



STATE BAR ACT

(eff. 09/01/11)

**GOVERNMENT CODE
TITLE 2. JUDICIAL BRANCH
SUBTITLE G. ATTORNEYS
CHAPTER 81. STATE BAR**

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 81.001. SHORT TITLE. This chapter may be cited as the State Bar Act.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.002. DEFINITIONS. In this chapter:

- (1) "State bar" means the State Bar of Texas.
- (2) "Executive director" means the executive director of the state bar.
- (3) "General counsel" means the general counsel of the state bar.
- (4) "Board of directors" means the board of directors of the state bar.
- (5) "Commission" means the Commission for Lawyer Discipline described by Section 81.076 and as provided in the Texas Rules of Disciplinary Procedure adopted by the Supreme Court of Texas.
- (6) "Chief disciplinary counsel" means the attorney selected under Section 81.076 who performs disciplinary functions for the state bar under the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure.
- (7) "Minority member" means a member of the state bar who is female, African-American, Hispanic-American, Native American, or Asian-American.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 1, eff. Sept. 1, 1991.

Sec. 81.003. SUNSET PROVISION. The state bar is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, this chapter expires September 1, 2017.

*Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 2, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 6.11, eff. Nov. 12, 1991; Acts 2003, 78th Leg., ch. 227, Sec. 1, eff. Sept. 1, 2003.
Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1232, Sec. 3.04, eff. June 17, 2011.*

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 81.011. GENERAL POWERS.

- (a) The state bar is a public corporation and an administrative agency of the judicial department of government.
- (b) This chapter is in aid of the judicial department's powers under the constitution to regulate the practice of law, and not to the exclusion of those powers.
- (c) The Supreme Court of Texas, on behalf of the judicial department, shall exercise administrative control over the state bar under this chapter.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.012. PURPOSES. In order that the public responsibilities of the legal profession may be more effectively discharged, the state bar has the following purposes:

- (1) to aid the courts in carrying on and improving the administration of justice;
- (2) to advance the quality of legal services to the public and to foster the role of the legal profession in serving the public;
- (3) to foster and maintain on the part of those engaged in the practice of law high ideals and integrity, learning, competence in public service, and high standards of conduct;
- (4) to provide proper professional services to the members of the state bar;
- (5) to encourage the formation of and activities of local bar associations;
- (6) to provide forums for the discussion of subjects pertaining to the practice of law, the science of jurisprudence and law reform, and the relationship of the state bar to the public; and
- (7) to publish information relating to the subjects listed in Subdivision (6).

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 3, eff. Sept. 1, 1991.

Sec. 81.013. SEAL. The state bar has an official seal, which may not be used for private purposes.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.014. SUITS. The state bar may sue and be sued in its own name.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.015. CONTRACTS. To carry out and promote the objectives of this chapter, the state bar may enter into contracts and do all other acts incidental to those contracts that are necessary or expedient for the administration of its affairs and for the attainment of its purposes.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.0151. PURCHASING. The board of directors shall adopt guidelines and procedures for purchasing that are consistent with the guidelines and procedures in Chapters 2155-2158. Purchases are subject to the ultimate review of the supreme court. The state bar shall maintain reports on state bar purchases and shall make those reports available for review by the state auditor.

Added by Acts 1991, 72nd Leg., ch. 795, Sec. 4, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.19, eff. Sept. 1, 1997.

Sec. 81.016. PROPERTY.

(a) The state bar may acquire by gift, bequest, devise, or other manner any interest in real or personal property.

(b) The state bar may acquire, hold, lease, encumber, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this chapter.

(c) The property of the state bar is held by the state bar for the purposes set out in Section 81.012. If the state bar ceases to exist as a legal entity for any reason, all property of the state bar shall be held in trust by the supreme court for the attorneys of this state.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 5, eff. Sept. 1, 1991.

Sec. 81.017. INDEBTEDNESS, LIABILITY, OR OBLIGATION.

(a) An indebtedness, liability, or obligation of the state bar does not:

(1) create a debt or other liability of the state or of any entity other than the state bar or any successor public corporation; or

(2) create any personal liability on the part of the members of the state bar or the members of

the board of directors or any authorized person issuing, executing, or delivering any evidence of the indebtedness, liability, or obligation.

(b) The state bar may not create an indebtedness, liability, or obligation that cannot be paid from the receipts for the current year unless approved by referendum of all members of the state bar as provided by Section 81.024.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.018. CONTRACTUAL OBLIGATIONS. Any bond, note, debenture, evidence of indebtedness, mortgage, deed of trust, assignment, pledge, contract, lease, agreement, or other contractual obligation owed to or by the state bar on June 11, 1979, remains in force and effect according to the terms of the obligation.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.019. OFFICERS OF STATE BAR.

(a) The officers of the state bar are the president, president-elect, and immediate past president.

(b) Except as provided by Subsection (c), the officers shall be elected in accordance with rules for the election of officers and directors prepared and proposed by the supreme court as provided by Section 81.024.

(c) The election rules must permit any member's name to be printed on the ballot as a candidate for president-elect if a written petition requesting that action and signed by at least five percent of the membership of the state bar is filed with the executive director at least 30 days before the election ballots are to be distributed to the membership.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 6, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 227, Sec. 2, eff. Sept. 1, 2003.

Sec. 81.020. BOARD OF DIRECTORS.

(a) The governing body of the state bar is the board of directors.

(b) The board is composed of:

(1) the officers of the state bar;

(2) the president, president-elect, and immediate past president of the Texas Young Lawyers Association;

(3) not more than 30 members of the state bar elected by the membership from their district as determined by the board;

(4) six persons appointed by the supreme court and confirmed by the senate who are not attorneys and who do not have, other than as consumers, a financial interest in the practice of law; and

(5) four minority member directors appointed by the president as provided by Subsection (d).

(c) Elected members serve three-year terms. Nonattorney members serve staggered terms of the same length as terms of elected board members. The supreme court shall annually appoint two nonattorney members, with at least one of the two from a list of at least five names submitted by the governor. Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees. A person who has served more than half of a full term is not eligible for reappointment to the board.

(d) The president of the state bar appoints the minority member directors, subject to confirmation by the board of directors. In making appointments under this subsection, the president shall attempt to appoint members of the different minority groups listed in Section 81.002(7). Minority member directors serve three-year terms. To be eligible for appointment as a minority member director, a person must:

(1) be a minority member of the bar;

(2) not be serving as an elected director at the time of appointment; and

(3) not be serving as a minority member director at the time of appointment.

(e) Repealed by Acts 2003, 78th Leg., ch. 227, Sec. 22.

(f) The board of directors shall develop and implement policies that clearly separate the responsibilities of the board and the management responsibilities of the executive director and the staff of the state bar.

(g) The board of directors shall prepare and maintain a written plan that describes how a person who does not speak English or who has a physical, mental, or developmental disability can be provided reasonable access to the state bar's programs.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 7, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 227, Sec. 3, 22, eff. Sept. 1, 2003.

