

LABOR CODE

TITLE 5. WORKERS' COMPENSATION

SUBTITLE A. TEXAS WORKERS' COMPENSATION ACT

CHAPTER 404. OFFICE OF INJURED EMPLOYEE COUNSEL

SUBCHAPTER A. OFFICE; GENERAL PROVISIONS

Sec. 404.001. DEFINITIONS. In this chapter:

(1) "Office" means the office of injured employee counsel.

(2) "Public counsel" means the injured employee public counsel.

Added by Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.016, eff. September 1, 2005.

Sec. 404.002. ESTABLISHMENT OF OFFICE; ADMINISTRATIVE ATTACHMENT TO TEXAS DEPARTMENT OF WORKERS' COMPENSATION. (a) The office of injured employee counsel is established to represent the interests of workers' compensation claimants in this state.

(b) The office is administratively attached to the department but is independent of direction by the commissioner, the commissioner of insurance, and the department.

(c) The department shall provide the staff and facilities necessary to enable the office to perform the duties of the office under this subtitle, including:

(1) administrative assistance and services to the office, including budget planning and purchasing;

(2) personnel services; and

(3) computer equipment and support.

(d) The public counsel may enter into interagency contracts and other agreements with the commissioner of workers' compensation and the commissioner of insurance as necessary to implement this chapter.

Added by Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.016, eff. September 1, 2005.

Sec. 404.003. SUNSET PROVISION. The office of injured

employee counsel is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office is abolished and this chapter expires September 1, 2029.

Added by Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.016, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 3.10, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 289 (H.B. 1774), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1279 (H.B. 1675), Sec. 4.03, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 596 (S.B. 619), Sec. 2.06, eff. June 10, 2019.

Acts 2021, 87th Leg., R.S., Ch. 850 (S.B. 713), Sec. 2.03, eff. June 16, 2021.

Acts 2023, 88th Leg., R.S., Ch. 941 (S.B. 1659), Sec. 1.15, eff. June 18, 2023.

Sec. 404.004. PUBLIC INTEREST INFORMATION. (a) The office shall prepare information of public interest describing the functions of the office.

(b) The office shall make the information available to the public and appropriate state agencies.

Added by Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.016, eff. September 1, 2005.

Sec. 404.005. ACCESS TO PROGRAMS AND FACILITIES. (a) The office shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the office's programs.

(b) The office shall comply with federal and state laws for program and facility accessibility.

Added by Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.016, eff. September 1, 2005.

Sec. 404.006. RULEMAKING. (a) The public counsel shall adopt rules as necessary to implement this chapter.

(b) Rulemaking under this section is subject to Chapter 2001, Government Code.

Added by Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.016, eff. September 1, 2005.

Sec. 404.007. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION. (a) The office shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of office rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the office's jurisdiction.

(b) The office's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The office shall:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

(d) The office's alternative dispute resolution policy does not affect the manner in which the office participates in the division's administrative dispute resolution process or the department's alternative dispute resolution process through the office's administrative attachment to the department.

Added by Acts 2011, 82nd Leg., R.S., Ch. 289 (H.B. 1774), Sec. 2, eff. September 1, 2011.

Sec. 404.008. COMPLAINTS. (a) The office shall maintain a

system to promptly and efficiently act on complaints filed with the office. The office shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The office shall make information available describing its procedures for complaint investigation and resolution.

(c) The office shall periodically notify the complaint parties of the status of the complaint until final disposition.

Added by Acts 2011, 82nd Leg., R.S., Ch. 289 (H.B. 1774), Sec. 2, eff. September 1, 2011.

SUBCHAPTER B. INJURED EMPLOYEE PUBLIC COUNSEL

Sec. 404.051. APPOINTMENT; TERM. (a) The governor, with the advice and consent of the senate, shall appoint the injured employee public counsel. The public counsel serves a two-year term that expires on February 1 of each odd-numbered year.

(b) The governor shall appoint the public counsel without regard to the race, color, disability, sex, religion, age, or national origin of the appointee. Section 401.011(16) does not apply to the use of the term "disability" in this subchapter.

