

HEALTH AND SAFETY CODE

TITLE 2. HEALTH

SUBTITLE D. PREVENTION, CONTROL, AND REPORTS OF DISEASES

CHAPTER 92. INJURY PREVENTION AND CONTROL

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 92.001. DEFINITIONS. In this chapter:

(1) "Injury" means damage to the body that results from intentional or unintentional acute exposure to thermal, mechanical, electrical, or chemical energy or from the absence of essentials such as heat or oxygen.

(2) "Reportable injury" means an injury or condition required to be reported under this subchapter.

(3) "Traumatic brain injury" means an acquired injury to the brain, including brain injuries caused by anoxia due to near drowning. The term does not include brain dysfunction caused by congenital or degenerative disorders or birth trauma.

Added by Acts 1993, 73rd Leg., ch. 41, Sec. 1, eff. Sept. 1, 1993. Renumbered from Health & Safety Code Sec. 87.001 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(18), eff. Sept. 1, 1995. Renumbered from Health and Safety Code Sec. 88.001 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(53), eff. Sept. 1, 1997. Amended by Acts 1997, 75th Leg., ch. 893, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1088, Sec. 3, eff. Sept. 1, 2003.

Sec. 92.002. REPORTABLE INJURY; RULES. (a) Spinal cord injuries, traumatic brain injuries, and submersion injuries are reportable to the department. The board by rule shall define those terms for reporting purposes.

(b) The board may adopt rules that require other injuries to be reported under this subchapter.

(c) The board shall maintain and revise, as necessary, the list of reportable injuries.

(d) The board shall adopt rules necessary to administer this subchapter.

Added by Acts 1993, 73rd Leg., ch. 41, Sec. 1, eff. Sept. 1, 1993.

Renumbered from Health & Safety Code Sec. 87.002 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(18), eff. Sept. 1, 1995. Renumbered from Health and Safety Code Sec. 88.002 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(53), eff. Sept. 1, 1997. Amended by Acts 1997, 75th Leg., ch. 893, Sec. 2, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1088, Sec. 4, eff. Sept. 1, 2003.

Sec. 92.003. REPORTING REQUIREMENTS. (a) The following persons shall report cases or suspected cases of reportable injuries to the department:

(1) a physician who diagnoses or treats a reportable injury; and

(2) a medical examiner or justice of the peace.

(b) The department may contact a physician attending a person with a case or suspected case of a reportable injury.

(c) The board shall prescribe the form and method of reporting. The board may require the reports to contain any information, including the person's name, address, age, sex, race, occupation, employer, and attending physician, necessary to achieve the purposes of this subchapter.

Added by Acts 1993, 73rd Leg., ch. 41, Sec. 1, eff. Sept. 1, 1993. Renumbered from Health & Safety Code Sec. 87.003 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(18), eff. Sept. 1, 1995. Renumbered from Health and Safety Code Sec. 88.003 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(53), eff. Sept. 1, 1997. Amended by Acts 1997, 75th Leg., ch. 893, Sec. 3, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1088, Sec. 5, eff. Sept. 1, 2003.

Sec. 92.004. POWERS AND DUTIES OF DEPARTMENT. (a) The department may enter into contracts or agreements as necessary to carry out this subchapter. The contracts or agreements may provide for payment by the state for materials, equipment, and services.

(b) The department may seek, receive, and spend any funds received through appropriations, grants, donations, or contributions from public or private sources for the purpose of identifying, reporting, or preventing those injuries that have been determined by the board to be harmful or to be a threat to the public

health.

(c) Subject to the confidentiality provisions of this subchapter, the department shall evaluate the reports of injuries to establish the nature and magnitude of the hazards associated with those injuries, to reduce the occurrence of those risks, and to establish any trends involved.

(d) The department may make inspections and investigations as authorized by this subchapter and other law.