Sec. 81.0201. TRAINING PROGRAM FOR BOARD MEMBERS.

(a) A person who is elected or appointed to and qualifies for office as a member of the board of directors may not vote, deliberate, or be counted as a member in attendance at a meeting of the board 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 state bar and the board;

(2) the programs operated by the state bar;

(3) the role and functions of the state bar;

(4) the rules of the state bar, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the state bar;

(6) the results of the most recent formal audit of the state bar;

(7) the requirements of:

(A) the open meetings law, Chapter 551;

(B) the public information law, Chapter 552; and

(C) other laws relating to public officials, including conflict-of-interest laws; and

(8) any applicable ethics policies adopted by the state bar or the Texas Ethics Commission.

Added by Acts 2003, 78th Leg., ch. 227, Sec. 4, eff. Sept. 1, 2003.

Sec. 81.021. OPEN MEETINGS; PUBLIC PARTICIPATION.

(a) Meetings of the board of directors of the state bar are subject to Chapter 551.

(b) The board of directors shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd

Leg., ch. 795, Sec. 8, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(83), eff. Sept. 1, 1995.

Sec. 81.0215. STRATEGIC PLAN.

(a) The state bar shall develop a comprehensive, long-range strategic plan for its operations. Each even-numbered year, the state bar shall issue a plan covering five fiscal years beginning with the next odd-numbered fiscal year.

(b) The strategic plan must include measurable goals and a system of performance measures that:

(1) relates directly to the identified goals; and

(2) focuses on the results and outcomes of state bar operations and services.

(c) Each year, the state bar shall report the performance measures included in the strategic plan under this section to the supreme court and the editor of the Texas Bar Journal for publication.

Added by Acts 2003, 78th Leg., ch. 227, Sec. 4, eff. Sept. 1, 2003.

Sec. 81.022. ANNUAL BUDGET; PUBLIC BUDGET HEARING.

(a) The executive director of the state bar shall confer with the clerk of the supreme court and shall supervise the administrative staff of the state bar in preparation of the annual budget.

(a-1) In developing and approving the annual budget, the state bar and supreme court shall:

(1) consider the goals and performance measures identified in the strategic plan developed under Section 81.0215; and

(2) identify additional goals and performance measures as necessary.

(b) The proposed budget shall be presented annually at a public hearing. Not later than the 30th day before the day the hearing is held, the proposed budget and notice of the time and place of the budget hearing shall be disseminated to the membership of the state bar and to the public.

(c) The executive director shall preside at the budget hearing or, if the executive director is unable to preside, may authorize any employee of the administrative staff or any officer or director of the state bar to preside. Any member of the public may participate in the discussion of any item proposed to be included in the budget.

(d) After the public hearing, the proposed budget shall be submitted to the board of directors for its

consideration. The budget adopted by the board of directors shall be submitted to the supreme court for final review and approval. The board of directors, at a regular or special meeting, may amend the budget subject to approval by the supreme court.

(e) After implementing a budget approved by the supreme court, the state bar shall report to the court regarding the state bar's performance on the goals and performance measures identified in the strategic plan developed under Section 81.0215. The state bar shall:

- (1) revise the goals and performance measures as necessary; and
- (2) notify the supreme court of the revisions.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 227, Sec. 5, eff. Sept. 1, 2003.

Sec. 81.0221. ALCOHOLIC BEVERAGES. None of the funds of the state bar collected from mandatory dues may be used for the purchase of alcoholic beverages.

Added by Acts 1991, 72nd Leg., ch. 795, Sec. 10, eff. Sept. 1, 1991.

Sec. 81.023. AUDIT; FINANCIAL REPORT.

(a) The financial transactions of the state bar are subject to audit by the state auditor in accordance with Chapter 321, Government Code. The state bar shall pay the expense of the audit. The auditor's report shall be published in the Bar Journal.

(b) The state bar shall file annually with the supreme court, the governor, and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the state bar during the preceding fiscal year. The annual report must be in the form and reported in the time provided by the General Appropriations Act.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 584, Sec. 3, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 795, Sec. 9, eff. Sept. 1, 1991.

Sec. 81.024. RULES.

(a) The supreme court shall promulgate the rules governing the state bar. The rules may be amended as provided by this section.

(b) The supreme court may, either as it considers necessary, pursuant to a resolution of the board of directors of the state bar, or pursuant to a petition signed by at least 10 percent of the registered members of the state bar, prepare, propose, and adopt rules or amendments to rules for the operation,

maintenance, and conduct of the state bar and the discipline of its members.

(c) When the supreme court has prepared and proposed rules or amendments to rules under this section, the court shall distribute a copy of each proposed rule or amendment in ballot form to each registered member of the state bar for a vote.

(d) At the end of the 30-day period following the date the ballots are distributed, the court shall count the returned ballots.

(e) The supreme court shall promulgate each rule and amendment that receives a majority of the votes cast in an election. The rule or amendment takes effect immediately on promulgation by the court.

(f) The vote shall be open to inspection by any member of the bar or the public.

(g) A rule may not be promulgated unless it has been approved by the members of the state bar in the manner provided by this section.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 227, Sec. 6, eff. Sept. 1, 2003.

Sec. 81.0241. ELECTRONIC TRANSMISSION OF ELECTION MATERIALS.

(a) The state bar may, with the approval of the supreme court, distribute by electronic transmission ballots and related materials and receive by electronic transmission completed ballots in an election under this chapter.

(b) Before approving the distribution or receipt of ballots and related materials by electronic transmission under this section, the supreme court must be satisfied that the state bar has implemented procedures that ensure each member of the state bar will have secure access to election ballots and information.

Added by Acts 2003, 78th Leg., ch. 227, Sec. 7, eff. Sept. 1, 2003.

Sec. 81.0242. PARTICIPATION IN ELECTIONS. The state bar, in the manner provided by the supreme court, shall:

(1) promote and monitor participation of members of the state bar in elections under this chapter;
and

(2) report statistics regarding that participation to the supreme court and the editor of the Texas Bar Journal for publication.

Added by Acts 2003, 78th Leg., ch. 227, Sec. 7, eff. Sept. 1, 2003.

Sec. 81.025. BAR DISTRICTS.

(a) The board of directors shall from time to time reapportion the state into bar districts for electing directors from those districts or to perform any other duty imposed on the state bar by this chapter or the rules of the state bar.

(b) In determining the districts, the board must consider the purposes of the state bar as set out in Section 81.012.

(c) Any reapportionment is subject to the supreme court's approval.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.026. COMMITTEES AND SECTIONS.

(a) The board may create committees, subject to the executive committee's approval under Subchapter I, and sections as it considers advisable and necessary to carry out the purposes of this chapter.

(b) This chapter does not prohibit the appointment of nonattorneys to a committee of the state bar.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 227, Sec. 8, eff. Sept. 1, 2003.

Sec. 81.027. REMOVAL OF DIRECTOR.

