, 76th Leg., ch. 122, Sec. 2, eff. Sept. 1, 1999.

Sec. 81.0022. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission 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 commission;
- (2) the programs operated by the commission;
- (3) the role and functions of the commission;
- (4) the rules of the commission, with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (5) the current budget for the commission;
- (6) the results of the most recent formal audit of the commission;
- (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 commission or the Texas Ethics Commission.

(c) A person appointed to the commission 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. 122, Sec. 3, eff. Sept. 1, 1999.

Sec. 81.003. TERMS. Members hold office for staggered terms of six years, with the terms of three members expiring on January 31 of each odd-numbered year.

Acts 1979, 66th Leg., p. 2394, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Renumbered from Sec. 81.004 and amended by Acts 1979, 66th Leg., p. 2431, ch. 842, art. 2, Sec. 3, eff. Sept. 1, 1979.

Sec. 81.004. SUNSET PROVISION. The Texas Commission for the Deaf and Hard of Hearing is subject to Chapter 325, Government Code (Texas Sunset Act). Unless the commission is continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2011.

Acts 1979, 66th Leg., p. 2394, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Renumbered from Sec. 81.003 and amended by Acts 1979, 66th Leg., p. 2431, ch. 842, art. 2, Sec. 3, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 479, Sec. 212, eff. Sept. 1, 1985; Acts 1985, 69th Leg., ch. 619, Sec. 3, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 343, Sec. 3, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 353, Sec. 12, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 4.06, eff. Nov. 12, 1991; Acts 1995, 74th Leg., ch. 835, Sec. 4, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 122, Sec. 4, eff. Sept. 1, 1999.

Sec. 81.005. CHAIRMAN; MEETINGS; EXPENSES. (a) The governor shall designate a chairman of the commission from among the members. A member holds the position of chairman at the pleasure of the governor.

(b) The commission shall hold at least six meetings a year. The commission shall receive public comment on the operations of the commission and the concerns of the deaf or hard of hearing community. The commission shall develop and implement policies that will provide the public with a reasonable opportunity to

appear before the commission and to speak on any issue under the jurisdiction of the commission.

(c) Five members of the commission constitute a quorum for the transaction of business.

(d) Members of the commission are not entitled to compensation, but are entitled to reimbursement of their traveling expenses, as provided in the General Appropriations Act.

Acts 1979, 66th Leg., p. 2394, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1979, 66th Leg., p. 2431, ch. 842, art. 2, Sec. 3, eff. Sept. 1, 1979; Acts 1985, 69th Leg., ch. 619, Sec. 4, eff. Sept. 1, 1985; Acts 1995, 74th Leg., ch. 835, Sec. 5, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 122, Sec. 5, eff. Sept. 1, 1999.

Sec. 81.0051. AUDIT. The financial transactions of the commission are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

Added by Acts 1985, 69th Leg., ch. 619, Sec. 5, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 584, Sec. 22, eff. Sept. 1, 1989.

Sec. 81.0055. POWERS AND DUTIES OF COMMISSIONER OF HEALTH AND HUMAN SERVICES. The commissioner of health and human services has the powers and duties relating to the commission and the executive director of the commission as provided by Section 531.0055, Government Code. To the extent a power or duty given to the commission or executive director by this chapter or another law conflicts with Section 531.0055, Government Code, Section 531.0055 controls.

Added by Acts 1999, 76th Leg., ch. 1460, Sec. 2.08, eff. Sept. 1, 1999.