Added by Acts 1993, 73rd Leg., ch. 41, Sec. 1, eff. Sept. 1, 1993. Renumbered from Health & Safety Code Sec. 87.004 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(18), eff. Sept. 1, 1995. Renumbered from Health and Safety Code Sec. 88.004 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(53), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1088, Sec. 6, eff. Sept. 1, 2003.

Sec. 92.005. ACCESS TO INFORMATION. Subject to the confidentiality provisions of this subchapter, the department may collect, or cause to be collected, medical, demographic, or epidemiologic information from any medical or laboratory record or file to help the department in the epidemiologic investigation of injuries and their causes.

Added by Acts 1993, 73rd Leg., ch. 41, Sec. 1, eff. Sept. 1, 1993. Renumbered from Health & Safety Code Sec. 87.005 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(18), eff. Sept. 1, 1995. Renumbered from Health and Safety Code Sec. 88.005 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(53), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1088, Sec. 7, eff. Sept. 1, 2003.

Sec. 92.006. CONFIDENTIALITY. (a) All information and records relating to injuries are confidential, including information from injury investigations. That information may not be released or made public on subpoena or otherwise, except that release may be made:

(1) for statistical purposes, but only if a person is not identified;

(2) with the consent of each person identified in the information released; or

(3) to medical personnel in a medical emergency to the extent necessary to protect the health or life of the named person.

(b) The board shall adopt rules establishing procedures to ensure that all information and records maintained by the department under this subchapter are kept confidential and protected from release to unauthorized persons.

(c) The director, the director's designee, or an employee of the department may not be examined in a judicial or other proceeding about the existence or contents of pertinent records of, investigation reports of, or reports or information about a person examined or treated for an injury without that person's consent.

Added by Acts 1993, 73rd Leg., ch. 41, Sec. 1, eff. Sept. 1, 1993. Renumbered from Health & Safety Code Sec. 87.006 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(18), eff. Sept. 1, 1995. Renumbered from Health and Safety Code Sec. 88.006 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(53), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1088, Sec. 8, eff. Sept. 1, 2003.

Sec. 92.007. INVESTIGATIONS. (a) The department shall investigate the causes of injuries and methods of prevention.

(b) The director or the director's designee may enter at reasonable times and inspect within reasonable limits a public place or building, including a public conveyance, in the director's duty to prevent an injury.

(c) The director or the director's designee may not enter a private residence to conduct an investigation about the causes of injuries without first receiving permission from a lawful adult occupant of the residence.

Added by Acts 1993, 73rd Leg., ch. 41, Sec. 1, eff. Sept. 1, 1993. Renumbered from Health & Safety Code Sec. 87.007 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(18), eff. Sept. 1, 1995. Renumbered from Health and Safety Code Sec. 88.007 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(53), eff. Sept. 1, 1997.

Sec. 92.008. TECHNICAL ADVISORY COMMITTEE ON INJURY REPORTING. (a) The board shall appoint a technical advisory committee to advise the board of injuries other than spinal cord

injuries, traumatic brain injuries, and submersion injuries that should be required by rule to be reported under this subchapter.

(b) The technical advisory committee is composed of:

(1) three doctors of medicine or doctors of osteopathic medicine licensed to practice in this state; and

(2) three hospital representatives, one of whom must be a public hospital representative.

(c) A technical advisory committee member serves at the pleasure of the board.

(d) A vacancy on the technical advisory committee is filled by the board in the same manner as other appointments to the advisory committee.

(e) A member of the technical advisory committee is not entitled to reimbursement for expenses incurred in performing duties under this subchapter.

(f) The technical advisory committee may elect a chairman, vice-chairman, and secretary from among its members and may adopt rules to conduct its activities.

(g) The technical advisory committee is entitled to review and comment on the board's rules under Section 92.002(b) before the rules are proposed.