(c) If a vacancy occurs during a term, the governor shall fill the vacancy for the unexpired term.

(d) In appointing the public counsel, the governor may consider recommendations made by groups that represent wage earners.

Added by Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.016, eff. September 1, 2005.

Sec. 404.052. QUALIFICATIONS. To be eligible to serve as public counsel, a person must:

- (1) be a resident of Texas;
- (2) be licensed to practice law in this state;
- (3) have demonstrated a strong commitment to and involvement in efforts to safeguard the rights of the working public;

(4) have management experience;

(5) possess knowledge and experience with the workers' compensation system; and

(6) have experience with legislative procedures and administrative law.

Added by Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.016, eff. September 1, 2005.

Sec. 404.053. BUSINESS INTEREST; SERVICE AS PUBLIC COUNSEL.

A person is not eligible for appointment as public counsel if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization that holds a license, certificate of authority, or other authorization from the department or division or that receives funds from the department or division;

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

(3) uses or receives a substantial amount of tangible goods or funds from the department, division, or the office, other than compensation or reimbursement authorized by law.

Added by Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.016, eff. September 1, 2005.

Sec. 404.054. LOBBYING ACTIVITIES. A person may not serve as public counsel if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation related to the operation of the department, the division, or the office.

Added by Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.016, eff. September 1, 2005.

Sec. 404.055. GROUNDS FOR REMOVAL. (a) It is a ground for removal from office that the public counsel:

(1) does not have at the time of appointment or

maintain during service as public counsel the qualifications required by Section 404.052;

(2) violates a prohibition established by Section 404.053, 404.054, 404.056, or 404.057; or

(3) cannot, because of illness or disability, discharge the public counsel's duties for a substantial part of the public counsel's term.

(b) The validity of an action of the public counsel or the office is not affected by the fact that the action is taken when a ground for removal of the public counsel exists.

Added by Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.016, eff. September 1, 2005.

Sec. 404.056. PROHIBITED REPRESENTATION OR EMPLOYMENT. (a) A former public counsel may not make any communication to or appearance before the division, the department, the commissioner, the commissioner of insurance, or an employee of the division or the department before the second anniversary of the date the person ceases to serve as public counsel if the communication or appearance is made:

(1) on behalf of another person in connection with any matter on which the person seeks official action; or

(2) with the intent to influence a commissioner or commissioner of insurance decision or action, unless the person is acting on the person's own behalf and without remuneration.

(b) A former public counsel may not represent any person or receive compensation for services rendered on behalf of any person regarding a matter before the division or the department before the second anniversary of the date the person ceases to serve as public counsel.

(c) A person commits an offense if the person violates this section. An offense under this section is a Class A misdemeanor.

(d) A former employee of the office may not:

(1) be employed by an insurance carrier regarding a matter that was in the scope of the employee's official responsibility while the employee was associated with the office; or

(2) represent a person before the division or the department or a court in a matter:

(A) in which the employee was personally involved while associated with the office; or

(B) that was within the employee's official responsibility while the employee was associated with the office.

(e) The prohibition of Subsection (d)(1) applies until the first anniversary of the date the employee's employment with the office ceases.

(f) The prohibition of Subsection (d)(2) applies to a current employee of the office while the employee is associated with the office and at any time after.

Added by Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.016, eff. September 1, 2005.

Sec. 404.057. TRADE ASSOCIATIONS. (a) In this section, "trade association" means a nonprofit, cooperative, and voluntarily joined association of business or professional competitors 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 serve as public counsel if the person has been, within the previous two years:

(1) an officer, employee, or paid consultant of a trade association in the field of workers' compensation; or

(2) the spouse of an officer, manager, or paid consultant of a trade association in the field of workers' compensation.

Added by Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.016, eff. September 1, 2005.