Sec. 81.006. DUTIES AND POWERS. (a) The commission shall:

(1) develop and implement a statewide program of advocacy and education to ensure continuity of services to persons who are deaf, deaf-blind, or hard of hearing;

(2) provide direct services to persons who are deaf or

hard of hearing, including communication access, information and referral services, advocacy services, services to elderly persons who are deaf or hard of hearing, and training in accessing basic life skills;

(3) work to ensure more effective coordination and cooperation among public and nonprofit organizations providing social and educational services to individuals who are deaf or hard of hearing;

(4) maintain a registry of available qualified interpreters for persons who are deaf or hard of hearing by updating the registry at least quarterly and making the registry available to interested persons at cost;

(5) establish a system to approve and provide courses and workshops for the instruction and continuing education of interpreters for persons who are deaf or hard of hearing;

(6) assist institutions of higher education in initiating training programs for interpreters and develop guidelines for instruction to promote uniformity of signs taught within those programs;

(7) with the assistance of the Texas Higher Education Coordinating Board, develop standards for evaluation of the programs described by Subdivision (6); and

(8) develop guidelines to clarify the circumstances under which interpreters certified by the commission are qualified to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

(b) The commission may:

(1) appoint one or more advisory committees to consult with and advise the commission;

(2) establish and collect training fees and accept gifts, grants, and donations of money, personal property, or real property for use in expanding and improving services to persons of this state who are deaf or hard of hearing;

(3) adopt rules necessary to implement this chapter;

(4) contract with or provide grants to agencies, organizations, or individuals as necessary to implement this

chapter;

(5) establish a reasonable fee and charge interpreters for training to defray the cost of conducting the training;

(6) develop guidelines for trilingual interpreter services; and

(7) provide training programs for persons who provide trilingual interpreter services.

(c) Repealed by Acts 2003, 78th Leg., ch. 118, Sec. 14, eff. May 23, 2003.

(d) The commission 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 commission during the preceding year. The form of the annual report and the reporting time shall be that provided in the General Appropriations Act.

(e) The commission shall develop and implement policies that clearly define the respective responsibilities of the governing body of the commission and the staff of the commission.

(f) The commission shall establish and charge reasonable fees for some or all commission publications to cover the commission's publication costs. However, the commission shall waive the fee if a person who is deaf or hard of hearing is financially unable to pay for the publication, and may waive the fees for publications provided to certain entities. The commission shall adopt rules to implement this subsection. The rules must specify the standards used for determining ability to pay for a publication and must specify the types of entities for which the fees will be waived.

Acts 1979, 66th Leg., p. 2394, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Renumbered from Sec. 81.008 and amended by Acts 1979, 66th Leg., p. 2431, ch. 842, art. 2, Sec. 3, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 351, ch. 140, Sec. 1, eff. May 14, 1981; Acts 1983, 68th Leg., p. 2176, ch. 403, Sec. 1, eff. Aug. 29, 1983; Acts 1985, 69th Leg., ch. 619, Sec. 6, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 343, Sec. 4, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 508, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 835, Sec. 6, 28(1), eff. Sept. 1, 1995; Acts 1997, 75th

Leg., ch. 165, Sec. 6.62, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 122, Sec. 6, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 118, Sec. 2, 14, eff. May 23, 2003.

Sec. 81.007. BOARD FOR EVALUATION OF INTERPRETERS.

(a) The commission may establish a program in accordance with this section for the certification of interpreters who have reached varying levels of proficiency in communication skills necessary to facilitate communication between persons who are deaf or hard of hearing and persons who are not deaf or hard of hearing.

(b) The commission shall appoint an advisory board of seven persons to assist in administering the interpreter certification program. A board member may not receive compensation, but is entitled to reimbursement of the travel expenses incurred by the member while conducting the business of the board, as provided in the General Appropriations Act.

(c) Subject to approval of the commission, the board shall prescribe qualifications for each of several levels of certification based on proficiency and shall evaluate and certify interpreters using these qualifications.

(d) A qualified board member may serve as an evaluator under Subsection (c), and the commission shall compensate the board member for services performed as an evaluator.

(e) The commission shall charge fees for written and performance examinations, for annual certificate renewal, and for recertification. The fees must be in an amount sufficient to recover the costs of the certification program.

(f) The commission may waive any prerequisite to obtaining a certificate for an applicant after reviewing the applicant's credentials and determining that the applicant holds a certificate issued by another jurisdiction that has certification requirements substantially equivalent to those of this state.