(a) The board of directors may remove a director from the board at any regular meeting by resolution declaring the director's position vacant. It is a ground for removal from the board that a director:

- (1) does not have at the time of taking office the applicable qualifications for office, if any;
- (2) does not maintain during service on the board the applicable qualifications for office, if any;
- (3) is ineligible for membership under Section 81.028 or 81.031;
- (4) cannot, because of illness or disability, discharge the director's duties for a substantial part of the director's term; or
- (5) is absent from more than half of the regularly scheduled board meetings that the director

is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

(b) The validity of an action of the board of directors is not affected by the fact that it is taken when a ground for removal of a director exists.

(c) If the executive director has knowledge that a potential ground for removal of a director exists, the executive director shall notify the president of the state bar and the director of the ground.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 11, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 227, Sec. 9, eff. Sept. 1, 2003.

Sec. 81.028. RELATIONSHIP WITH TRADE ASSOCIATION.

(a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide 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 board of directors and may not be a state bar employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

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

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

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 227, Sec. 10, eff. Sept. 1, 2003.

Sec. 81.029. EXECUTIVE DIRECTOR.

(a) The board of directors, by a majority vote, elects the executive director. The executive director serves at the pleasure of the board.

(b) The executive director shall execute the policies and directives of the board in all state bar activities except the activities for which the general counsel is given responsibility either by this chapter or by the board.

(c) The executive director shall perform the duties usually required of a corporate secretary and other duties as assigned by the board.

(d) The executive director shall act as the treasurer of the state bar and shall receive from the clerk of the supreme court state bar funds as provided by this chapter. The funds are subject to audit as provided by Section 81.023.

(e) The executive director shall maintain the membership files and shall confer with the clerk of the supreme court as to the maintenance of those files.

(f) Repealed by Acts 2003, 78th Leg., ch. 285, Sec. 31(8).

(g) The executive director has no vote on matters before the board of directors.

(h) The executive director or the executive director's designee shall develop an intra-agency career ladder program. The program shall require intra-agency postings of all nonentry level positions concurrently with any public posting.

(i) The executive director or the executive director's designee shall develop a system of annual performance evaluations. All merit pay for state bar employees must be based on the system established under this subsection.

(j) The executive director or the executive director's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the state bar to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the state bar's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(k) The policy statement must:

(1) be updated annually;

(2) be reviewed by the state Commission on Human Rights for compliance with Subsection (j)(1); and

(3) be filed with the supreme court and the governor's office.

(l) Repealed by Acts 2003, 78th Leg., ch. 227, Sec. 22.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 12, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 227, Sec. 11, 22, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 285, Sec. 31(8), eff. Sept. 1, 2003.

Sec. 81.030. GENERAL COUNSEL.

(a) The board of directors, by a majority vote, elects the general counsel of the state bar. The general counsel holds office at the pleasure of the board.

(b) The general counsel must be a member of the state bar.

(c) The general counsel shall perform the duties usually expected of and performed by a general counsel.

(d) The general counsel shall perform those duties delegated by the board of directors.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 13, eff. Sept. 1, 1991.

Sec. 81.031. CONFLICT OF INTEREST.

(a) The executive director and the general counsel of the state bar are subject to Chapter 572.

(b) A person may not serve as a member of the board of directors or as the general counsel to the state bar 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 state bar.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 304, Sec. 3.12, eff. Jan. 1, 1992; Acts 1991, 72nd Leg., ch. 795, Sec. 14, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(41), eff. Sept. 1, 1995.

Sec. 81.032. DEPUTY CLERK.

(a) The clerk of the supreme court, with the permission of the court, may employ a deputy to assist the clerk in discharging the duties imposed on the clerk by this chapter or by rules promulgated under this chapter.

(b) The board of directors of the state bar shall set the deputy's salary. The salary shall be paid from state bar funds.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.033. OPEN RECORDS.

(a) All records of the state bar, except for records pertaining to grievances that are confidential under the Texas Rules of Disciplinary Procedure, and records pertaining to the Texas Board of Legal Specialization, are subject to Chapter 552.

(b) The use of confidential records and information for purposes of the client security fund does not waive confidentiality or privilege.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 15, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(93), eff. Sept. 1, 1995.

Sec. 81.034. RESTRICTION ON USE OF FUNDS. Fees collected under this chapter and other funds received by the state bar may not be used for influencing the passage or defeat of any legislative measure unless the measure relates to the regulation of the legal profession, improving the quality of legal services, or the administration of justice and the amount of the expenditure is reasonable and necessary. This subsection does not prohibit a member of the board of directors or an officer or employee of the state bar from furnishing information in the person's possession that is not confidential information to a member or committee of the legislature on request of the member or committee.

Added by Acts 1991, 72nd Leg., ch. 795, Sec. 16, eff. Sept. 1, 1991.

Sec. 81.035. INFORMATION REGARDING REQUIREMENTS FOR OFFICE OR EMPLOYMENT. The executive director or the executive director's designee shall provide to members of the board of directors and to agency employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 2003, 78th Leg., ch. 227, Sec. 12, eff. Sept. 1, 2003.

Sec. 81.036. INFORMATION ON CERTAIN COMPLAINTS.

(a) The state bar shall maintain a file on each written complaint, other than a grievance against an attorney, filed with the state bar. The file must include:

- (1) the name of the person who filed the complaint;
- (2) the date the complaint is received by the state bar;
- (3) the subject matter of the complaint;
- (4) the name of each person contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and
- (6) an explanation of the reason the file was closed, if the state bar closed the file without taking action other than to investigate the complaint.

(b) The state bar shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the state bar's policies and procedures relating to complaint investigation and resolution.

(c) The state bar, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Added by Acts 2003, 78th Leg., ch. 227, Sec. 12, eff. Sept. 1, 2003.

Sec. 81.038. USE OF TECHNOLOGY. The board of directors shall develop and implement a policy requiring the executive director and state bar employees to research and propose appropriate technological solutions to improve the state bar's ability to perform its functions. The technological solutions must:

- (1) ensure that the public is able to easily find information about the state bar on the Internet;
- (2) ensure that persons who want to use the state bar's services are able to:
 - (A) interact with the state bar through the Internet; and
 - (B) access any service that can be provided effectively through the Internet; and
- (3) be cost-effective and developed through the state bar's planning processes.

Added by Acts 2003, 78th Leg., ch. 227, Sec. 12, eff. Sept. 1, 2003.

SUBCHAPTER C. MEMBERSHIP

Sec. 81.051. BAR MEMBERSHIP REQUIRED.

- (a) The state bar is composed of those persons licensed to practice law in this state. Bar members are subject to this chapter and to the rules adopted by the supreme court.
- (b) Each person licensed to practice law in this state shall, not later than the 10th day after the person's admission to practice, enroll in the state bar by registering with the clerk of the supreme court.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.052. MEMBERSHIP CLASSES.

