

HEALTH AND SAFETY CODE CHAPTER 102. TEXAS CANCER COUNCIL

HEALTH AND SAFETY CODE

TITLE 2. HEALTH

SUBTITLE E. HEALTH CARE COUNCILS AND RESOURCE CENTERS

CHAPTER 102. TEXAS CANCER COUNCIL

Text of chapter effective until approval by the voters of H.J.R. 90,
80th Leg., R.S.

Sec. 102.001. DEFINITION. In this chapter, "council" means
the Texas Cancer Council.

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

Sec. 102.002. TEXAS CANCER COUNCIL. The Texas Cancer
Council shall develop and work to implement the Texas Cancer Plan.
Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended
by Acts 1991, 72nd Leg., 1st C.S., ch. 15, Sec. 5.06, eff. Sept. 1,
1991; Acts 1999, 76th Leg., ch. 36, Sec. 1, eff. Sept. 1, 1999.

Sec. 102.003. SUNSET PROVISION. The Texas Cancer Council
is subject to Chapter 325, Government Code (Texas Sunset
Act). Unless continued in existence as provided by that chapter,
the council is abolished and this chapter expires September 1,
2011.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended
by Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 4.24, eff. Nov. 12,
1991; Acts 1999, 76th Leg., ch. 36, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1227, Sec. 2.02, eff. September 1,
2005.

Acts 2007, 80th Leg., R.S., Ch. 928, Sec. 3.02, eff. June 15,
2007.

Sec. 102.004. COMPOSITION OF COUNCIL. (a) The council is
composed of:

(1) the chairman of the Texas Board of Health, or a
representative appointed by the chairman, who serves as an ex
officio nonvoting member;

(2) one physician active in the treatment of cancer, appointed by the governor;

(3) one physician active in the treatment of cancer, appointed by the lieutenant governor;

(4) one physician active in the treatment of cancer, appointed by the speaker of the house of representatives;

(5) one representative of a voluntary health organization interested in cancer, appointed by the governor;

(6) one representative of a voluntary health organization interested in cancer, appointed by the lieutenant governor;

(7) one representative of a voluntary health organization interested in cancer, appointed by the speaker of the house of representatives;

(8) one representative of a licensed health care facility that treats a significant number of cancer patients, appointed by the governor;

(9) one representative of a licensed health care facility that treats a significant number of cancer patients, appointed by the lieutenant governor;

(10) one representative of a licensed health care facility that treats a significant number of cancer patients, appointed by the speaker of the house of representatives;

(11) one member of the public, appointed by the governor;

(12) one member of the public, appointed by the lieutenant governor;

(13) one member of the public, appointed by the speaker of the house of representatives;

(14) one licensed health care professional active in the treatment or control of cancer, other than a physician, appointed by the governor;

(15) one licensed health care professional active in the treatment or control of cancer, other than a physician, appointed by the lieutenant governor; and

(16) one licensed health care professional active in the treatment or control of cancer, other than a physician,

appointed by the speaker of the house of representatives.

(b) In making appointments to the council, the governor, lieutenant governor, and speaker of the house of representatives should attempt to include cancer survivors and family members of cancer patients if possible.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 15, Sec. 5.07, eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 36, Sec. 1, eff. Sept. 1, 1999.

Sec. 102.0041. QUALIFICATIONS OF COUNCIL MEMBERS AND EMPLOYEES. (a) 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. The term does not include a voluntary health organization.

(b) A person may not be a public member of the council 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 money from the council;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving money from the council; or

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

(c) A person may not be a member of the council and may not be a council 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 cancer

control; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of cancer control.

(d) A person may not be a member of the council or act as the general counsel to the council or the council's staff 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 council.

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

(f) It is a ground for removal from the council that a member:

(1) does not have at the time of taking office the qualifications required by Section 102.004;

(2) does not maintain during service on the council the qualifications required by Section 102.004;

(3) is ineligible for membership under Subsections (b)-(d);

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

(5) is absent from more than half of the regularly scheduled council meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the council.