Added by Acts 1993, 73rd Leg., ch. 41, Sec. 1, eff. Sept. 1, 1993. Renumbered from Health & Safety Code Sec. 87.008 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(18), eff. Sept. 1, 1995. Renumbered from Health and Safety Code Sec. 88.008 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(53), eff. Sept. 1, 1997. Amended by Acts 1997, 75th Leg., ch. 893, Sec. 4, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1088, Sec. 9, eff. Sept. 1, 2003.

Sec. 92.009. COORDINATION WITH TEXAS DEPARTMENT OF INSURANCE. The department and the Texas Department of Insurance shall enter into a memorandum of understanding which shall include the following:

(1) the department and the Texas Department of Insurance shall exchange relevant injury data on an ongoing basis notwithstanding Section 92.006;

(2) confidentiality of injury data provided to the

department by the Texas Department of Insurance is governed by Subtitle A, Title 5, Labor Code;

(3) confidentiality of injury data provided to the Texas Department of Insurance by the department is governed by Section 92.006; and

(4) cooperation in conducting investigations of work-related injuries.

Added by Acts 1993, 73rd Leg., ch. 41, Sec. 1, eff. Sept. 1, 1993. Renumbered from Health & Safety Code Sec. 87.009 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(18), eff. Sept. 1, 1995. Renumbered from Health and Safety Code Sec. 88.009 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(53), eff. Sept. 1, 1997. Amended by Acts 1997, 75th Leg., ch. 893, Sec. 5, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 265, Sec. 6.101, eff. September 1, 2005.

Sec. 92.010. COORDINATION WITH TEXAS REHABILITATION COMMISSION. The department and the Texas Rehabilitation Commission shall enter into a memorandum of understanding to:

(1) exchange relevant injury data on an ongoing basis notwithstanding Section 92.006;

(2) maintain the confidentiality of injury data provided to the department by the commission in accordance with Section 92.006 and Section 111.057, Human Resources Code; and

(3) cooperate in conducting investigations of spinal cord and traumatic brain injuries.

Added by Acts 1997, 75th Leg., ch. 893, Sec. 6, eff. Sept. 1, 1997. Renumbered from Sec. 88.010 and amended by Acts 1999, 76th Leg., ch. 62, Sec. 11.01, eff. Sept. 1, 1999.

Sec. 92.011. COORDINATION WITH TEXAS TRAUMATIC BRAIN INJURY ADVISORY COUNCIL. (a) The department and the Texas Traumatic Brain Injury Advisory Council established within the department under Subchapter B shall:

(1) exchange relevant injury data on an ongoing basis to the extent allowed by Section 92.006;

(2) maintain the confidentiality of injury data provided to the council by the department in accordance with Section 92.006;

(3) permit the council to review and comment on the board's rules under Section 92.002(b) before the rules are proposed; and

(4) cooperate in conducting investigations of traumatic brain injuries.

(b) The department and the Texas Traumatic Brain Injury Advisory Council may enter into a memorandum of understanding to facilitate cooperation under Subsection (a).

Added by Acts 1997, 75th Leg., ch. 893, Sec. 6, eff. Sept. 1, 1997. Renumbered from Sec. 88.011 and amended by Acts 1999, 76th Leg., ch. 62, Sec. 11.02, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1088, Sec. 10, eff. Sept. 1, 2003.

SUBCHAPTER B. TEXAS TRAUMATIC BRAIN INJURY ADVISORY COUNCIL

Sec. 92.051. DEFINITIONS. In this subchapter:

(1) "Traumatic brain injury support group" means a local, state, or national organization that:

(A) is established to provide support services to aid persons with a traumatic brain injury and their primary family caregivers;

(B) encourages research into the cause, prevention, and treatment of traumatic brain injury and care of persons with a traumatic brain injury; and

(C) is dedicated to the development of essential services for persons with a traumatic brain injury and their primary family caregivers.

(2) "Council" means the Texas Traumatic Brain Injury Advisory Council.

(3) "Primary family caregiver" means an individual who is a relative of a person with a traumatic brain injury who has or has had a major responsibility for the care and supervision of the person with a traumatic brain injury and who is not a professional health care provider paid to care for the person with a traumatic brain injury.