(g) The commission by rule may adopt a system under which certificates are valid for a five-year period, subject to the certificate holder's payment of an annual certificate renewal fee. After expiration of the five-year period, an interpreter must be recertified by the commission. The commission may recertify an

interpreter who:

(1) receives specified continuing education credits;

or

(2) achieves an adequate score on a specified examination.

(h) The commission shall adopt rules specifying the grounds for denying, suspending, or revoking an interpreter's certificate.

(i) The commission shall determine the frequency for conducting the interpreter examinations. The commission shall conduct the interpreter examinations:

(1) in Austin at the commission's office or in other space owned or leased by the state that can be obtained free of charge; or

(2) in other cities in this state in space that can be obtained free of charge.

(j) Repealed by Acts 1995, 74th Leg., ch. 835, Sec. 28(3), eff. Sept. 1, 1995.

(k) The commission shall compensate an evaluator based on a fee schedule as determined by commission rule.

(l) The commission shall recognize, prepare, or administer continuing education programs for its certificate holders. A certificate holder must participate in the programs to the extent required by the commission to keep the person's certificate.

Added by Acts 1979, 66th Leg., p. 2431, ch. 842, art. 2, Sec. 3, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 352, ch. 140, Sec. 3, eff. May 14, 1981; Acts 1983, 68th Leg., p. 2177, ch. 403, Sec. 2, eff. Aug. 29, 1983; Acts 1985, 69th Leg., ch. 619, Sec. 7, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 343, Sec. 6, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 687, Sec. 1, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 722, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 835, Sec. 7, 28(3), eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 122, Sec. 7, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 118, Sec. 3, eff. May 23, 2003.

Sec. 81.0071. EXAMINATION RESULTS. (a) Not later than the 60th day after the date on which a certification examination is administered under this chapter, the commission shall notify each

examinee of the results of the examination. However, if an examination is graded or reviewed by a national testing service, the commission shall notify examinees of the results of the examination not later than the 14th day after the date on which the commission receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the commission shall notify each examinee of the reason for the delay before the 90th day.

(b) Repealed by Acts 2003, 78th Leg., ch. 118, Sec. 14, eff. May 23, 2003.

(c) The commission may require a testing service to notify a person of the results of the person's examination.

Added by Acts 1985, 69th Leg., ch. 619, Sec. 8, eff. Sept. 1, 1985.

Amended by Acts 1999, 76th Leg., ch. 122, Sec. 8, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 118, Sec. 14, eff. May 23, 2003.

Sec. 81.0072. REVOCATION OR SUSPENSION OF CERTIFICATE.

(a) The commission, based on the recommendation of the Board for Evaluation of Interpreters, may revoke or suspend a certificate or place a certificate holder on probation for a violation of a statute, rule, or policy of the commission. If a certificate holder is placed on probation, the commission may require the practitioner:

(1) to report regularly to the commission on matters that are the basis of the probation;

(2) to limit practice to those areas prescribed by the commission; or

(3) to continue or renew professional education until a satisfactory degree of skill has been attained in those areas that are the basis of the probation.

(b) If the commission proposes to suspend or revoke a certificate or place a certificate holder on probation, the certificate holder is entitled to a hearing before the commission or a hearings officer appointed by the commission. All final decisions to suspend or revoke a certificate or place a certificate holder on probation shall be made by the commission.

Added by Acts 1985, 69th Leg., ch. 619, Sec. 9, eff. Sept. 1, 1985.

Amended by Acts 1995, 74th Leg., ch. 835, Sec. 8, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 118, Sec. 4, eff. May 23, 2003.

Sec. 81.0073. CERTIFICATE RENEWAL. (a) A person who is otherwise eligible to renew a certificate may renew an unexpired certificate by paying the required renewal fee to the commission before the expiration date of the certificate. A person whose certificate has expired may not engage in activities that require a certificate until the certificate has been renewed.

(b) A person whose certificate has been expired for 90 days or less may renew the certificate by paying to the commission a renewal fee that is equal to 1-1/2 times the normally required renewal fee.

(c) A person whose certificate has been expired for more than 90 days but less than one year may renew the certificate by paying to the commission a renewal fee that is equal to two times the normally required renewal fee.

