

HEALTH AND SAFETY CODE CHAPTER 1001. DEPARTMENT OF STATE HEALTH SERVICES

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TITLE 12. HEALTH AND MENTAL HEALTH

CHAPTER 1001. DEPARTMENT OF STATE HEALTH SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1001.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Health and Human Services Commission.

(2) "Commissioner" means the commissioner of state health services.

(3) "Council" means the State Health Services Council.

(4) "Department" means the Department of State Health Services.

(5) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.09.

Sec. 1001.002. AGENCY. The department is an agency of the state.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.09.

Sec. 1001.003. SUNSET PROVISION. The Department of State Health Services is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2011.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.09.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 928, Sec. 3.03, eff. June 15, 2007.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 1001.021. STATE HEALTH SERVICES COUNCIL. (a) The State Health Services Council is created to assist the commissioner in developing rules and policies for the department.

(b) The council is composed of nine members of the public appointed by the governor with the advice and consent of the senate. To be eligible for appointment to the council, a person must have demonstrated an interest in and knowledge of problems and available services related to public health, mental health, or substance abuse.

(c) The council shall study and make recommendations to the executive commissioner and the commissioner regarding the management and operation of the department, including policies and rules governing the delivery of services to persons who are served by the department and the rights and duties of persons who are served or regulated by the department.

(d) Chapter 551, Government Code, applies to the council.

(e) Chapter 2110, Government Code, does not apply to the council.

(f) A majority of the members of the council constitute a quorum for the transaction of business.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.09.

Sec. 1001.022. APPOINTMENTS. (a) Appointments to the council shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(b) Appointments to the council shall be made so that each geographic area of the state is represented on the council. Notwithstanding Subsection (a), appointments to the council must reflect the ethnic diversity of this state.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.09.

Sec. 1001.023. TRAINING PROGRAM FOR COUNCIL MEMBERS.

(a) A person who is appointed 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 department and

the council;

(2) the programs operated by the department;

(3) the role and functions of the department and the council, including detailed information regarding:

(A) the division of authority and of responsibility between the commissioner and the executive commissioner; and

(B) the advisory responsibilities of the council;

(4) the rules of the executive commissioner applicable to 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 executive commissioner or the Texas Ethics Commission.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.09.

Sec. 1001.024. TERMS. (a) Council members serve for staggered six-year terms with the terms of three members expiring February 1 of each odd-numbered year.

(b) A member of the council may not serve more than two consecutive full terms as a council member.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.09.

Sec. 1001.025. VACANCY. The governor by appointment shall fill the unexpired term of a vacancy on the council.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.09.

Sec. 1001.026. PRESIDING OFFICER; OTHER OFFICERS; MEETINGS. (a) The governor shall designate a member of the council as the presiding officer to serve in that capacity at the pleasure of the governor.

(b) The members of the council shall elect any other necessary officers.

(c) The council shall meet quarterly and at other times at the call of the presiding officer. The council may hold meetings in different areas of the state.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.09.

Sec. 1001.027. REIMBURSEMENT FOR EXPENSES. A council member may not receive compensation for service as a member of the council but is entitled to reimbursement for travel expenses incurred by the member while conducting the business of the council as provided by the General Appropriations Act.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.09.

Sec. 1001.028. PUBLIC INTEREST INFORMATION AND COMPLAINTS. (a) The commissioner, with the advice of the council, 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 commission shall make the information available to the public and appropriate state governmental entities.

(b) The executive commissioner 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 directing complaints to the department.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.09.

Sec. 1001.029. PUBLIC ACCESS AND TESTIMONY. (a) The commissioner shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commissioner and to speak on any issue under the jurisdiction of the

department.

(b) The commissioner shall grant an opportunity for a public hearing before the council makes recommendations to the commissioner regarding a substantive rule if a public hearing is requested by:

- (1) at least 25 persons;
- (2) a governmental entity; or
- (3) an association with at least 25 members.

(c) The executive commissioner shall consider fully all written and oral submissions about a proposed rule.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.09.