Added by Acts 2003, 78th Leg., ch. 1088, Sec. 2, eff. Sept. 1, 2003.

Sec. 92.052. ADVISORY COUNCIL; ASSOCIATED AGENCY.

(a) The Texas Traumatic Brain Injury Advisory Council is an advisory council within the department.

(b) Notwithstanding Subsection (a), if, as a result of legislation enacted in the 78th Legislature, Regular Session, 2003, a state agency other than the department is designated to serve as the agency with primary responsibility in relation to persons with physical disabilities, the council is an advisory council within that state agency and a reference in this chapter to the department means that agency.

Added by Acts 2003, 78th Leg., ch. 1088, Sec. 2, eff. Sept. 1, 2003.

Sec. 92.053. MEMBERSHIP. (a) The council must be composed in accordance with federal law. Appointments to the council shall be made without regard to:

(1) the race, color, sex, religion, age, or national origin of the appointees; or

(2) the disability of the appointees, except as required by federal law.

(b) The council is composed of 22 members appointed as follows:

(1) eight public consumer members appointed by the commissioner of health and human services, at least three of whom must be individuals related to persons with a traumatic brain injury and at least three of whom must be persons with a brain injury;

(2) six professional members appointed by the commissioner of health and human services, each of whom must have special training and interest in the care, treatment, or rehabilitation of persons with a traumatic brain injury, with one representative each from:

(A) acute hospital trauma units;

(B) the National Institute for Disability Rehabilitation Research Traumatic Brain Injury Model System in this state;

(C) acute or post-acute rehabilitation facilities;

(D) community-based services;

(E) faculties of institutions of higher education; and

(F) providers in the areas of physical therapy, occupational therapy, or cognitive rehabilitation; and

(3) eight state agency members, with one representative from each of the following agencies appointed by the chief executive officer of the agency:

(A) Texas Department of Health;

(B) Texas Department of Human Services;

(C) Texas Department of Mental Health and Mental Retardation;

(D) Texas Rehabilitation Commission;

(E) Health and Human Services Commission;

(F) Texas Education Agency;

(G) Texas Planning Council for Developmental Disabilities; and

(H) Texas Department of Insurance.

(c) One of the six public consumer members appointed under Subsection (b)(1) must be a member of a statewide traumatic brain injury support group.

Added by Acts 2003, 78th Leg., ch. 1088, Sec. 2, eff. Sept. 1, 2003.

Sec. 92.054. OFFICERS. (a) The members of the council annually shall elect a presiding officer and an assistant presiding officer from the council members.

(b) A representative of a state agency may not serve as presiding officer or assistant presiding officer.

(c) At least one of the officers must be a public consumer member.

Added by Acts 2003, 78th Leg., ch. 1088, Sec. 2, eff. Sept. 1, 2003.

Sec. 92.055. RESTRICTIONS ON MEMBERS. (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 consumer 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 if the person is an officer, employee, or paid consultant of a Texas trade association in a health care field.

(d) 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.

(e) 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 92.053(b);

(2) does not maintain during service on the council the qualifications required by Section 92.053(b);

(3) is ineligible for membership under Subsection (b), (c), or (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.

(f) 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.

Added by Acts 2003, 78th Leg., ch. 1088, Sec. 2, eff. Sept. 1, 2003.

Sec. 92.056. TERMS; VACANCY. (a) The public consumer and professional members of the council are appointed for staggered six-year terms, with the terms of four or five members expiring February 1 of each odd-numbered year.

(b) In addition to other methods by which a position may become vacant, a position on the council becomes vacant if a member resigns from the council by providing written notice to the presiding officer of the council.

(c) If a position on the council becomes vacant, the presiding officer shall provide written notice to the appropriate appointing official requesting a new appointment to fill the remainder of the member's term.

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

(e) A person who has served one full term on the council is not eligible for reappointment.