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

(h) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the council of the potential ground. The presiding officer shall then notify the appointing authority and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking

officer of the council, who shall then notify the appointing authority and the attorney general that a potential ground for removal exists.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 15, Sec. 5.08, eff. Sept. 1, 1991. Amended by Acts 1999, 76th Leg., ch. 36, Sec. 1, eff. Sept. 1, 1999.

Sec. 102.005. TERMS; VACANCY. (a) Except for the ex officio member of the council, council members serve for staggered six-year terms, with the terms of five members expiring February 1 of each even-numbered year.

(b) If a vacancy occurs, the appropriate appointing authority shall appoint, in the same manner as the original appointment, a person to serve for the remainder of the unexpired term.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 36, Sec. 2, eff. Sept. 1, 1999.

Sec. 102.006. OFFICERS. The governor shall designate a member of the council, other than the ex officio member, as the presiding officer of the council to serve in that capacity at the pleasure of the governor.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 15, Sec. 5.09, eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 36, Sec. 3, eff. Sept. 1, 1999.

Sec. 102.007. COMPENSATION. (a) A member of the council is not entitled to compensation but is entitled to reimbursement for actual and necessary expenses incurred in performing council duties.

(b) A member of the legislature shall be reimbursed from the appropriate fund of the legislature. A representative of a state agency shall be reimbursed from the funds of the agency the person represents. Other members shall be reimbursed from council funds.

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

Sec. 102.008. MEETINGS. (a) The council shall meet at the

call of the presiding officer.

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

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 36, Sec. 3, eff. Sept. 1, 1999.

Sec. 102.009. POWERS AND DUTIES OF COUNCIL. (a) The council shall:

- (1) work to implement the Texas Cancer Plan;
- (2) continually monitor and revise the Texas Cancer Plan as necessary;
- (3) promote the development and coordination of effective and efficient statewide public and private policies, programs, and services related to cancer; and
- (4) encourage cooperative, comprehensive, and complementary planning among the public, private, and volunteer sectors involved in cancer research, prevention, detection, and treatment.

(b) The council may:

- (1) employ an executive director;
- (2) appoint advisory committees necessary to implement the Texas Cancer Plan and employ necessary staff to provide administrative support;
- (3) monitor contracts and agreements for cancer programs authorized by this chapter;
- (4) conduct necessary studies and surveys;
- (5) accept, transfer, and spend funds made available by the federal or state government or by any other public or private source, subject to limitations and conditions prescribed by legislative appropriation; and
- (6) use the existing staff of an appointed official or agency to assist the council in performing its duties under this chapter.

(c) The Texas Cancer Council and/or its contracted projects shall maintain for physicians a listing of available continuing

medical education courses in pain treatment offered by accredited Texas medical and osteopathic schools, hospitals, health care facilities, or professional societies or associations for physicians.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 627, Sec. 13, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 15, Sec. 5.10, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 174, Sec. 2, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 36, Sec. 4, eff. Sept. 1, 1999.

Sec. 102.010. GRANT PROGRAM. (a) If funds are available, the council may establish a grant program to provide funds to public or private persons to implement the Texas Cancer Plan.

(b) The council shall adopt rules governing the submission and approval of grant requests and the cancellation of grants.

(c) To receive a grant, a person whose grant request is approved must execute an interagency agreement or a contract with the council. The contract must require the person receiving the grant to perform the services as stated in the approved grant request. The contract must contain appropriate provisions for program and fiscal monitoring.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 15, Sec. 5.11, eff. Sept. 1, 1991.

Sec. 102.011. STANDARDS OF CONDUCT. The executive director or the executive director's designee shall provide to members of the council and to council 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.

Added by Acts 1999, 76th Leg., ch. 36, Sec. 5, eff. Sept. 1, 1999.

Sec. 102.012. CANCER RESOURCE FUND. (a) The cancer resource fund is an account of the general revenue fund.