Sec. 1001.030. POLICYMAKING AND MANAGEMENT RESPONSIBILITIES. The commissioner, with the advice of the council and subject to the approval of the executive commissioner, shall develop and the department shall implement policies that clearly delineate the policymaking responsibilities of the executive commissioner from the management responsibilities of the commission, the commissioner, and the staff of the department.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.09.

Sec. 1001.031. ANNUAL REPORT. (a) The commissioner shall file annually with the governor, the presiding officer of each house of the legislature, and the executive commissioner a complete and detailed written report accounting for all funds received and disbursed by the department during the preceding fiscal year.

(b) The annual report must be in the form and be reported in the time provided by the General Appropriations Act.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.09.

Sec. 1001.032. OFFICES. The department shall maintain its central office in Austin. The department may maintain offices in other areas of the state as necessary.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.09.

Sec. 1001.033. REPORT TO SECRETARY OF STATE. (a) In this section, "colonia" means a geographic area that:

(1) is an economically distressed area as defined by Section 17.921, Water Code;

(2) is located in a county any part of which is within 62 miles of an international border; and

(3) consists of 11 or more dwellings that are located in close proximity to each other in an area that may be described as a community or neighborhood.

(b) To assist the secretary of state in preparing the report required under Section 405.021, Government Code, the commissioner on a quarterly basis shall provide a report to the secretary of state detailing any projects funded by the department that provide assistance to colonias.

(c) The report must include:

(1) a description of any relevant projects;

(2) the location of each project;

(3) the number of colonia residents served by each project;

(4) the exact amount spent or the anticipated amount to be spent on each colonia served by each project;

(5) a statement of whether each project is completed and, if not, the expected completion date of the project; and

(6) any other information, as determined appropriate by the secretary of state.

(d) The commission shall require an applicant for funds administered by the commission to submit to the commission a colonia classification number, if one exists, for each colonia that may be served by the project proposed in the application. If a colonia does not have a classification number, the commission may contact the secretary of state or the secretary of state's representative to obtain the classification number. On request of the commission, the secretary of state or the secretary of state's representative shall assign a classification number to the colonia. Added by Acts 2005, 79th Leg., Ch. 828, Sec. 5, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 341, Sec. 16, eff. June 15, 2007.

SUBCHAPTER C. PERSONNEL

Sec. 1001.051. COMMISSIONER. (a) The executive commissioner shall appoint a commissioner of the department with the approval of the governor. The commissioner is to be selected according to education, training, experience, and demonstrated ability.

(b) The commissioner serves at the pleasure of the executive commissioner.

(c) Subject to the control of the executive commissioner, the commissioner shall act as the department's chief administrative officer and as a liaison between the department and commission.

(d) The commissioner shall administer this chapter under operational policies established by the executive commissioner and in accordance with the memorandum of understanding under Section 531.0055(k), Government Code, between the commissioner and the executive commissioner, as adopted by rule.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.09.

Sec. 1001.052. PERSONNEL. (a) The department may employ, compensate, and prescribe the duties of personnel necessary and suitable to administer this chapter.

(b) The executive commissioner shall prepare and by rule adopt personnel standards.

(c) A personnel position may be filled only by an individual selected and appointed on a nonpartisan merit basis.

(d) The commissioner, with the advice of the council, shall develop and the department shall implement policies that clearly define the responsibilities of the staff of the department.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.09.

Sec. 1001.053. INFORMATION ABOUT QUALIFICATIONS AND STANDARDS OF CONDUCT. The commissioner or the commissioner's designee shall provide to department employees, as often as necessary, information regarding the requirements for employment under this chapter or rules adopted by the executive commissioner, including information regarding a person's responsibilities under

applicable laws relating to standards of conduct for state employees.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.09.

Sec. 1001.054. MERIT PAY. Subject to rules adopted by the executive commissioner, the commissioner or the commissioner's designee shall develop a system of annual performance evaluations. All merit pay for department employees must be given under the system established under this section or under rules adopted by the executive commissioner.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.09.

Sec. 1001.055. CAREER LADDER. The commissioner or the commissioner's designee shall develop an intra-agency career ladder program. The program must require intra-agency postings of all nonentry-level positions concurrently with any public posting.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.09.

Sec. 1001.056. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) Subject to rules adopted by the executive commissioner, 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.