- (a) A bar membership is one of four classes: active, inactive, emeritus, or associate.
- (b) Each licensed member of the state bar is an active member until the person requests to be enrolled as an inactive member.
- (c) An inactive member is a person who:
 - (1) is eligible for active membership but not engaged in the practice of law in this state; and
 - (2) has filed with the executive director and the clerk of the supreme court written notice requesting enrollment as an inactive member.
- (d) An inactive member at his request may become an active member on application and payment of required fees.
- (e) An emeritus member is a person who:
 - (1) is either an active or inactive member in good standing who is at least 70 years old; and
 - (2) has filed a written notice requesting enrollment as an emeritus member.
- (f) A person enrolled in law school in this state may be enrolled as an associate member.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.053. STATUS OF CERTAIN MEMBERSHIP CLASSES.

- (a) An inactive member may not practice law in this state, hold an office in the state bar, or vote in any election conducted by the state bar.
- (b) An emeritus member has all the privileges of membership in the state bar.
- (c) An associate member may not practice law, except as provided by rule promulgated by the supreme court, and may not hold office in the state bar or vote in any election conducted by the state bar.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 17, eff. Sept. 1, 1991.

Sec. 81.054. MEMBERSHIP FEES AND ADDITIONAL FEES.

- (a) The supreme court shall set membership fees and other fees for members of the state bar. The fees, except as provided by Subsection (j) and those set for associate members, must be set in accordance with this section and Section 81.024.
- (b) An emeritus member is not required to pay a membership fee for the year in which the member reaches the age of 70 or any year following that year.
- (c) Fees shall be paid to the clerk of the supreme court. The clerk shall retain the fees, other than fees collected under Subsection (j), until distributed to the state bar for expenditure under the direction of the supreme court to administer this chapter. The clerk shall retain the fees collected under Subsection (j) until distribution is approved by an order of the supreme court. In ordering that distribution, the supreme court shall order that the fees collected under Subsection (j) be remitted to the comptroller at least as frequently as quarterly. The comptroller shall credit 50 percent of the remitted fees to the credit of the judicial fund for programs approved by the supreme court that provide basic civil legal services to the indigent and shall credit the remaining 50 percent of the remitted fees to the fair defense account in the general revenue fund which is established under Section 79.031, to be used, subject to all requirements of Section 79.037, for demonstration or pilot projects that develop and promote best practices for the efficient delivery of quality representation to indigent defendants in criminal cases at trial, on appeal, and in postconviction proceedings.
- (d) Fees collected under Subsection (j) may be used only to provide basic civil legal services to the indigent and legal representation and other defense services to indigent defendants in criminal cases as provided by Subsection (c). Other fees collected under this chapter may be used only for administering the public purposes provided by this chapter.
- (e) The state bar by rule may adopt a system under which membership fees are due on various dates

during the year. For the year in which a due date is changed, the annual fee shall be prorated on a monthly basis so that the member pays only that portion of the fee that is allocable to the number of months remaining before the new expiration date. An increase in fees applies only to fees that are payable on or after the effective date of the increase.

(f) A person who is otherwise eligible to renew the person's membership may renew the membership by paying the required membership fees to the state bar on or before the due date.

(g) A person whose membership has been expired for 90 days or less may renew the membership by paying to the state bar membership fees equal to 1-1/2 times the normally required membership fees.

(h) A person whose membership has been expired for more than 90 days but less than one year may renew the membership by paying to the state bar membership fees equal to two times the normally required membership fees.

(i) Not later than the 30th day before the date a person's membership is scheduled to expire, the state bar shall send written notice of the impending expiration to the person at the person's last known address according to the records of the state bar.

(j) The supreme court shall set an additional legal services fee in an amount of \$65 to be paid annually by each active member of the state bar except as provided by Subsection (k). Section 81.024 does not apply to a fee set under this subsection.

(k) The legal services fee shall not be assessed on any Texas attorney who:

(1) is 70 years of age or older;

(2) has assumed inactive status under the rules governing the State Bar of Texas;

(3) is a sitting judge;

(4) is an employee of the state or federal government;

(5) is employed by a city, county, or district attorney's office and who does not have a private practice that accounts for more than 50 percent of the attorney's time;

(6) is employed by a 501(c)(3) nonprofit corporation and is prohibited from the outside practice of law;

(7) is exempt from MCLE requirements because of nonpracticing status; or

(8) resides out of state and does not practice law in Texas.

(l) In this section, "indigent" has the meaning assigned by Section 51.941.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 18, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 227, Sec. 13, 14, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 161, Sec. 1, eff. May 22, 2007.

Acts 2007, 80th Leg., R.S., Ch. 855, Sec. 4, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 984, Sec. 5, eff. September 1, 2011.

SUBCHAPTER D. ADMISSION TO PRACTICE

Sec. 81.061. SUPREME COURT JURISDICTION EXCLUSIVE. Rules governing the admission to the practice of law are within the exclusive jurisdiction of the supreme court. The officers and directors of the state bar do not have authority to approve or disapprove of any rule governing admissions to the practice of law or to regulate or administer those admissions standards.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

SUBCHAPTER E. DISCIPLINE

Sec. 81.071. DISCIPLINARY JURISDICTION. Each attorney admitted to practice in this state and each attorney specially admitted by a court of this state for a particular proceeding is subject to the disciplinary and disability jurisdiction of the supreme court and the Commission for Lawyer Discipline, a committee of the state bar.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 19, eff. Sept. 1, 1991.

Text of section effective on March 01, 2012

Sec. 81.072. GENERAL DISCIPLINARY AND DISABILITY PROCEDURES.

(a) In furtherance of the supreme court's powers to supervise the conduct of attorneys, the court shall establish disciplinary and disability procedures in addition to the procedures provided by this subchapter.

(b) The supreme court shall establish minimum standards and procedures for the attorney disciplinary and disability system. The standards and procedures for processing grievances against attorneys must provide for:

- (1) classification of all grievances and investigation of all complaints;

- (2) a full explanation to each complainant on dismissal of an inquiry or a complaint;
- (3) periodic preparation of abstracts of inquiries and complaints filed that, even if true, do or do not constitute misconduct;
- (4) an information file for each grievance filed;
- (5) a grievance tracking system to monitor processing of grievances by category, method of resolution, and length of time required for resolution;
- (6) notice by the state bar to the parties of a written grievance filed with the state bar that the state bar has the authority to resolve of the status of the grievance, at least quarterly and until final disposition, unless the notice would jeopardize an undercover investigation;
- (7) an option for a trial in a district court on a complaint and an administrative system for attorney disciplinary and disability findings in lieu of trials in district court, including an appeal procedure to the Board of Disciplinary Appeals and the supreme court under the substantial evidence rule;
- (8) an administrative system for reciprocal and compulsory discipline;
- (9) interim suspension of an attorney posing a threat of immediate irreparable harm to a client;
- (10) authorizing all parties to an attorney disciplinary hearing, including the complainant, to be present at all hearings at which testimony is taken and requiring notice of those hearings to be given to the complainant not later than the seventh day before the date of the hearing;
- (11) the commission adopting rules that govern the use of private reprimands by grievance committees and that prohibit a committee:
 - (A) giving an attorney more than one private reprimand within a five-year period for a violation of the same disciplinary rule; or
 - (B) giving a private reprimand for a violation that involves a failure to return an unearned fee, a theft, or a misapplication of fiduciary property; and
- (12) distribution of a voluntary survey to all complainants urging views on grievance system experiences.

