

CHAPTER 201

S.B. No. 244

AN ACT

relating to the continuation, composition, powers, and duties of the Texas Diabetes Council and to the powers and duties of agencies represented on that council.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 2, Chapter 363, Acts of the 68th Legislature, Regular Session, 1983, as amended (Article 4477-60, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2. TEXAS DIABETES COUNCIL. (a) The Texas Diabetes Council is composed of *eight* [~~six~~] private citizen members *appointed from the general public* and one representative each from the Texas Department of Health, the Central Education Agency, the Texas Department of Human Services [~~Resources~~], the Texas Commission for the

Blind, and the Texas Rehabilitation Commission. Appointments to the council shall be made without regard to the race, creed, sex, religion, or national origin of the appointees.

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

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

(2) one member from the nursing profession who is a registered nurse with a specialization in diabetes education and training;

(3) one member from the *dietetic* [~~dietician~~] profession *who is a registered and licensed* [~~with certification as a nutritionist or~~] dietitian *with* [~~and~~] a specialization in the diabetes education field;

(4) one member [~~with a graduate degree in public health or public policy and~~] with experience and training in public health policy; and

(5) *four* [~~two~~] consumer members, with special consideration given to persons active in the Texas affiliates of the Juvenile Diabetes Foundation or the American Diabetes Association.

(d) *A person is not eligible for appointment as a private 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.*

(e) *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 any 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. For purposes of this subsection, a trade association is a nonprofit, cooperative, and 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 interests.*

(f) [(d)] The *chairman of the board* [~~commissioner~~] of each agency listed in Subsection (a) of this section shall appoint that agency's representative.

(g) [(e)] Members serve for staggered two-year terms, with the terms of *four* [~~three~~] private citizen members and two agency representatives expiring February 1 of every odd-numbered year and the terms of *four* [~~three~~] private citizen members and three agency representatives expiring February 1 of every even-numbered year. The office of a member appointed by an agency becomes vacant when the person terminates employment with the agency. If the office of a member who is an agency representative becomes vacant, the *chairman of the board* [~~commissioner~~] of that agency shall appoint an agency representative to serve for the remainder of that member's term.

(h) [(f)] The members of the council shall annually elect one private citizen member to serve as chairperson.

(i) [(g)] The council shall meet at least quarterly and shall adopt rules for the conduct of its meetings.

(j) [(h)] Any action taken by the council must be approved by a majority of the members present.

(k) *It is a ground for removal from the council if a member:*

(1) does not have at the time of appointment the qualifications required by Subsection (d) of this section for appointment to the council;

(2) does not maintain during the member's service on the council the qualifications required by Subsection (d) of this section for appointment to the council;

(3) violates a prohibition established by Subsection (b) or (e) of this section;

(4) is unable to discharge the member's duties for a substantial part of the term for which the member was appointed because of illness or disability; or

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

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

(m) If the chairperson of the council has knowledge that a potential ground for removal exists, the chairperson shall notify the governor that a potential ground for removal exists.

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

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

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

SECTION 2. Section 3, Chapter 363, Acts of the 68th Legislature, Regular Session, 1983 (Article 4477-60, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3. STATE PLAN. (a) The council shall develop and implement a state plan for diabetes treatment, education, and training to ensure that:

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

~~(2) [individual and family needs are assessed statewide and all available resources are coordinated to meet those needs;~~

~~[(3) health care provider needs are assessed statewide and strategies are developed to meet those needs;~~

~~[(4) incentives are offered for private sources to maintain present commitments and to assist in developing new programs; and~~

(3) ~~[(5)]~~ a procedure for review of individual complaints about services provided under this Act 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 carrying out its duties under this Act to the State Board of Health 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) of this section; and
- (2) any deviations from the council's proposed plan, including an explanation for the deviations.