SUBCHAPTER C. GENERAL POWERS AND DUTIES OF OFFICE

Sec. 404.101. GENERAL DUTIES. (a) The office shall, as provided by this subtitle:

(1) provide assistance to workers' compensation claimants;

(2) advocate on behalf of injured employees as a class regarding rulemaking by the commissioner and commissioner of insurance relating to workers' compensation;

(3) assist injured employees with contacting appropriate licensing boards for complaints against a health care provider; and

(4) assist injured employees with referral to local, state, and federal financial assistance, rehabilitation, and work placement programs, as well as other social services that the office considers appropriate.

(b) The office:

(1) may assess the impact of workers' compensation laws, rules, procedures, and forms on injured employees in this state; and

(2) shall, as provided by this subtitle:

(A) monitor the performance and operation of the workers' compensation system, with a focus on the system's effect on the return to work of injured employees;

(B) assist injured employees, through the ombudsman program, with the resolution of complaints pending at the division or department;

(C) assist injured employees, through the ombudsman program, in the division's administrative dispute resolution system; and

(D) advocate in the office's own name positions determined by the public counsel to be most advantageous to a substantial number of injured employees.

(b-1) The office may seek and accept grant funding to enable the office to perform its duties under this subtitle. This subsection does not authorize the office to seek or accept payment from an injured employee.

(c) The office may not appear or intervene, as a party or otherwise, before the commissioner, commissioner of insurance, division, or department on behalf of an individual injured employee, except through the ombudsman program.

Added by Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.016, eff. September 1, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 289 (H.B. 1774), Sec. 3, eff. September 1, 2011.

Sec. 404.1015. REFUSAL TO PROVIDE OR TERMINATION OF SERVICES. (a) The public counsel may refuse to provide or may terminate the services of the office to any claimant who:

(1) is abusive or violent to or who threatens any employee of the office;

(2) requests assistance in claiming benefits not provided by law; or

(3) commits or threatens to commit a criminal act in pursuit of a workers' compensation claim.

(b) If the public counsel determines under Subsection (a) that the services of the office should be refused or terminated, the office shall inform the affected claimant in writing and notify the division.

(c) The office shall notify and cooperate with the appropriate law enforcement authority and the Department of Insurance, Fraud Unit, if the office becomes aware that the claimant or a person acting on the claimant's behalf commits or threatens to commit a criminal act.

Added by Acts 2009, 81st Leg., R.S., Ch. 1261 (H.B. 673), Sec. 1, eff. September 1, 2009.

Sec. 404.102. GENERAL POWERS AND DUTIES OF PUBLIC COUNSEL. The public counsel shall administer and enforce this chapter, including preparing and submitting to the legislature a budget for the office and approving expenditures for professional services, travel, per diem, and other actual and necessary expenses incurred in administering the office.

Added by Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.016, eff. September 1, 2005.

Sec. 404.103. OPERATION OF OMBUDSMAN PROGRAM. (a) The office shall operate the ombudsman program under Subchapter D.

(b) The public counsel shall assign staff attorneys, as the

public counsel considers appropriate, to supervise the work of the ombudsman program and advise ombudsmen in providing assistance to claimants and preparing for informal and formal hearings.

(c) The office shall coordinate services provided by the ombudsman program with services provided by the Department of Assistive and Rehabilitative Services.

Added by Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.016, eff. September 1, 2005.

Sec. 404.104. AUTHORITY TO APPEAR OR INTERVENE. The public counsel:

(1) may appear or intervene, as a party or otherwise, as a matter of right before the commissioner, commissioner of insurance, division, or department on behalf of injured employees as a class in matters involving rules, agency policies, and forms affecting the workers' compensation system that the commissioner or the commissioner of insurance adopts or approves;

(2) may intervene as a matter of right or otherwise appear in a judicial proceeding involving or arising from an action taken by an administrative agency in a proceeding in which the public counsel previously appeared under the authority granted by this chapter;

(3) may appear or intervene, as a party or otherwise, as a matter of right on behalf of injured employees as a class in any proceeding in which the public counsel determines that the interests of injured employees as a class are in need of representation, except that the public counsel may not intervene in an enforcement or *parens patriae* proceeding brought by the attorney general; and

(4) may appear or intervene before the commissioner, commissioner of insurance, division, or department, as a party or otherwise, on behalf of injured employees as a class in a matter involving rates, rules, agency policies, or forms affecting injured employees as a class in any proceeding in which the public counsel determines that injured employees are in need of representation.