(c) In addition to the minimum standards and procedures provided by this chapter, the supreme court, under Section 81.024 shall prepare, propose, and adopt rules it considers necessary for

disciplining, suspending, disbaring, and accepting resignations of attorneys.

(d) Each attorney is subject to the Texas Rules of Disciplinary Procedure and the Texas Disciplinary Rules of Professional Conduct.

(e) The state bar shall establish a voluntary mediation and dispute resolution procedure to:

(1) attempt to resolve each allegation of attorney misconduct that is:

(A) classified as an inquiry under Section 81.073(a)(2)(A) because it does not constitute an offense cognizable under the Texas Disciplinary Rules of Professional Conduct; or

(B) classified as a complaint and subsequently dismissed; and

(2) facilitate coordination with other programs administered by the state bar to address and attempt to resolve inquiries and complaints referred to the voluntary mediation and dispute resolution procedure.

(e-1) All types of information, proceedings, hearing transcripts, and statements presented during the voluntary mediation and dispute resolution procedure established under Subsection (e) are confidential to the same extent the information, proceedings, transcripts, or statements would be confidential if presented to a panel of a district grievance committee.

(f) Responses to the survey provided for in Subsection (b)(12) may not identify either the complainant or attorney and shall be open to the public. The topics must include:

(1) treatment by the grievance system staff and volunteers;

(2) the fairness of grievance procedures;

(3) the length of time for grievance processing;

(4) disposition of the grievance; and

(5) suggestions for improvement of the grievance system.

(g) A person may not maintain an action against a complainant or witness in a disciplinary proceeding based on a communication made by the complainant or witness to the commission, a grievance committee, or the chief disciplinary counsel. The immunity granted by this subsection is absolute and unqualified.

(h) The state bar or a court may not require an attorney against whom a disciplinary action has been brought to disclose information protected by the attorney-client privilege if the client did not initiate the grievance that is the subject of the action.

(i) A panel of a district grievance committee of the state bar that votes on a grievance matter shall disclose to the complainant and the respondent in the matter the number of members of the panel:

- (1) voting for a finding of just cause;
- (2) voting against a finding of just cause; and
- (3) abstaining from voting on the matter.

(j) A quorum of a panel of a district grievance committee of the state bar must include one public member for each two attorney members.

(k) A member of a panel of a district grievance committee of the state bar may vote on a grievance matter to which the panel was assigned only if the member is present at the hearing at which the vote takes place.

(l) A person may be appointed to serve on a panel of a district grievance committee of the state bar only if the person is a member of the district grievance committee from which the panel was assigned and the person was appointed to serve on the committee in strict accordance with the Texas Rules of Disciplinary Procedure.

(m) A panel of a district grievance committee of the state bar may not be changed in size for the purpose of obtaining a quorum on the panel without the approval of the complainant and the respondent in the grievance matter to which the panel was assigned.

(n) A member of a panel of a district grievance committee of the state bar may not be substituted with another member of the district grievance committee on the day of the hearing for which the panel was assigned without the approval of the complainant and the respondent in the grievance matter.

(o) Whenever a grievance is either dismissed as an inquiry or dismissed as a complaint in accordance with the Texas Rules of Disciplinary Procedure and that dismissal has become final, the respondent attorney may thereafter deny that a grievance was pursued and may file a motion with the tribunal seeking expunction of all records on the matter, other than statistical or identifying information maintained by the chief disciplinary counsel pertaining to the grievance.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 20, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 1436, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 227, Sec. 15, 16, eff. Sept. 1, 2003.

Sec. 81.073. CLASSIFICATION OF GRIEVANCES.

(a) The chief disciplinary counsel's office shall classify each grievance on receipt as:

(1) a complaint, if the grievance alleges conduct that, if true, constitutes professional misconduct or disability cognizable under the Texas Disciplinary Rules of Professional Conduct; or

(2) an inquiry, if:

(A) the grievance alleges conduct that, even if true, does not constitute professional misconduct or disability cognizable under the Texas Disciplinary Rules of Professional Conduct; or

(B) the respondent attorney is deceased, has relinquished the attorney's license to practice law in this state to avoid disciplinary action, or is not licensed to practice law in this state.

(b) A complainant may appeal the classification of a grievance as an inquiry to the Board of Disciplinary Appeals, or the complainant may amend and resubmit the grievance. An attorney against whom a grievance is filed may not appeal the classification of the grievance.

Added by Acts 2003, 78th Leg., ch. 227, Sec. 17, eff. Sept. 1, 2003.

Sec. 81.074. DISPOSITION OF INQUIRIES. The chief disciplinary counsel shall:

(1) dismiss a grievance classified as an inquiry; and

(2) refer each inquiry classified under Section 81.073(a)(2)(A) and dismissed under this section to the voluntary mediation and dispute resolution procedure established under Section 81.072(e).

Added by Acts 2003, 78th Leg., ch. 227, Sec. 17, eff. Sept. 1, 2003.

Sec. 81.075. DISPOSITION OF COMPLAINTS.

(a) The chief disciplinary counsel shall review and investigate each grievance classified as a complaint to determine whether there is just cause, as defined by the Texas Rules of Disciplinary Procedure.

(b) After the chief disciplinary counsel reviews and investigates a complaint:

(1) if the counsel finds there is no just cause, the counsel shall place the complaint on a dismissal docket; or

(2) if the counsel finds just cause:

(A) the respondent attorney may request a trial in a district court on the complaint in accordance with the procedures adopted by the supreme court; or

(B) the counsel shall place the complaint on a hearing docket if the respondent attorney does not request a trial in a district court.

(c) A panel of a district grievance committee shall consider each complaint placed on the dismissal docket at a closed hearing without the complainant or the respondent attorney present. The panel may:

(1) approve the dismissal of the complaint and refer the complaint to the voluntary mediation and dispute resolution procedure established under Section 81.072(e); or

(2) deny the dismissal of the complaint and place the complaint on a hearing docket.

(d) A panel of a district grievance committee shall conduct a hearing on each complaint placed on the hearing docket. The commission and the respondent attorney are parties to the hearing, and the chief disciplinary counsel presents the complainant's case at the hearing. Each party may seek and the panel may issue a subpoena to compel attendance and production of records before the panel. Each party may conduct limited discovery in general accordance with the Texas Rules of Civil Procedure as prescribed by rules of the supreme court.