(d) A person whose certificate has been expired for one year or more may not renew the certificate. The person may obtain a new certificate by complying with the requirements and procedures, including the examination requirements, for obtaining an original certificate.

(e) A person who was certified in this state, moved to another state, and is currently certified and has been in practice in the other state for the two years preceding the date of application may obtain a new certificate without reexamination. The person must pay to the commission a fee that is equal to two times the normally required renewal fee for the certificate.

(f) Not later than the 30th day before the date a person's certificate is scheduled to expire, the commission shall send written notice of the impending expiration to the person at the person's last known address according to the records of the commission.

Added by Acts 1999, 76th Leg., ch. 122, Sec. 9, eff. Sept. 1, 1999.

Sec. 81.0074. PROVISIONAL CERTIFICATE. (a) The commission may issue a provisional certificate to an applicant

currently certified in another jurisdiction who seeks a certificate in this state and who:

(1) has been certified in good standing as an interpreter for at least two years in another jurisdiction, including a foreign country, that has certification requirements substantially equivalent to the requirements of this chapter;

(2) has passed a national or other examination recognized by the commission relating to the practice of interpretation for people who are deaf or hard of hearing; and

(3) is sponsored by a person certified by the commission under this chapter with whom the provisional certificate holder will practice during the time the person holds a provisional certificate.

(b) The commission may waive the requirement of Subsection (a)(3) for an applicant if the commission determines that compliance with that subsection would be a hardship to the applicant.

(c) A provisional certificate is valid until the date the commission approves or denies the provisional certificate holder's application for a certificate. The commission shall issue a certificate under this chapter to the provisional certificate holder if:

(1) the provisional certificate holder is eligible to be certified under Section 81.007(f); or

(2) the provisional certificate holder passes the part of the examination under this chapter that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of interpretation for people who are deaf or hard of hearing in this state, and:

(A) the commission verifies that the provisional certificate holder meets the academic and experience requirements for a certificate under this chapter; and

(B) the provisional certificate holder satisfies any other certification requirements under this chapter.

(d) The commission must approve or deny a provisional certificate holder's application for a certificate not later than the 180th day after the date the provisional certificate is issued.

The commission may extend the 180-day period if the results of an examination have not been received by the commission before the end of that period.

(e) The commission may establish a fee for provisional certificates in an amount reasonable and necessary to cover the cost of issuing the certificate.

Added by Acts 1999, 76th Leg., ch. 122, Sec. 10, eff. Sept. 1, 1999.

Sec. 81.008. EXECUTIVE DIRECTOR. (a) The commissioner of health and human services shall employ an executive director in accordance with Section 531.0056, Government Code.

(b) In selecting an executive director, the commissioner of health and human services shall give preference to a deaf or hard of hearing person.

(c) The executive director is responsible for carrying out policies established by the commission. The commission may not delegate responsibility for establishing policy of the agency to the executive director.

(d) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity whereby all personnel transactions 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 commission to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

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

(e) The policy statement must:

(1) be updated annually;

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

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

(f) The executive director or the executive director's designee shall provide to members of the commission and to commission employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Acts 1979, 66th Leg., p. 2394, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Renumbered from Sec. 81.007 and amended by Acts 1979, 66th Leg., p. 2431, ch. 842, art. 2, Sec. 3, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 619, Sec. 10, eff. Sept. 1, 1985; Acts 1995, 74th Leg. ch. 76, Sec. 8.143, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 693, Sec. 23(1), eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 122, Sec. 11, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1460, Sec. 2.09, eff. Sept. 1, 1999.

Sec. 81.009. EMPLOYEES. (a) The commission may hire employees it considers necessary to carry out the purposes of this chapter.

(b) The executive director or his designee shall develop an intraagency career ladder program, one part of which shall require the intraagency posting of all nonentry level positions concurrently with any public posting.

(c) The executive director or his designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for commission employees must be based on the system established under this subsection.