Added by Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.016, eff. September 1, 2005.

Sec. 404.105. AUTHORITY TO ASSIST INDIVIDUAL INJURED EMPLOYEES IN ADMINISTRATIVE PROCEDURES. (a) The office, through the ombudsman program, may appear before the commissioner, division, or State Office of Administrative Hearings to provide assistance to an individual injured employee during:

(1) a workers' compensation administrative dispute resolution process; or

(2) an enforcement action by the department or division against an employee for a violation of the Texas Workers' Compensation Act.

(b) This chapter may not be construed as requiring or allowing legal representation for an individual injured employee by an office attorney or ombudsman in any proceeding.

Added by Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.016, eff. September 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1261 (H.B. 673), Sec. 2, eff. September 1, 2009.

Sec. 404.106. LEGISLATIVE REPORT. (a) The office shall report to the governor, lieutenant governor, speaker of the house of representatives, and the chairs of the legislative committees with appropriate jurisdiction not later than January 1 of each odd-numbered year. The report must include:

(1) a description of the activities of the office;

(2) identification of any problems in the workers' compensation system from the perspective of injured employees as a class, as considered by the public counsel, with recommendations for regulatory and legislative action; and

(3) an analysis of the ability of the workers' compensation system to provide adequate, equitable, and timely benefits to injured employees at a reasonable cost to employers.

(b) The office shall coordinate with the workers' compensation research and evaluation group to obtain needed information and data to make the evaluations required for the report.

(c) The office shall publish and disseminate the legislative report to interested persons, and may charge a fee for the publication as necessary to achieve optimal dissemination. Added by Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.016, eff. September 1, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 289 (H.B. 1774), Sec. 7, eff. September 1, 2011.

Sec. 404.107. ACCESS TO INFORMATION BY PUBLIC COUNSEL. The public counsel:

(1) is entitled to the same access as a party, other than division staff or department staff, to division or department records available in a proceeding before the commissioner, commissioner of insurance, division, or department under the authority granted to the public counsel by this chapter; and

(2) is entitled to obtain discovery under Chapter 2001, Government Code, of any nonprivileged matter that is relevant to the subject matter involved in a proceeding or submission before the commissioner, commissioner of insurance, division, or department as authorized by this chapter.

Added by Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.016, eff. September 1, 2005.

Sec. 404.108. LEGISLATIVE RECOMMENDATIONS. The public counsel may recommend proposed legislation to the legislature that the public counsel determines would positively affect the interests of injured employees as a class.

Added by Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.016, eff. September 1, 2005.

Sec. 404.109. INJURED EMPLOYEE RIGHTS; NOTICE. The public counsel shall adopt, in the form and manner prescribed by the public counsel and after consultation with the commissioner of workers' compensation, a notice of injured employee rights and responsibilities to be distributed by the division as provided by commissioner or commissioner of insurance rules. A right or

responsibility adopted under this section must be consistent with the requirements of this subtitle and division rules. This section may not be construed as establishing an entitlement to benefits to which the claimant is not otherwise entitled under this subtitle.

Added by Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.016, eff. September 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1261 (H.B. 673), Sec. 3, eff. September 1, 2009.

Sec. 404.110. APPLICABILITY TO PUBLIC COUNSEL OF CONFIDENTIALITY REQUIREMENTS. (a) Confidentiality requirements applicable to examination reports and to the commissioner of insurance under Sections 401.058, 401.105, 401.106, 441.201, and 501.158, Insurance Code, as applicable, and Section 404.111, apply to the public counsel.

(b) An employee of the office may not be compelled to disclose information communicated to the employee by a claimant on any matter relating to the claimant's claim. This subsection does not prohibit or alter the office's duty to notify and cooperate with appropriate law enforcement authorities under Section 404.1015(c). Added by Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.016, eff. September 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1261 (H.B. 673), Sec. 4, eff. September 1, 2009.

