

INSURANCE CODE

TITLE 10. PROPERTY AND CASUALTY INSURANCE

SUBTITLE B. LIABILITY INSURANCE FOR PHYSICIANS AND
HEALTH CARE PROVIDERS

CHAPTER 1903. LOSS CONTROL INFORMATION AND SERVICES

SUBCHAPTER A. LOSS CONTROL SERVICES FOR PROFESSIONAL LIABILITY
INSURANCE FOR HOSPITALS

Sec. 1903.001. DEFINITION. In this subchapter, "hospital" means a public or private institution licensed under Chapter 241 or 577, Health and Safety Code.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 1903.002. INAPPLICABILITY OF SUBCHAPTER. This subchapter and Subchapter C do not apply to insurance policies that provide excess coverage issued by the Texas Medical Liability Insurance Underwriting Association under Chapter 2203, or to those policies if the policies are serviced by an insurer acting as a servicing carrier under an agreement entered into between the association and the insurer and approved by the commissioner.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 1903.003. LOSS CONTROL SERVICES REQUIRED. (a) Before writing professional liability insurance for a hospital in this state, an insurer must maintain or provide loss control facilities that:

(1) provide loss control services reasonably commensurate with the risks, exposures, and experience of the insured's business;

(2) are adequate to provide loss control services required by the nature of the policyholder's operations; and

(3) include surveys, recommendations, training programs, consultations, and analyses of accident causes.

(b) To provide the facilities required by this section, the

insurer may:

- (1) employ qualified personnel;
- (2) retain qualified independent contractors;
- (3) contract with the policyholder to provide qualified loss control personnel and services; or
- (4) use a combination of methods described by this subsection.

(c) Independent contractors and other personnel described by Subsection (b) must have the qualifications of a field safety representative. A field safety representative must be an individual who:

- (1) holds a:
 - (A) bachelor's degree in science or engineering;
 - (B) bachelor of arts degree in nursing;
 - (C) bachelor of science degree in nursing, pharmacy, or physical therapy; or
 - (D) master's degree in hospital administration;
- (2) is a licensed engineer;
- (3) is a certified safety professional;
- (4) is a certified industrial hygienist;
- (5) has at least 10 years' experience in occupational safety and health; or
- (6) has completed a course of training in loss control services approved by the department.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 1903.004. SANCTIONS. (a) If there is evidence that reasonable loss control services are not being maintained or provided by an insurer as required by this subchapter or are not being used by the insurer in a reasonable manner to prevent injury to patients of the insurer's policyholders, the commissioner shall order a hearing to determine whether the insurer is not in compliance with this subchapter.

(b) If it is determined that the insurer is not in compliance, the commissioner may impose any sanction authorized by Chapter 82.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 1903.005. RULES. The commissioner may adopt reasonable rules for the enforcement of this subchapter after holding a public hearing on the proposed rules.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

SUBCHAPTER B. LOSS CONTROL INFORMATION FOR GENERAL AND CERTAIN PROFESSIONAL LIABILITY INSURANCE

Sec. 1903.051. LOSS CONTROL INFORMATION REQUIRED. (a) Before writing professional liability insurance, including medical professional liability insurance, for insureds other than hospitals or general liability insurance in this state, an insurer must provide to the insurer's policyholders loss control information reasonably commensurate with the risks, exposures, and experience of the insured's business.

(b) To provide the information described by Subsection (a) or services, the insurer may:

- (1) employ qualified personnel;
- (2) retain qualified independent contractors;
- (3) contract with the policyholder to provide qualified loss control personnel and services; or
- (4) use a combination of methods described by this subsection.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 1903.052. SANCTIONS. (a) If there is evidence that reasonable loss control information is not being provided by an insurer as required by this subchapter or is not being used by the insurer in a reasonable manner to reduce losses, the commissioner shall order a hearing to determine whether the insurer is not in compliance with this subchapter.

(b) If it is determined that the insurer is not in

compliance, the commissioner may impose any sanction authorized by Chapter 82.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 1903.053. RULES. After opportunity for a hearing, the commissioner may adopt reasonable rules for the enforcement of this subchapter.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

SUBCHAPTER C. CIVIL PROCEEDINGS

Sec. 1903.101. IMMUNITY FROM LIABILITY. (a) An insurer or an agent or employee of the insurer is not liable, and a cause of action does not arise against the insurer, agent, or employee, for an accident based on an allegation that the accident was caused or could have been prevented by a program, information, inspection, or other activity or service undertaken by the insurer to prevent accidents or to control losses, as applicable, in connection with the operations of the insured.

(b) The immunity from liability provided by this section does not affect the liability of an insurer as otherwise provided in an insurance policy.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 1903.102. LOSS CONTROL INFORMATION NOT DISCOVERABLE OR ADMISSIBLE. Loss control information provided by an insurer to an insured is not discoverable or admissible as evidence in a civil proceeding.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.