(b) The legislature may appropriate money deposited to the

credit of the cancer resource fund only to the council for cancer prevention, cancer research, and medical care for cancer victims.

(c) The council shall develop a policy governing the award of funds for clinical research that follows scientific peer review and approval by the National Cancer Institute of the National Institutes of Health or that follows other review procedures that are designed to distribute those funds on the basis of scientific merit.

(d) Interest earned from the investment of the cancer resource fund shall be deposited to the credit of the fund.

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

Sec. 102.013. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the council may not vote, deliberate, or be counted as a member in attendance at a meeting of the council until the person completes a training program that complies with this section.

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

- (1) the legislation that created the council;
- (2) the programs operated by the council;
- (3) the role and functions of the council;
- (4) the rules of the council, with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (5) the current budget for the council;
- (6) the results of the most recent formal audit of the council;
- (7) the requirements of:
 - (A) the open meetings law, Chapter 551, Government Code;
 - (B) the public information law, Chapter 552, Government Code;
 - (C) the administrative procedure law, Chapter 2001, Government Code; and
 - (D) other laws relating to public officials, including conflict of interest laws; and
- (8) any applicable ethics policies adopted by the

council or the Texas Ethics Commission.

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

Added by Acts 1999, 76th Leg., ch. 36, Sec. 5, eff. Sept. 1, 1999.

Sec. 102.014. SEPARATION OF RESPONSIBILITIES. The council shall develop and implement policies that clearly separate the policymaking responsibilities of the council and the management responsibilities of the executive director and the staff of the council.

Added by Acts 1999, 76th Leg., ch. 36, Sec. 5, eff. Sept. 1, 1999.

Sec. 102.015. COMPLAINTS. (a) The council shall maintain a file on each written complaint filed with the council. The file must include:

- (1) the name of the person who filed the complaint;
- (2) the date the complaint is received by the council;
- (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 council closed the file without taking action other than to investigate the complaint.

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

(c) The council, 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 1999, 76th Leg., ch. 36, Sec. 5, eff. Sept. 1, 1999.

Sec. 102.016. EQUAL EMPLOYMENT OPPORTUNITY. (a) The executive director or the executive director'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) 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 council 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 council'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:

(1) be updated annually;

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

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

Added by Acts 1999, 76th Leg., ch. 36, Sec. 5, eff. Sept. 1, 1999.

Sec. 102.017. TEXANS CONQUER CANCER ACCOUNT. (a) The Texans Conquer Cancer account is a separate account in the general revenue fund. The account is composed of:

(1) money deposited to the credit of the account under Section 502.2735, Transportation Code; and

(2) gifts, grants, and donations.

(b) The council administers the account. The council may spend money credited to the account only to:

(1) make grants to nonprofit organizations that provide support services for cancer patients and their families; and

(2) defray the cost of administering the account.

(c) The council:

(1) may accept gifts, donations, and grants from any source for the benefit of the account; and

(2) by rule shall establish guidelines for spending money credited to the account.

Added by Acts 2001, 77th Leg., ch. 869, Sec. 3(b), eff. June 14, 2001.

Sec. 102.018. TEXANS CONQUER CANCER ADVISORY COMMITTEE.

(a) The council shall appoint a seven-member Texans Conquer Cancer advisory committee.

(b) The committee shall:

(1) assist the council in establishing guidelines for the expenditure of money credited to the Texans Conquer Cancer account; and

(2) review and make recommendations to the council on applications submitted to the council for grants funded with money credited to the Texans Conquer Cancer account.

(c) Members of the committee serve without compensation and are not entitled to reimbursement for expenses. Each member serves a term of four years, with the terms of three or four members expiring on January 31 of each odd-numbered year.

(d) Section 2110.008, Government Code, does not apply to the committee.

Added by Acts 2001, 77th Leg., ch. 869, Sec. 3(b), eff. June 14, 2001.