Sec. 404.111. ACCESS TO INFORMATION. (a) When assisting an injured employee, the office is entitled to the same access to information related to the employee's injury and workers' compensation claim as the employee or any other party to the claim.

(b) The office may not access information under Subsection (a) that is an attorney-client communication or an attorney work product, or other information protected by a privilege recognized by the Texas Rules of Civil Procedure or the Texas Rules of Evidence.

(c) In furtherance of assisting an employee under Section

404.105(a)(2), the office may not access information under Section 404.111(a) to which the employee is not otherwise entitled. If the office possesses any information made confidential by the Texas Workers' Compensation Act or any other laws of this state to which the employee is not otherwise entitled, that information may not be disclosed to the employee or any other party assisting an employee under Section 404.105(a)(2). Nothing in this subsection prohibits or alters the office's duty to notify appropriate law enforcement authorities under Section 404.1015(c).

(d) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 289, Sec. 8, eff. September 1, 2011.

(e) The office may not make public any confidential information provided to the office under this chapter. Except as provided by Subsection (c), the office may disclose a summary of the information that does not directly or indirectly identify the individual or entity that is the subject of the information. The office may not release, and an individual or entity may not gain access to, any information that:

(1) could reasonably be expected to reveal the identity of a health care provider or an injured employee;

(2) reveals the zip code of an injured employee's primary residence;

(3) discloses a health care provider discount or a differential between a payment and a billed charge; or

(4) relates to an actual payment made by a payer to an identified health care provider.

(f) Information collected or used by the office under this chapter is subject to the confidentiality provisions and criminal penalties of Section 402.091.

(g) Information on health care providers and injured employees that is in the possession of the office, and any compilation, report, or analysis produced from the information that identifies providers and injured employees is not:

(1) subject to discovery, subpoena, or other means of legal compulsion for release to any individual or entity; or

(2) admissible in any civil, administrative, or criminal proceeding.

(h) Notwithstanding Subsection (e)(2), the office may use zip code information to analyze information on a geographical basis.

Added by Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.016, eff. September 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1261 (H.B. 673), Sec. 5, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 289 (H.B. 1774), Sec. 4, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 289 (H.B. 1774), Sec. 8, eff. September 1, 2011.

SUBCHAPTER D. OMBUDSMAN PROGRAM

Sec. 404.151. OMBUDSMAN PROGRAM. (a) The office shall maintain an ombudsman program as provided by this subchapter to assist injured employees and persons claiming death benefits in obtaining benefits under this subtitle.

(b) An ombudsman shall:

(1) meet with or otherwise provide information to injured employees;

(2) investigate complaints;

(3) communicate with employers, insurance carriers, and health care providers on behalf of injured employees;

(4) assist unrepresented claimants to enable those persons to protect their rights in the workers' compensation system; and

(5) meet with an unrepresented claimant privately for a minimum of 15 minutes prior to any informal or formal hearing.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 980, Sec. 1.31, eff. Sept. 1, 1995.

Redesignated from Labor Code, Section 409.041 and amended by Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.017, eff. September 1, 2005.

Sec. 404.152. DESIGNATION AS OMBUDSMAN; ELIGIBILITY AND

TRAINING REQUIREMENTS; CONTINUING EDUCATION REQUIREMENTS. (a) At least one specially qualified employee in each division office shall be an ombudsman designated by the office of injured employee counsel, who shall perform the duties under this subchapter as the person's primary responsibility.

(b) To be eligible for designation as an ombudsman, a person must:

(1) demonstrate satisfactory knowledge of the requirements of:

(A) this subtitle and the provisions of Subtitle C that relate to claims management;

(B) other laws relating to workers' compensation; and

(C) rules adopted under this subtitle and the laws described under Subdivision (1)(B);

(2) have demonstrated experience in handling and resolving problems for the general public; and

(3) possess strong interpersonal skills.

