

HEALTH AND SAFETY CODE CHAPTER 104. STATEWIDE HEALTH COORDINATING
COUNCIL AND STATE HEALTH PLAN

HEALTH AND SAFETY CODE

TITLE 2. HEALTH

SUBTITLE E. HEALTH CARE COUNCILS AND RESOURCE CENTERS

CHAPTER 104. STATEWIDE HEALTH COORDINATING COUNCIL AND STATE HEALTH
PLAN

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 104.001. POLICY; PURPOSE. (a) The policy of this state and the purpose of this chapter are to:

(1) ensure that health care services and facilities are available to all citizens in an orderly and economical manner; and

(2) meet the requirements of applicable federal law.

(b) To achieve this purpose it is essential that:

(1) appropriate health planning activities are undertaken and implemented; and

(2) health care services and facilities are provided in a cost-effective manner, compatible with the health care needs of the different areas and populations of the state.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 747, Sec. 18, eff. Sept. 1, 1993.

Sec. 104.002. DEFINITION. In this chapter, "health care facility" means a public or private hospital, skilled nursing facility, intermediate care facility, ambulatory surgical facility, family planning clinic that performs ambulatory surgical procedures, rural or urban health initiative clinic, kidney disease treatment facility, inpatient rehabilitation facility, and any other facility designated a health care facility by federal law. The term does not include the office of physicians or practitioners of the healing arts practicing individually or in groups.

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

Sec. 104.003. FEDERAL LAW. A reference in this chapter to federal law is a reference to any pertinent federal authority,

including:

(1) the National Health Planning and Resources Development Act of 1974 (Pub. L. No. 93-641) , as amended by the Health Planning and Resources Development Amendments of 1979 (Pub. L. No. 96-79);

(2) Public Laws 79-725, 88-164, 89-749, and 92-603;
and

(3) the federal rules and regulations adopted under a law specified by Subdivision (1) or (2).

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

Sec. 104.004. INTERAGENCY COOPERATION. Each state agency, department, instrumentality, grantee, political subdivision, and institution of higher education shall cooperate with the department in performing assigned duties and functions.

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

Sec. 104.005. LIMITATIONS ON POWERS OF DEPARTMENT. This chapter does not authorize the department or an official or employee of the department to:

(1) supervise or control the practice of medicine, the manner in which physician's services in private practice are provided, or the selection, tenure, compensation, or fees of a physician in the delivery of physician's services; or

(2) perform a duty or function under Title XI of the Social Security Act (42 U.S.C. Sec. 1301 et seq.) or a rule or regulation adopted under that Act.

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

SUBCHAPTER B. STATEWIDE HEALTH COORDINATING COUNCIL

Sec. 104.011. COMPOSITION OF COUNCIL. (a) The statewide health coordinating council is composed of 17 members determined as follows:

(1) the commissioner of health and human services or a representative designated by the commissioner;

(2) the presiding officer of the Texas Higher Education Coordinating Board or a representative designated by the

presiding officer;

(3) the presiding officer of the department or a representative designated by the presiding officer;

(4) the presiding officer of the Texas Department of Mental Health and Mental Retardation or a representative designated by the presiding officer; and

(5) the following members appointed by the governor:

(A) three health care professionals from the allied health, dental, medical, mental health, and pharmacy professions, no two of whom may be from the same profession;

(B) one registered nurse;

(C) two representatives of a university or health-related institution of higher education;

(D) one representative of a junior or community college with a nursing program;

(E) one hospital administrator;

(F) one managed care administrator; and

(G) four public members.

(b) The appointments of the governor shall be with the advice and consent of the senate.

(c) The governor shall designate a member of the council as the presiding officer of the council to serve in that capacity at the will of the governor.

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

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 747, Sec. 19, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1386, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1411, Sec. 11.01, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 198, Sec. 2.192(a), eff. Sept. 1, 2003.

Sec. 104.0111. CONFLICT OF INTEREST. (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.

(b) A person may not be a member of the statewide health coordinating council if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of medicine; or

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

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

Added by Acts 1999, 76th Leg., ch. 1411, Sec. 11.02, eff. Sept. 1, 1999.