(b) Unless the following are included in a policy statement adopted by the executive commissioner that is applicable to the department, 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; and

(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.

- (c) The policy statement must be:
- (1) updated annually;
 - (2) reviewed by the state Commission on Human Rights for compliance with Subsection (b)(1); and
 - (3) filed with the governor's office.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.09.

Sec. 1001.057. STATE EMPLOYEE INCENTIVE PROGRAM. The commissioner or the commissioner's designee shall provide to department employees information and training on the benefits and methods of participation in the state employee incentive program.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.09.

SUBCHAPTER D. POWERS AND DUTIES OF DEPARTMENT

Sec. 1001.071. GENERAL POWERS AND DUTIES OF DEPARTMENT RELATED TO HEALTH CARE. The department is responsible for administering human services programs regarding the public health, including:

- (1) implementing the state's public health care delivery programs under the authority of the department;
- (2) administering state health facilities, hospitals, and health care systems;
- (3) developing and providing health care services, as directed by law;
- (4) providing for the prevention and control of communicable diseases;
- (5) providing public education on health-related matters, as directed by law;
- (6) compiling and reporting health-related information, as directed by law;
- (7) acting as the lead agency for implementation of state policies regarding the human immunodeficiency virus and acquired immunodeficiency syndrome and administering programs related to the human immunodeficiency virus and acquired immunodeficiency syndrome;
- (8) investigating the causes of injuries and methods of prevention;

(9) administering a grant program to provide appropriated money to counties, municipalities, public health districts, and other political subdivisions for their use to provide or pay for essential public health services;

(10) administering the registration of vital statistics;

(11) licensing, inspecting, and enforcing regulations regarding health facilities, other than long-term care facilities regulated by the Department of Aging and Disability Services;

(12) implementing established standards and procedures for the management and control of sanitation and for health protection measures;

(13) enforcing regulations regarding radioactive materials;

(14) enforcing regulations regarding food, bottled and vended drinking water, drugs, cosmetics, and health devices;

(15) enforcing regulations regarding food service establishments, retail food stores, mobile food units, and roadside food vendors; and

(16) enforcing regulations controlling hazardous substances in households and workplaces.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.09.

Sec. 1001.0711. SCHOOL HEALTH ADVISORY COMMITTEE. (a) The commission by rule shall establish a School Health Advisory Committee at the department to provide assistance to the council in establishing a leadership role for the department in support for and delivery of coordinated school health programs and school health services.

(b) The committee shall include at least:

(1) one representative from the Department of Agriculture, appointed by the commissioner of agriculture; and

(2) one representative from the Texas Education Agency, appointed by the commissioner of education.

(c) Section 2110.008, Government Code, does not apply to a committee created under this section.

Added by Acts 2005, 79th Leg., Ch. 784, Sec. 9, eff. June 17, 2005.

Sec. 1001.072. GENERAL POWERS AND DUTIES OF DEPARTMENT RELATED TO MENTAL HEALTH. The department is responsible for administering human services programs regarding mental health, including:

(1) administering and coordinating mental health services at the local and state level;

(2) operating the state's mental health facilities; and

(3) inspecting, licensing, and enforcing regulations regarding mental health facilities, other than long-term care facilities regulated by the Department of Aging and Disability Services.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.09.

Sec. 1001.073. GENERAL POWERS AND DUTIES OF DEPARTMENT RELATED TO SUBSTANCE ABUSE. The department is responsible for administering human services programs regarding substance abuse, including:

(1) administering, coordinating, and contracting for the delivery of substance abuse prevention and treatment programs at the state and local level;

(2) inspecting, licensing, and enforcing regulations regarding substance abuse treatment facilities; and

(3) providing public education on substance abuse issues, as directed by law.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.09.

Sec. 1001.074. INFORMATION REGARDING COMPLAINTS. (a) The department shall maintain a file on each written complaint filed with the department. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the department;

(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 department closed the file without taking action other than to investigate the complaint.

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

(c) The department, 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.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.09.

Sec. 1001.075. RULES. The executive commissioner may adopt rules reasonably necessary for the department to administer this chapter, consistent with the memorandum of understanding under Section 531.0055(k), Government Code, between the commissioner and the executive commissioner, as adopted by rule.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.09.