

1-1 By: Capelo, et al. (Senate Sponsor - Nelson) H.B. No. 2985
1-2 (In the Senate - Received from the House May 1, 2003;
1-3 May 7, 2003, read first time and referred to Committee on Health
1-4 and Human Services; May 23, 2003, reported favorably by the
1-5 following vote: Yeas 9, Nays 0; May 23, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the establishment of an office of patient protection
1-9 within the Health Professions Council.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Chapter 101, Occupations Code, is amended by
1-12 adding Subchapter G to read as follows:

1-13 SUBCHAPTER G. OFFICE OF PATIENT PROTECTION

1-14 Sec. 101.301. GENERAL PROVISIONS. (a) In this subchapter:

1-15 (1) "Consumers as a class" means five or more
1-16 individuals whose complaints are of the same or similar regulatory
1-17 and factual circumstances and issues.

1-18 (2) "Licensing agency" means a health occupation
1-19 regulatory agency that is a member of the council.

1-20 (3) "Office" means the office of patient protection.

1-21 (b) The council shall establish an office of patient
1-22 protection within the council to represent the interests of
1-23 consumers in matters before licensing agencies.

1-24 Sec. 101.302. EXECUTIVE COMMITTEE; DIRECTOR. (a) The
1-25 governor shall appoint an executive committee consisting of at
1-26 least three members who are public members of the governing bodies
1-27 of licensing agencies. The executive committee shall appoint a
1-28 director for the office. The director shall be responsible for
1-29 administering the provisions of this subchapter.

1-30 (b) The director may not be:

1-31 (1) a health care professional licensed or certified
1-32 by a licensing agency;

1-33 (2) financially involved with the provision of health
1-34 care or with an entity that provides health care, including an
1-35 entity regulated by a licensing agency;

1-36 (3) an officer, employee, or paid consultant of a
1-37 trade association for a profession that is regulated by a licensing
1-38 agency;

1-39 (4) an officer, employee, or paid consultant of a
1-40 trade association for an entity regulated by the Texas Department
1-41 of Insurance; or

1-42 (5) required to register as a lobbyist under Chapter
1-43 305, Government Code, because of the person's activities for
1-44 compensation related to a person or organization subject to
1-45 regulation by a licensing agency.

1-46 Sec. 101.303. ADMINISTRATIVE ATTACHMENT TO COUNCIL;
1-47 REIMBURSEMENT. The office is located in the council but may not
1-48 interfere with the other duties of the council. The office shall
1-49 reimburse the council from fees received by the office under
1-50 Section 101.307 for administrative costs incurred by the council in
1-51 providing administrative support for the office.

1-52 Sec. 101.304. PUBLIC INFORMATION PROVIDED BY OFFICE;
1-53 STANDARD COMPLAINT FORM. (a) The office shall provide to the
1-54 public information about the complaint process at each licensing
1-55 agency.

1-56 (b) The office shall conduct a public awareness campaign to
1-57 increase awareness of the telephone complaint system under
1-58 Subchapter B.

1-59 (c) Through the use of the Internet and other information
1-60 and communications media, the office shall provide information to
1-61 the public in easily understood language regarding the complaint
1-62 procedures and sanctions processes used by the licensing agencies.

1-63 (d) The office, in cooperation with the licensing agencies,
1-64 shall adopt a standard complaint form that may be used by a member

of the public to file a complaint with a licensing agency. Each licensing agency shall accept the form adopted under this section in addition to any other form required by the agency.

Sec. 101.305. POWERS AND DUTIES OF OFFICE. (a) The office shall:

(1) establish, in consultation with and on the approval of the council, protocols for interaction with licensing agencies;

(2) serve as the ombudsman for consumer complaints at the licensing agencies on the request of an individual consumer;

(3) assist consumers in obtaining information about the status of complaints; and

(4) review the Internet websites of licensing agencies and make recommendations to the agencies on making public information, including information relating to disciplinary actions, understandable to and easily accessible by the public.

(b) The office may:

(1) appear at or present information or testimony to a licensing agency on behalf of consumers as a class; and

(2) appeal the decisions of licensing agencies to the governing body of the appropriate licensing agency on behalf of consumers as a class but not for individual complainants.

(c) The office may not appeal an individual complainant's case before any agency.

(d) The office is entitled to access to:

(1) complaints received by a licensing agency, unless the access would jeopardize an ongoing investigation; and

(2) the public records of a licensing agency and the records of a licensing agency that are filed with the State Office of Administrative Hearings.

(e) The confidentiality requirements that apply to the records of a licensing agency and the sanctions for disclosure of confidential information apply to the office and to information obtained by the office under Subsection (d).

Sec. 101.306. MONITORING OF AGENCIES. (a) The office shall review and evaluate rules proposed for adoption by the licensing agencies and changes made to the statutes that govern the operation of the agencies and the professions regulated by the agencies.

(b) The office may report to the legislature and recommend to licensing agencies changes in agency rules that, in the office's judgment, would positively affect the interests of consumers.

(c) The office shall recommend changes to the statutes described by Subsection (a) to the Sunset Advisory Commission during the commission's review of the relevant licensing agency.

Sec. 101.307. FUNDING OF OFFICE. (a) To provide funding sufficient for the office to exercise the powers and duties prescribed by this subchapter:

(1) the initial licensing or registration fee charged by each licensing agency is increased by \$5; and

(2) the renewal fee charged by each licensing agency is increased by \$1 for each year for which the license or registration is renewed.

(b) The fee increases authorized under this section shall be collected in the same manner as the assessment under Section 101.006. The council may spend the fees collected under this section only to fund the activities of the office under this subchapter.

SECTION 2. (a) This Act takes effect September 1, 2003.

(b) The Health Professions Council shall establish the office of patient protection as required by this Act not later than January 1, 2004. The Health Professions Council may establish a schedule under which the office of patient protection shall begin to perform the powers and duties prescribed by this Act on and after the date the office is established.

(c) The change in law made by this Act by the enactment of Section 101.307, Occupations Code, applies only to a fee collected on or after January 1, 2004.

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