Added by Acts 1979, 66th Leg., p. 2431, ch. 842, art. 2, Sec. 3, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 619, Sec. 11, eff. Sept. 1, 1985.

Sec. 81.013. PRIVATE OUTDOOR TRAINING PROGRAMS FOR CHILDREN WHO ARE DEAF OR HARD OF HEARING. (a) The commission may contract with private entities to provide for the participation of children who are deaf or hard of hearing at outdoor recreational programs operated for the purpose of providing skill training and

recreational experiences for children who are deaf or hard of hearing. Outdoor training programs under this section may also provide for participation by the parents of children who are deaf or hard of hearing.

(b) In selecting children to attend programs under this section, the commission shall select qualified children from across the state that the commission thinks will benefit from the program.

(c) The commission may request criminal history record information on any person who applies for a staff position in an outdoor training program from the Department of Public Safety in accordance with Section 411.1131, Government Code.

Added by Acts 1981, 67th Leg., p. 288, ch. 113, Sec. 1, eff. May 13, 1981. Amended by Acts 1995, 74th Leg., ch. 835, Sec. 9, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 118, Sec. 5, eff. May 23, 2003.

Sec. 81.014. INFORMING THE PUBLIC; COMPLAINTS. (a) The commission shall prepare information of public interest describing the functions of the commission and describing the commission's procedures by which complaints are filed with and resolved by the commission. The commission shall make the information available to the general public and appropriate state agencies.

(b) The commission shall adopt rules establishing methods by which consumers and service recipients can be notified of the name, mailing address, and telephone number of the commission for the purpose of directing complaints to the commission. The commission may provide for such notification through inclusion of the information:

(1) on each registration form, application, or written contract for services of a person or entity regulated or authorized by this chapter;

(2) on a sign that is prominently displayed in the place of business of each person or entity regulated or authorized by this chapter; or

(3) on a bill for service provided by a person or entity regulated or authorized by this chapter.

(c) The commission, at least quarterly until final disposition of the complaint, shall notify the person filing the

complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

(d) The commission shall maintain a file on each written complaint filed with the commission. The file must include:

- (1) the name of the person who filed the complaint;
- (2) the date the complaint is received by the commission;
- (3) the subject matter of the complaint;
- (4) the name of each person contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and
- (6) an explanation of the reason the file was closed, if the commission closed the file without taking action other than to investigate the complaint.

(e) The commission shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the commission's policies and procedures relating to complaint investigation and resolution.

(f) The commission shall adopt rules to establish reasonable time limits for the resolution of complaints.

Added by Acts 1985, 69th Leg., ch. 619, Sec. 15, eff. Sept. 1, 1985.

Amended by Acts 1999, 76th Leg., ch. 122, Sec. 12, eff. Sept. 1,

1999; Acts 2003, 78th Leg., ch. 118, Sec. 6, eff. May 23, 2003.

Sec. 81.015. ADVERTISEMENT. (a) The commission may not adopt rules restricting competitive bidding or advertising by a person regulated by the commission except to prohibit false, misleading, or deceptive practices by the person.

(b) The commission may not include in its rules to prohibit false, misleading, or deceptive practices by a person regulated by the commission a rule that:

- (1) restricts the person's use of any medium for advertising;
- (2) restricts the person's personal appearance or use of his voice in an advertisement;

(3) relates to the size or duration of an advertisement by the person; or

(4) restricts the person's advertisement under a trade name.

(c) The commission may advertise to promote awareness and use of the programs, services, and activities conducted by the commission. The commission may not use money derived from state tax revenue to pay for advertisements under this subsection.

Added by Acts 1985, 69th Leg., ch. 619, Sec. 16, eff. Sept. 1, 1985.

Amended by Acts 2003, 78th Leg., ch. 118, Sec. 7, eff. May 23, 2003.

Sec. 81.016. CONTRACTS FOR SERVICES. (a) Before the commission contracts with or provides grant funding to an agency, organization, or individual to provide direct services to persons who are deaf or hard of hearing, the commission shall make reasonable efforts to notify all potential service providers of the availability and purpose of the contract or grant.