(c) The public counsel shall by rule adopt training guidelines and continuing education requirements for ombudsmen. Training provided under this subsection must:

(1) include education regarding this subtitle, rules adopted under this subtitle, and decisions of the appeals panel, with emphasis on benefits and the dispute resolution process;

(2) require an ombudsman undergoing training to be observed and monitored by an experienced ombudsman during daily activities conducted under this subchapter; and

(3) incorporate the requirements of Section [404.103\(b\)](#).

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993. Redesignated from Labor Code Sec. 409.041(c) and amended by Acts 1995, 74th Leg., ch. 980, Sec. 1.31, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1443, Sec. 8, eff. Sept. 1, 1997.

Redesignated from Labor Code, Section 409.042 and amended by Acts 2005, 79th Leg., Ch. 265 (H.B. [7](#)), Sec. 3.017, eff. September 1, 2005.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1056 (H.B. 2060), Sec. 1, eff. June 15, 2017.

Sec. 404.1525. FIRST RESPONDER LIAISON. (a) In this section, "first responder" has the meaning assigned by Section 504.055.

(b) The public counsel shall designate an employee of the office to act as first responder liaison.

(c) The first responder liaison shall assist an injured first responder and, if applicable, the ombudsman assigned to the first responder's case, during a workers' compensation administrative dispute resolution process.

(d) The first responder liaison:

(1) must meet the qualifications for designation as an ombudsman under this subchapter; and

(2) is subject to the training and education requirements for an ombudsman under this subchapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 465 (H.B. 2082), Sec. 1, eff. September 1, 2017.

Sec. 404.153. EMPLOYER NOTIFICATION; ADMINISTRATIVE VIOLATION. (a) Each employer shall notify its employees of the ombudsman program in the manner prescribed by the office.

(a-1) An employer that employs first responders or supervises volunteer first responders shall notify the first responders of the first responder liaison in the manner prescribed by the office. In this subsection, "first responder" has the meaning assigned by Section 504.055.

(b) An employer commits an administrative violation if the employer fails to comply with this section.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993. Redesignated from Labor Code Sec. 409.041(d) and amended by Acts 1995, 74th Leg., ch. 980, Sec. 1.31, eff. Sept. 1, 1995.

Redesignated from Labor Code, Section 409.043 and amended by Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.017, eff. September 1, 2005.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 465 (H.B. 2082), Sec. 2, eff. September 1, 2017.

Sec. 404.154. PUBLIC INFORMATION. The office shall widely disseminate information about the ombudsman program.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993. Renumbered from Labor Code Sec. 409.042 by Acts 1995, 74th Leg., ch. 980, Sec. 1.31, eff. Sept. 1, 1995.

Redesignated from Labor Code, Section 409.044 and amended by Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.017, eff. September 1, 2005.

Sec. 404.155. COST FOR CERTAIN COPIES OF MEDICAL RECORDS; ADMINISTRATIVE VIOLATION. (a) At the written request of an ombudsman designated under this subchapter who is assisting a specific injured employee, a health care provider shall provide copies of the injured employee's medical records to the ombudsman at no cost to the ombudsman or the office.

(b) The workers' compensation insurance carrier is liable to the health care provider for the cost of providing copies of the employee's medical records under this section. The insurance carrier may not deduct that cost from any benefit to which the employee is entitled.

(c) The amount charged for providing copies of an injured employee's medical records under this section is the amount prescribed by rules adopted by the commissioner for copying medical records.

(d) A health care provider may not require payment for the cost of providing copies of an injured employee's medical records under this section before providing the copies to the ombudsman.

(e) The public counsel may adopt rules regarding a time frame for the provision of copies of an injured employee's medical records under this section and any other matter relating to provision of those copies.

(f) A health care provider or insurance carrier that fails to comply with the requirements of this section or rules adopted under this section commits an administrative violation. The

commissioner shall enforce a violation under this subsection in accordance with Chapter [415](#).

Added by Acts 2007, 80th Leg., R.S., Ch. 1009 (H.B. [888](#)), Sec. 1, eff. June 15, 2007.