(e) After conducting a hearing under Subsection (d), the panel of the district grievance committee may:

(1) dismiss the complaint and refer it to the voluntary mediation and dispute resolution procedure established under Section 81.072(e);

(2) find that the respondent attorney suffers from a disability and forward that finding to the Board of Disciplinary Appeals for referral to a district disability committee; or

(3) find that professional misconduct occurred and impose sanctions.

Added by Acts 2003, 78th Leg., ch. 227, Sec. 17, eff. Sept. 1, 2003.

Sec. 81.0751. APPEALS.

(a) The commission or a respondent attorney may appeal:

- (1) a finding of a panel of a district grievance committee under Section 81.075(e) only to the Board of Disciplinary Appeals;
- (2) a finding of the Board of Disciplinary Appeals to the supreme court; and
- (3) a judgment of a district court as in civil cases generally.

(b) In an appeal of a finding of a panel of a district grievance committee made to the Board of Disciplinary Appeals, the board may:

- (1) affirm in whole or part the panel's finding;
- (2) modify the panel's finding and affirm the finding as modified;
- (3) reverse in whole or part the panel's finding and enter a finding the board determines the panel should have entered; or
- (4) reverse the panel's finding and remand the complaint for a rehearing to be conducted by:
 - (A) the panel that entered the finding; or
 - (B) a statewide grievance committee panel composed of members selected from the state bar districts other than the district from which the appeal was taken.

Added by Acts 2003, 78th Leg., ch. 227, Sec. 17, eff. Sept. 1, 2003.

Sec. 81.0752. CONFIDENTIALITY.

(a) All types of information, proceedings, hearing transcripts, and statements presented to a panel of a district grievance committee are confidential and may not be disclosed to any person other than the chief disciplinary counsel unless:

- (1) disclosure is ordered by a court; or
- (2) the panel finds that professional misconduct occurred and a sanction other than a private reprimand is imposed against the respondent attorney.

(b) If the requirements of Subsection (a)(2) are met, the panel of the district grievance committee

shall, on request, make the information, proceedings, hearing transcripts, or statements available to the public.

Added by Acts 2003, 78th Leg., ch. 227, Sec. 17, eff. Sept. 1, 2003.

Sec. 81.0753. RULES REGARDING GRIEVANCES. The supreme court shall promulgate rules regarding the classification and disposition of grievances, including rules specifying time limits for each stage of the grievance resolution process.

Added by Acts 2003, 78th Leg., ch. 227, Sec. 17, eff. Sept. 1, 2003.

Sec. 81.076. COMMISSION FOR LAWYER DISCIPLINE.

(a) The Commission for Lawyer Discipline shall review the structure, function, and effectiveness of the disciplinary and disability procedures implemented pursuant to this chapter and supreme court rules.

(b) The commission is a standing committee of the state bar. The commission is composed of 12 persons. Six members must be attorneys, and six members must not be attorneys. The president of the state bar appoints the attorney members. The supreme court appoints the public members. The public members may not have, other than as consumers, an interest, direct or indirect, in the practice of law or the profession of law. The supreme court may remove any member for good cause.

(c) Members serve staggered three-year terms with one-third of the members' terms expiring each year.

(d) The president of the state bar shall designate an attorney member as chairperson of the commission who serves for one year.

(e) The commission shall report its findings annually to the supreme court and the board of directors and include any recommendations concerning needed changes in disciplinary or disability procedures or structures.

(f) All necessary and actual expenses of the commission shall be provided for and paid out of the budget of the state bar.

(g) The commission, with the advice and consent of the board of directors, shall select a chief disciplinary counsel to serve as administrator of the state bar's grievance procedure as provided by the Texas Rules of Disciplinary Procedure. On request of an unauthorized practice of law committee or a grievance committee, the chief disciplinary counsel may investigate and prosecute suits to enjoin members, nonlicensees, and nonmembers of the state bar from the practice of law.

(h) The commission shall report to the board of directors, the supreme court, and the legislature, at least annually, concerning the state of the attorney discipline system and make recommendations concerning the refinement and improvement of the system.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 21, eff. Sept. 1, 1991.

Sec. 81.077. DISBARMENT PROCEEDINGS.

(a) The supreme court may not adopt or promulgate any rule abrogating the right of trial by jury of an accused attorney in a disbarment action in the county of the residence of the accused attorney.

(b) A disbarment proceeding against a resident attorney shall be instituted in a district court in the county of the attorney's residence, but the accused attorney may apply for change of venue under Rule 257, Texas Rules of Civil Procedure.

(c) This chapter does not prohibit a grievance committee from investigating a complaint of professional misconduct alleged to have occurred in the geographical area served by the committee, but any action must be filed in the county of the attorney's residence.

(d) Venue in a disbarment proceeding against a nonresident member of the state bar is in a district court either in Travis County or in any county where the alleged misconduct occurred.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 22, eff. Sept. 1, 1991.

Sec. 81.078. DISCIPLINARY PROCEEDINGS.

(a) Except as provided by Subsection (b), until an attorney has been convicted of the charges for disbarment pending against the attorney in a court of competent jurisdiction, the attorney may be suspended from the practice of law only if the attorney concurs in an order of suspension entered by the grievance committee.

(b) On proof of an attorney's conviction in a trial court of competent jurisdiction of any felony involving moral turpitude or of any misdemeanor involving the theft, embezzlement, or fraudulent misappropriation of money or other property, the district court of the county of the residence of the convicted attorney shall enter an order suspending the attorney from the practice of law during the pendency of any appeals from the conviction. An attorney who has been given probation after the conviction, whether adjudicated or unadjudicated, shall be suspended from the practice of law during the probation.

(c) On proof of final conviction of any felony involving moral turpitude or any misdemeanor

involving theft, embezzlement, or fraudulent misappropriation of money or other property, the district court of the county of the residence of the convicted attorney shall enter an order disbaring the attorney.

(d) In an action to disbar any attorney for acts made the basis of a conviction for a felony involving moral turpitude or a misdemeanor involving theft, embezzlement, or fraudulent misappropriation of money or other property, the record of conviction is conclusive evidence of the guilt of the attorney for the crime of which he was convicted.

(e) Either the grievance committee for the bar district or the general counsel may seek enforcement of this section.

(f) This chapter does not prevent prosecution of an attorney in a disciplinary action after conviction for a criminal act based either on the weight of the conviction or on conduct by the attorney that led to the attorney's conviction.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.079. PUBLIC NOTIFICATION AND INFORMATION.

(a) To provide information to the public relating to the attorney grievance process, the state bar shall:

- (1) develop a brochure written in Spanish and English describing the bar's grievance process;
- (2) establish a toll-free "800" telephone number for public access to the chief disciplinary counsel's office in Austin and list the number in telephone directories statewide;
- (3) describe the bar's grievance process in the bar's telephone directory listings statewide; and
- (4) make grievance forms written in Spanish and English available in each county courthouse.

(b) Each attorney practicing law in this state shall provide notice to each of the attorney's clients of the existence of a grievance process by:

- (1) making grievance brochures prepared by the state bar available at the attorney's place of business;
- (2) posting a sign prominently displayed in the attorney's place of business describing the process;

- (3) including the information on a written contract for services with the client; or
- (4) providing the information in a bill for services to the client.