Sec. 104.0112. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the statewide health coordinating council that a member:

(1) does not have at the time of taking office the qualifications required by Section 104.011(a);

(2) does not maintain during service on the council the qualifications required by Section 104.011(a);

(3) is ineligible for membership under Section 104.0111;

(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.

(b) 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.

(c) If the commissioner has knowledge that a potential ground for removal exists, the commissioner shall notify the presiding officer of the council of the potential ground. The

presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the commissioner shall notify the next highest ranking officer of the council, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1999, 76th Leg., ch. 1411, Sec. 11.02, eff. Sept. 1, 1999.

Sec. 104.0113. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the statewide health coordinating 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;
- (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. 1411, Sec. 11.02, eff. Sept. 1, 1999.

Sec. 104.0115. TERMS. (a) Members of the council serve for staggered six-year terms, with the terms of four or five members expiring August 31 of each odd-numbered year.

(b) An appointment to fill a vacancy is for the unexpired term.

Added by Acts 1993, 73rd Leg., ch. 747, Sec. 20, eff. Sept. 1, 1993.

Amended by Acts 2003, 78th Leg., ch. 728, Sec. 6, eff. June 20, 2003.

Sec. 104.012. RULES. The statewide health coordinating council shall adopt rules governing the development and implementation of the state health plan.

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

Sec. 104.013. FEES. The statewide health coordinating council may establish and charge fees for public health planning, data, and statistical services.

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

Sec. 104.014. ASSISTANCE. The department, in accordance with rules adopted by the statewide health coordinating council, shall assist the council in performing the council's duties and functions.

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

Sec. 104.0141. DIVISION OF POLICY AND MANAGEMENT RESPONSIBILITIES. The statewide health coordinating council shall develop and implement policies that clearly separate the policymaking responsibilities of the council and the management responsibilities of the commissioner and the staff of the department.

Added by Acts 1999, 76th Leg., ch. 1411, Sec. 11.03, eff. Sept. 1,

1999.

Sec. 104.0142. INFORMATION ABOUT STANDARDS OF CONDUCT. The commissioner or the commissioner's designee shall provide to members of the statewide health coordinating council, as often as necessary, information regarding the requirements for office under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers.

Added by Acts 1999, 76th Leg., ch. 1411, Sec. 11.03, eff. Sept. 1, 1999.

Sec. 104.015. ADVISORY BOARDS AND AD HOC COMMITTEES. The statewide health coordinating council may form advisory boards or ad hoc committees composed of health care experts from the public and private sectors to review policy matters related to the council's purpose.

Added by Acts 1997, 75th Leg., ch. 1386, Sec. 2, eff. Sept. 1, 1997.

Sec. 104.0155. NURSING ADVISORY COMMITTEE. (a) The statewide health coordinating council shall form a nursing advisory committee the majority of the members of which must be nurses. The committee:

(1) must include:

(A) members of associations that represent nurses, educators of nurses, and employers of nurses;

(B) members who represent nurse licensing boards; and

(C) a nurse researcher; and

(2) may include other members who are health care experts from the public or private sector, nurses, nurse educators, employers of nurses, or consumers of nursing services.

(b) The committee shall:

(1) review policy matters on the collection of data and reports performed under Chapter 105 that relate to the nursing profession;

(2) subject to approval of the council, develop

priorities and an operations plan for the nursing resource section under Section 105.002(b); and

(3) review reports and information before dissemination.

(c) A nurse member of the committee and a nurse member of the statewide health coordinating council shall cochair the committee.

(d) Chapter 2110, Government Code, does not apply to the committee formed under this section.

(e) Meetings of the committee under this section are subject to Chapter 551, Government Code.

Added by Acts 2003, 78th Leg., ch. 728, Sec. 7, eff. June 20, 2003.

Sec. 104.0156. HEALTH CARE INFORMATION TECHNOLOGY ADVISORY COMMITTEE. (a) The statewide health coordinating council shall form an advisory committee on health care information technology. The committee must include representatives of interested groups, including the academic community, health plans, pharmacies, and associations of physicians, hospitals, and nurses. The committee must also include at least one member with at least 10 years of experience in the health care information technology industry.