(b) The notice shall include a request that all interested service providers submit within a specified period a contract or grant proposal for the commission's consideration. The notice must also clearly state the criteria that the commission will consider in determining which applicant will be awarded the contract or grant.

(c) The commission shall review all proposals submitted under this section and shall award the contract or grant to the applicant that the commission determines is best able to provide the needed services. The commission may not award contracts or grants to a former employee of the commission within two years after the person's employment with the commission ceased.

(d) To ensure an equitable distribution of contract or grant funds, the commission shall develop a formula, based on population and region, to allocate those funds among the agencies, organizations, or individuals that are awarded the contracts or grants.

(e) The commission shall adopt rules to implement this section.

Added by Acts 1985, 69th Leg., ch. 619, Sec. 17, eff. Sept. 1, 1985.

Amended by Acts 1987, 70th Leg., ch. 343, Sec. 8, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 835, Sec. 10, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 118, Sec. 8, eff. May 23, 2003.

Sec. 81.017. MEMORANDUM OF UNDERSTANDING. (a) The commission and each of the following agencies shall adopt a memorandum of understanding to coordinate the delivery of services to persons who are deaf or hard of hearing and to reduce duplication of services:

- (1) the Texas Department of Human Services;
- (2) the Texas Department of Mental Health and Mental Retardation;
- (3) the Texas Workforce Commission;
- (4) the Texas Department of Health;
- (5) the Texas Higher Education Coordinating Board;
- (6) the Texas Education Agency;
- (7) the Texas Department on Aging;
- (8) the Texas School for the Deaf;
- (9) the Texas Rehabilitation Commission;
- (10) the institutional division of the Texas Department of Criminal Justice; and
- (11) any other state agency that provides or is required by law to provide services to persons who are deaf or hard of hearing.

(b) If gaps in the delivery of services are identified while developing a memorandum, the involved agencies shall formulate in the memorandum methods to reduce or eliminate those gaps.

(c) Not later than the last month of each state fiscal year, the commission and the other agencies shall review their respective memorandums.

Added by Acts 1987, 70th Leg., ch. 343, Sec. 9, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 835, Sec. 11, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 6.63, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 122, Sec. 13, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 118, Sec. 9, eff. May 23, 2003.

Sec. 81.019. SYMBOLS OR OTHER FORMS OF IDENTIFICATION FOR

HEARING IMPAIRED PERSONS. (a) The commission shall design and provide for the issuance of a symbol or other form of identification that may be attached to a motor vehicle regularly operated by a person who is deaf or hard of hearing.

(b) A person who is deaf or hard of hearing may apply to the commission for the symbol or other form of identification. The commission may require acceptable medical proof that a person is deaf or hard of hearing and may set a fee for each symbol or other form of identification to defray the costs of administering this section.

(c) The commission may contract with a state or local agency for the distribution of the symbol or other form of identification. Added by Acts 1987, 70th Leg., ch. 172, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 81.017 by Acts 1989, 71st Leg., ch. 2, Sec. 16.01(27), eff. Aug. 28, 1989. Amended by Acts 1995, 74th Leg., ch. 835, Sec. 12, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 122, Sec. 14, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 118, Sec. 10, eff. May 23, 2003.

Sec. 81.020. ASSISTANCE REGARDING TELECOMMUNICATIONS DEVICES. The commission may not advertise, distribute, or publish the name or address or other related information received by the commission about an individual who applies for assistance regarding telecommunications devices.

Added by Acts 1999, 76th Leg., ch. 122, Sec. 15, eff. Sept. 1, 1999.

Sec. 81.021. SPECIALIZED LICENSE PLATE PROGRAM. The commission shall develop rules and guidelines for the use of funds collected from the sale of specialized license plates under Section 502.2722, Transportation Code, and appropriated to the commission in accordance with that section for direct services programs, training, and education.

Added by Acts 2003, 77th Leg., ch. 118, Sec. 11, eff. May 23, 2003; Acts 2003, 78th Leg., ch. 118, Sec. 12, eff. May 23, 2003.