Added by Acts 1991, 72nd Leg., ch. 795, Sec. 23, eff. Sept. 1, 1991. Amended by Acts 2003, 78th Leg., ch. 227, Sec. 18, eff. Sept. 1, 2003.

SUBCHAPTER F. COMMITTEE ON PROFESSIONAL ETHICS

Sec. 81.091. COMMITTEE ON PROFESSIONAL ETHICS.

- (a) The professional ethics committee consists of nine members of the state bar appointed by the supreme court.
- (b) Members serve three-year terms with the terms of three members expiring each year.
- (c) The supreme court shall designate a chairperson of the committee who serves for one year.
- (d) This chapter does not prohibit the supreme court from appointing members of the judicial department to the committee.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.092. COMMITTEE OPINIONS.

- (a) The committee shall, either on its own initiative or when requested to do so by a member of the state bar, express its opinion on the propriety of professional conduct other than on a question pending before a court of this state.
- (b) Except as provided by Section 81.093, an opinion requires the concurrence of a quorum of the committee members.
- (c) Committee opinions are not binding on the supreme court.
- (d) As far as possible, the committee must disclose the rationale for its opinion and shall indicate whether it is based on ethical consideration or on disciplinary rules.
- (e) The committee shall adopt rules it considers appropriate relating to the procedures to be used in expressing opinions. Rules adopted under this subsection take effect when approved by the supreme court.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.093. PANELS. The committee may meet in three-member panels to express its opinion on behalf of the whole committee, but an inquirer who is dissatisfied with the panel's opinion may appeal it to the full committee for review.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.094. CERTAIN COMMITTEE DUTIES. The committee shall:

- (1) periodically publish its issued opinions to the legal profession in summary or complete form;
- (2) on request provide copies of its issued opinions to members of the state bar or the public;
- (3) on request advise or otherwise assist state bar committees or local bar associations relating to the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure; and
- (4) recommend appropriate amendments or clarifications of the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure that it considers advisable.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 24, eff. Sept. 1, 1991.

Sec. 81.095. EXPENSES. The state bar shall pay all necessary and actual expenses of the committee out of the state bar budget.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

SUBCHAPTER G. UNAUTHORIZED PRACTICE OF LAW

Sec. 81.101. DEFINITION.

(a) In this chapter the "practice of law" means the preparation of a pleading or other document incident to an action or special proceeding or the management of the action or proceeding on behalf of a client before a judge in court as well as a service rendered out of court, including the giving of advice or the rendering of any service requiring the use of legal skill or knowledge, such as preparing a will, contract, or other instrument, the legal effect of which under the facts and conclusions involved must be carefully determined.

(b) The definition in this section is not exclusive and does not deprive the judicial branch of the power and authority under both this chapter and the adjudicated cases to determine whether other services and acts not enumerated may constitute the practice of law.

(c) In this chapter, the "practice of law" does not include the design, creation, publication, distribution, display, or sale, including publication, distribution, display, or sale by means of an Internet web site, of written materials, books, forms, computer software, or similar products if the products clearly and conspicuously state that the products are not a substitute for the advice of an attorney. This subsection does not authorize the use of the products or similar media in violation of Chapter 83 and does not affect the applicability or enforceability of that chapter.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 799, Sec. 1, eff. June 18, 1999.

Sec. 81.1011. EXCEPTION FOR CERTAIN LEGAL ASSISTANCE.

(a) Notwithstanding Section 81.101(a), the "practice of law" does not include technical advice, consultation, and document completion assistance provided by an employee or volunteer of an area agency on aging affiliated with the Texas Department on Aging who meets the requirements of Subsection (b) if that advice, consultation, and assistance relates to:

- (1) a medical power of attorney or other advance directive under Chapter 166, Health and Safety Code; or
- (2) a designation of guardian before need arises under Section 679, Texas Probate Code.

(b) An employee or volunteer described by Subsection (a) must:

- (1) provide benefits counseling through an area agency on aging system of access and assistance to agency clients;
- (2) comply with rules adopted by the Texas Department on Aging regarding qualifications, training requirements, and other requirements for providing benefits counseling services, including legal assistance and legal awareness services;
- (3) have received specific training in providing the technical advice, consultation, and assistance described by Subsection (a); and
- (4) be certified by the Texas Department on Aging as having met the requirements of this subsection.

(c) The Texas Department on Aging by rule shall develop certification procedures by which the department certifies that an employee or volunteer described by Subsection (a) has met the requirements of Subsections (b)(1), (2), and (3).

Added by Acts 2001, 77th Leg., ch. 845, Sec. 1, eff. Sept. 1, 2001.

Sec. 81.102. STATE BAR MEMBERSHIP REQUIRED.

- (a) Except as provided by Subsection (b), a person may not practice law in this state unless the person is a member of the state bar.
- (b) The supreme court may promulgate rules prescribing the procedure for limited practice of law by:
 - (1) attorneys licensed in another jurisdiction;
 - (2) bona fide law students; and
 - (3) unlicensed graduate students who are attending or have attended a law school approved by the supreme court.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.103. UNAUTHORIZED PRACTICE OF LAW COMMITTEE.

- (a) The unauthorized practice of law committee is composed of nine persons appointed by the supreme court.
- (b) At least three of the committee members must be nonattorneys.
- (c) Committee members serve for staggered terms of three years with three members' terms expiring each year.
- (d) A committee member may be reappointed.
- (e) Each year the supreme court shall designate a committee member to serve as chairperson.
- (f) All necessary and actual expenses of the committee should be provided for and paid out of the budget of the state bar.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 25, eff. Sept. 1, 1991.

Sec. 81.104. DUTIES OF UNAUTHORIZED PRACTICE OF LAW COMMITTEE. The unauthorized practice of law committee shall:

- (1) keep the supreme court and the state bar informed with respect to:

(A) the unauthorized practice of law by lay persons and lay agencies and the participation of attorneys in that unauthorized practice of law; and

(B) methods for the prevention of the unauthorized practice of law; and

(2) seek the elimination of the unauthorized practice of law by appropriate actions and methods, including the filing of suits in the name of the committee.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.105. LOCAL COMMITTEES. This chapter does not prohibit the establishment of local unauthorized practice of law committees to assist the unauthorized practice of law committee in carrying out its purposes.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.106. IMMUNITY.

(a) The unauthorized practice of law committee, any member of the committee, or any person to whom the committee has delegated authority and who is assisting the committee is not liable for any damages for an act or omission in the course of the official duties of the committee.

(b) A complainant or a witness in a proceeding before the committee or before a person to whom the committee has delegated authority and who is assisting the committee has the same immunity that a complainant or witness has in a judicial proceeding.

Added by Acts 1991, 72nd Leg., ch. 795, Sec. 26, eff. Sept. 1, 1991.