(b) The advisory committee shall develop a long-range plan for health care information technology, including the use of electronic medical records, computerized clinical support systems, computerized physician order entry, regional data sharing interchanges for health care information, and other methods of incorporating information technology in pursuit of greater cost-effectiveness and better patient outcomes in health care. In developing the long-range plan, the advisory committee shall study the effect of health care information technology on price disparities in insurance coverage for residents of this state.

(c) The advisory committee shall elect a presiding officer.

(d) Members of the advisory committee serve without compensation but are entitled to reimbursement for the members' travel expenses as provided by Chapter 660, Government Code, and the General Appropriations Act.

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

size, composition, or duration of the advisory committee.

(f) Meetings of the advisory committee under this section are subject to Chapter 551, Government Code.

Added by Acts 2005, 79th Leg., Ch. 785, Sec. 1, eff. September 1, 2005.

Sec. 104.016. PUBLIC TESTIMONY. The statewide health coordinating 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.

Added by Acts 1999, 76th Leg., ch. 1411, Sec. 11.04, eff. Sept. 1, 1999.

SUBCHAPTER C. STATE HEALTH PLAN

Sec. 104.021. PROPOSED STATE HEALTH PLAN. (a) The department, in accordance with rules adopted by the statewide health coordinating council, shall prepare and review a proposed state health plan every six years and shall revise and update the plan biennially.

(b) The department shall submit the proposed plan to the statewide health coordinating council.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 747, Sec. 21, eff. Sept. 1, 1993.

Sec. 104.022. STATE HEALTH PLAN. (a) Information needed for the development of the state health plan shall be gathered through systematic methods designed to include local, regional, and statewide perspectives.

(b) The statewide health coordinating council, in consultation with the Health and Human Services Commission, shall issue overall directives for the development of the state health plan.

(c) The department shall consult with the Texas Department of Mental Health and Mental Retardation, the Texas Department of Human Services, and other appropriate health-related state agencies designated by the governor before performing the duties

and functions prescribed by state and federal law regarding the development of the state health plan.

(d) The statewide health coordinating council shall provide guidance to the department in developing the state health plan.

(e) The state health plan shall be developed and used in accordance with applicable state and federal law. The plan must identify:

(1) major statewide health concerns;

(2) the availability and use of current health resources of the state, including resources associated with information technology and state-supported institutions of higher education; and

(3) future health service, information technology, and facility needs of the state.

(f) The state health plan must:

(1) propose strategies for the correction of major deficiencies in the service delivery system;

(2) propose strategies for incorporating information technology in the service delivery system;

(3) propose strategies for involving state-supported institutions of higher education in providing health services and for coordinating those efforts with health and human services agencies in order to close gaps in services; and

(4) provide direction for the state's legislative and executive decision-making processes to implement the strategies proposed by the plan.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 627, Sec. 3, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 747, Sec. 22, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 8.126, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 785, Sec. 2, eff. September 1, 2005.

Sec. 104.023. REVIEW OF STATE HEALTH PLAN. The statewide health coordinating council shall submit the state health plan to the Health and Human Services Commission for review and comment before the plan is sent to the governor.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 627, Sec. 14, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 8.127, eff. Sept. 1, 1995.

Sec. 104.024. SUBMISSION OF PLAN TO GOVERNOR. The statewide health coordinating council shall approve the state health plan for submission to the governor in accordance with applicable federal law and, not later than November 1 of each even-numbered year, submit the plan to the governor for adoption. Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 104.025. IMPLEMENTATION OF STATE HEALTH PLAN. The statewide health coordinating council shall promote the implementation of the recommendations made in the state health plan. Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 104.026. COST DATA. (a) A state agency directly affected by a recommendation in the state health plan shall submit cost data for the implementation of the recommendation to the department and to the statewide health coordinating council, and shall indicate whether the agency is requesting funds in a manner consistent with the plan's recommendation.

(b) If the agency does not request funds consistent with the state health plan's recommendation, the agency shall submit an explanation and justification of any deviation.