Added by Acts 2003, 78th Leg., ch. 1088, Sec. 2, eff. Sept. 1, 2003.

Sec. 92.057. COMPENSATION; EXPENSES. (a) Except as provided by Subsections (b) and (c), a member of the council is not entitled to compensation for service on the council and is not entitled to reimbursement for travel expenses.

(b) A member who is a representative of a state agency shall be reimbursed for travel expenses incurred while conducting council business from the funds of the agency the person represents in accordance with the General Appropriations Act.

(c) If money is available for this purpose in the account established under Section 92.062(b), the department shall reimburse a public consumer member for the member's actual and necessary expenses incurred in performing council duties,

including travel, meals, lodging, respite care for a dependent with a disability, and telephone long-distance charges.

Added by Acts 2003, 78th Leg., ch. 1088, Sec. 2, eff. Sept. 1, 2003.

Sec. 92.058. MEETINGS. The council shall meet at least once each calendar quarter on meeting dates set by the council and at the call of the presiding officer.

Added by Acts 2003, 78th Leg., ch. 1088, Sec. 2, eff. Sept. 1, 2003.

Sec. 92.059. DUTIES OF THE COUNCIL. The council shall:

(1) inform state leaders of issues and policies as they relate to meeting the needs of persons with a traumatic brain injury and their primary family caregivers;

(2) recommend to state leaders policies and programs that more effectively serve persons with a traumatic brain injury and their families;

(3) recommend to the department methods to explore and promote innovative approaches to providing services and support to persons with a traumatic brain injury and their families;

(4) recommend to the department methods to promote education, training, and information about traumatic brain injury issues;

(5) advocate for persons with a traumatic brain injury and their families;

(6) recommend to the department methods to support activities aimed at reducing preventable brain injuries; and

(7) recommend to the department methods to conduct outreach to obtain public input.

Added by Acts 2003, 78th Leg., ch. 1088, Sec. 2, eff. Sept. 1, 2003.

Sec. 92.060. DUTIES OF THE DEPARTMENT. (a) The department shall:

(1) provide administrative support services to the council;

(2) accept gifts and grants on behalf of the council from any public or private entity;

(3) receive, deposit, and disburse gifts and grants

for the council in accordance with this subchapter and provide other administrative services in support of the council as requested by and negotiated with the council; and

(4) enter into a memorandum of understanding with the council that delineates the responsibilities of the department and the council under this subchapter and amend the memorandum as necessary to reflect changes in those responsibilities.

(b) The board may adopt rules as necessary to implement the department's duties under this subchapter and federal developmental disability laws.

Added by Acts 2003, 78th Leg., ch. 1088, Sec. 2, eff. Sept. 1, 2003.

Sec. 92.061. ADDITIONAL COUNCIL DUTIES. The council shall:

(1) make recommendations, at the request of the governor or legislative leaders, relating to activities appropriate to the achievement of legislative and executive functions relating to persons with a traumatic brain injury; and

(2) submit to the governor, legislature, and other appropriate state and federal authorities periodic reports on the council's responsibilities and performance.

Added by Acts 2003, 78th Leg., ch. 1088, Sec. 2, eff. Sept. 1, 2003.

Sec. 92.062. GIFTS AND GRANTS. (a) The council is encouraged to seek a gift or grant from any public or private entity.

(b) The health and human services commission shall deposit any money received under Subsection (a) to the credit of the Texas Traumatic Brain Injury Advisory Council account. The Texas Traumatic Brain Injury Advisory Council account is an account in the general revenue fund that may be appropriated only for the purpose of carrying out this subchapter.

Added by Acts 2003, 78th Leg., ch. 1088, Sec. 2, eff. Sept. 1, 2003.

Sec. 92.063. ADVISORY COMMITTEE STATUTE INAPPLICABLE. Chapter 2110, Government Code, does not apply to the council.

Added by Acts 2003, 78th Leg., ch. 1088, Sec. 2, eff. Sept. 1, 2003.