SECTION 3. Section 4, Chapter 363, Acts of the 68th Legislature, Regular Session, 1983 (Article 4477-60, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4. **ADVISORY COMMITTEES** [~~COMMITTEE~~]. (a) The council may establish ~~an~~ advisory committees the council considers necessary and may determine the appropriate membership for each committee ~~[composed of two persons with diabetes, two professionals in health care delivery, two professionals in health care financing, and three representatives of advocacy or volunteer group or associations].~~

(b) The council shall specify the purpose and duties of each advisory committee established and shall specify any product the committee is required to develop ~~[committee shall meet quarterly and serve under the rules of the council, but the committee shall elect its own chairman. The committee may be divided into regional committees to assist the council in community-level program planning and implementation].~~

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

SECTION 4. Section 5, Chapter 363, Acts of the 68th Legislature, Regular Session, 1983 (Article 4477-60, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. **POWERS AND DUTIES**. (a) The council ~~[with the advice of the advisory committee, if one is established,]~~ 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 ~~[with the advice of the advisory committee, if one is established,]~~ shall advise the legislature on legislation that is needed to further develop 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 this population.

(c) The council may ~~shall~~:

- (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 Act.

(e) The department shall accept funds appropriated for the purposes of this Act. The council will recommend to the department for allocation of funds appropriated for purposes of this Act. The department shall allocate the funds.

(f) The council may receive gifts and grants from any public or private source to perform its duties under this Act. The department shall accept the gifts on behalf of the council and shall deposit any funds accepted under this subsection to the credit of

a special account in the General Revenue Fund. The department may retain five percent of any monetary gifts accepted on behalf of the council to cover its costs in administering this subsection.

SECTION 5. Section 7, Chapter 363, Acts of the 68th Legislature, Regular Session, 1983 (Article 4477-60, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 7. PUBLIC AWARENESS AND TRAINING. (a) The Texas Department of Health, the Texas Commission for the Blind, the Texas Rehabilitation Commission, the Texas Department of Human Services [~~Resources~~], and the Central Education Agency shall *work with the council* to jointly develop, produce, and implement:

[(1)] 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 Texas Department of Health, the Texas Commission for the Blind, the Texas Rehabilitation Commission, the Texas Department of Human Services, and the Central Education Agency may jointly develop and implement:*

(1) [(2)] a general public awareness strategy focusing on the pilot programs established by this Act; and

(2) [(3)] 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.

(c) [(b)] The council must approve the strategies and plans developed under this section.

SECTION 6. Section 8, Chapter 363, Acts of the 68th Legislature, Regular Session, 1983 (Article 4477-60, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 8. ANNUAL REPORT; AUDIT [TO LEGISLATURE]. (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 or for the council during the preceding fiscal year. The form of the annual report and the reporting time are as provided in the General Appropriations Act.*

(b) *The State Auditor, as part of his audit of the department, shall audit the financial transactions pertaining to the council at least once during each biennium* [~~The council shall study morbidity and mortality related to diabetes and shall report its findings to the members of the 69th Legislature before January 31, 1985.~~].

SECTION 7. Section 9, Chapter 363, Acts of the 68th Legislature, Regular Session, 1983 (Article 4477-60, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 9. PUBLIC INFORMATION, COMPLAINTS, AND TESTIMONY [STAGGERED TERMS]. (a) *The council shall prepare information of public interest describing the functions of the council and describing the council's 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* [(a) ~~Solely for the purpose of computing terms, the terms of members of the council appointed before February 1, 1984, begin February 1, 1984. At that time, the members shall draw lots for the purpose of staggering terms so that the terms of three private citizen members and two agency representatives expire February 1, 1985.~~].

[(b) ~~Members appointed to the council before February 1, 1984, have all the powers and duties of the council.~~].

SECTION 8. Section 10, Chapter 363, Acts of the 68th Legislature, Regular Session, 1983 (Article 4477-60, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 10. APPLICATION OF SUNSET ACT. The Texas Diabetes Council is subject to the Texas Sunset Act (*Chapter 325, Government Code*). ~~Unless, as amended (Article 5429k, Vernon's Texas Civil Statutes), and unless~~ continued in existence as provided by that Act, the council is abolished[,] and this Act expires [effective] September 1, 1997 [1987].

SECTION 9. As soon as possible after the effective date of this Act, the governor shall appoint two additional consumer members to the Texas Diabetes Council, one for a term expiring February 1, 1988, and one for a term expiring February 1, 1989.

SECTION 10. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on March 26, 1987, by the following vote: Yeas 24, Nays 0. Passed the House on May 15, 1987, by a non record vote.

Approved May 28, 1987.

Effective Aug. 31, 1987, 90 days after date of adjournment.