(c) The department shall submit information received under this section to the Legislative Budget Board and the governor's budget office not later than November 1 of each even-numbered year. Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER D. THE DEPARTMENT AND THE STATE HEALTH PLAN

Sec. 104.041. STATE HEALTH PLANNING AND DEVELOPMENT AGENCY. (a) The department is the state health planning and development agency for this state.

(b) After a public hearing and with the governor's approval, the department may contract with an appropriate state agency to

perform specific state health planning and development functions of the department.

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

Sec. 104.042. DATA COLLECTION. (a) The board by rule shall establish reasonable procedures for the collection of data from health care facilities and for the distribution of data necessary to facilitate and expedite proper and effective health planning and resource development.

(b) The board by rule shall specify the type of data required, the entities required to submit the data, and the period during which the data must be submitted.

(c) The department, in accordance with rules adopted by the statewide health coordinating council, shall collect and distribute data necessary to support specific state health plan goals.

(d) The department shall file, index, and periodically publish in a coherent manner summaries or analyses of the data collected.

(e) Data received by the department under this section containing information identifying specific patients is confidential, is not subject to disclosure under Chapter 552, Government Code, and may not be released unless the information identifying the patient is removed. This subsection does not authorize the release of information that is confidential under Chapter 108.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 728, Sec. 8, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1034, Sec. 1, eff. September 1, 2005.

Sec. 104.0421. STATEWIDE DATA COLLECTION AND COORDINATION. (a) The statewide health coordinating council shall work with appropriate health professional licensing agencies to develop uniform standards for health professional data collected by those agencies to enable the council to maintain a comprehensive

health professional database.

(b) The council shall retrieve data on health professionals from the appropriate licensing agencies. The council may seek the assistance of the appropriate licensing agency or department in the retrieval of data on health professionals.

(c) The council shall monitor and evaluate long-term regional, statewide, and local health needs. The council shall use this evaluation for developing recommendations relating to health education, training, and regulation.

(d) The council shall use data collected under this section to develop workforce goals for health professionals and to recommend the appropriate level and distribution of state funding for education and training to achieve these goals. The council shall evaluate the short-term and long-term effects of the recommendations made under this subsection.

(e) The council shall, with the assistance of higher education agencies and institutions, area health education centers, teaching hospitals, and health education institutions, improve coordination of statewide health planning. The council may seek the assistance of the National Association of Health Data Organizations, the Association of American Medical Colleges, the National Council of State Legislatures, the American Association of Colleges of Osteopathic Medicine, the Association of American Health Centers, and any other appropriate entities.

(f) The department shall continue to assist the council and the health professions resource center with the development of the state health plan. The council shall coordinate related health planning functions within the department. The staff of the health professions resource center shall continue to be department employees but are governed by the council. The staff of the Bureau of State Health Data and Policy Analysis that previously assisted the council shall continue to assist the council.

Added by Acts 1997, 75th Leg., ch. 1386, Sec. 8, eff. Sept. 1, 1997.

Sec. 104.043. FAILURE TO SUBMIT DATA; CIVIL PENALTY.

(a) If the department does not receive necessary data from an entity as required by the board rules, the department shall send to

the entity a notice requiring the entity to submit the data not later than the 30th day after the date on which the entity receives the notice.

(b) An entity that does not submit the data during the period determined under Subsection (a) is subject to a civil penalty of not more than \$500 for each day after the period that the entity fails to submit the data.

(c) At the request of the commissioner, the attorney general shall sue in the name of the state to recover the civil penalty.

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

Sec. 104.044. SORTING COLLECTED DATA. (a) The department shall compile the health data collected under this subchapter and organize the results, to the extent possible, according to the following geographic areas:

- (1) the Texas-Mexico border region;
- (2) each public health region;
- (3) rural areas;
- (4) urban areas;
- (5) each county; and
- (6) the state.

(b) Health data released under this subchapter must be released in accordance with the way it is compiled under this section.

Added by Acts 2005, 79th Leg., Ch. 1034, Sec. 2, eff. September 1, 2005.