SUBCHAPTER H. MISCELLANEOUS PROVISIONS

Sec. 81.112. FEE DISPUTE RESOLUTION PROCEDURE. The state bar shall establish a standard fee dispute resolution procedure that may be used by a bar committee or other organization as a model for a fee dispute resolution program.

Added by Acts 1991, 72nd Leg., ch. 795, Sec. 28, eff. Sept. 1, 1991.

Sec. 81.113. CONTINUING LEGAL EDUCATION.

(a) Except as provided by Subsection (b), the state bar shall credit an attorney licensed in this state with meeting the minimum continuing legal education requirements of the state bar for a reporting year if during the reporting year the attorney is employed full-time as an attorney by:

- (1) the senate;
- (2) the house of representatives;
- (3) a committee, division, department, or office of the senate or house;
- (4) the Texas Legislative Council;
- (5) the Legislative Budget Board;
- (6) the Legislative Reference Library;
- (7) the office of the state auditor; or
- (8) the Sunset Advisory Commission.

(a-1) The state bar shall credit an attorney licensed in this state with meeting the minimum continuing legal education requirements of the state bar for a reporting year if during the reporting year the attorney is employed full-time as an attorney by the office of the attorney general. An attorney credited for continuing legal education under this subsection must meet the continuing legal education requirements of the state bar in legal ethics or professional responsibility. This subsection expires January 1, 2014.

(b) An attorney credited for continuing legal education under Subsection (a) must meet the continuing legal education requirements of the state bar in legal ethics or professional responsibility.

(c) The state bar shall recognize, prepare, or administer continuing education programs for members of the state bar. A member of the state bar must participate in the programs to the extent required by the supreme court to maintain the person's state bar membership.

Added by Acts 1991, 72nd Leg., ch. 795, Sec. 29, eff. Sept. 1, 1991. Amended by Acts 2003, 78th Leg., ch. 227, Sec. 19, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4, Sec. 24.01, eff. September 28, 2011.

Sec. 81.114. ATTORNEY INSTRUCTION RELATED TO GUARDIANSHIP ISSUES.

(a) The state bar shall provide a course of instruction for attorneys who represent parties in guardianship cases or who serve as court-appointed guardians.

(b) The state bar shall adopt the rules necessary to accomplish the purposes of this section.

(c) The instruction must include information about:

- (1) statutory and case law relating to guardianships;
- (2) the aging process and the nature of disabilities;
- (3) the requirements of the Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.) and related case and statutory law, rules, and compliance methods;
- (4) the principles of equal access and accommodation;
- (5) the use of community resources for the disabled; and
- (6) avoidance of stereotypes through a focus on people's individual abilities, support needs, and inherent individual value.

(d) The instruction may include information about:

- (1) substantive areas of law concerning the needs of elderly persons and persons with disabilities;
- (2) barriers to physical access and methods to overcome those barriers;
- (3) communication needs of elderly persons and persons with disabilities and the technology available to provide access to communication;
- (4) duties and responsibilities of guardians, guardians ad litem, attorneys, and court personnel in guardianship proceedings;
- (5) standard definitions and procedures for determining incapacity;
- (6) standards for surrogate decision making;
- (7) the doctrine of the least-restrictive alternative;
- (8) the dispute resolution process, especially its application to elderly persons and persons with disabilities; and
- (9) successful programs and funding efforts for addressing the court-related needs of elderly persons and persons with disabilities.

Added by Acts 1993, 73rd Leg., ch. 905, Sec. 3, eff. Sept. 1, 1993.

Sec. 81.115. ONLINE ATTORNEY PROFILES.

- (a) The state bar shall create a profile of each attorney licensed by the state bar. The profile must:
- (1) include the information required by Subsection (b);
 - (2) include the information described by Subsection (c) if that information is provided by the attorney to the state bar; and
 - (3) be compiled in a format that permits the state bar to make the information contained in the profile available online to the public.
- (b) A profile must contain the following information on each attorney:
- (1) the name of each law school attended and the date the attorney graduated;
 - (2) the date the attorney became licensed to practice law in this state;
 - (3) any specialty certification recognized by the state bar and held by the attorney;
 - (4) the attorney's primary practice location;
 - (5) any public disciplinary sanctions issued by the state bar against the attorney during at least the 10-year period preceding the date of the profile; and
 - (6) any public disciplinary sanctions issued by an entity in another state responsible for attorney discipline in that state against the attorney during at least the 10-year period preceding the date of the profile.
- (c) The profile must contain the following information on an attorney if the attorney provides the information to the state bar:
- (1) other states in which the attorney is licensed to practice law;
 - (2) the courts before which the attorney has been admitted to practice law;
 - (3) whether the attorney provides any language translating services, including translating services for a person with impairment of hearing, at the attorney's primary practice location; and

(4) whether the attorney's client service areas are accessible to persons with disabilities, as defined by federal law.

(d) Information included under Subsection (b) or (c) that is not maintained by the state bar in the ordinary course of the state bar's duties shall be requested from an attorney annually. In requesting information from the attorney, the state bar shall:

(1) inform the attorney that compliance with the request for information under Subsection (b) is mandatory;

(2) inform the attorney that compliance with the request for information under Subsection (c) is voluntary;

(3) inform the attorney of the date the information will be made available to the public; and

(4) instruct the attorney concerning the requirements under Subsection (f) for the attorney to obtain a copy of the attorney's profile to make corrections.

(e) This section does not require the state bar to disclose confidential information.

(f) The state bar shall:

(1) annually provide to each attorney licensed by the state bar a copy of the attorney's profile; or

(2) provide to an individual attorney a copy of the attorney's profile on request. The state bar shall provide an attorney one month from the date a copy of the attorney's profile is provided to the attorney to correct factual errors in the attorney's profile.

(g) The state bar shall annually update the information contained in an attorney's profile. The state bar shall adopt a form that allows an attorney to update information contained in the attorney's profile. The form shall be made available on the Internet and in other formats as prescribed by rules adopted by the state bar. The state bar may adopt rules relating to the type and content of additional information that may be included in an attorney's profile.

(h) For purposes of administering this section, the state bar may collect from each member of the state bar an annual fee of not more than \$10.

(i) The state bar shall adopt rules as necessary to implement this section.

Added by Acts 2001, 77th Leg., ch. 862, Sec. 1, eff. Sept. 1, 2001.

SUBCHAPTER I. EXECUTIVE COMMITTEE

Sec. 81.121. EXECUTIVE COMMITTEE.

(a) The executive committee consists of:

- (1) the president, the president-elect, and the immediate past president of the state bar;
- (2) the chair of the board of directors;
- (3) the president of the Texas Young Lawyers Association; and
- (4) additional members appointed by the president of the state bar.

(b) The general counsel and executive director serve as ex officio members of the committee.

(c) The president of the state bar serves as chair of the committee. The chair of the board of directors serves as vice chair of the committee and presides over committee meetings in the committee chair's absence.

Added by Acts 2003, 78th Leg., ch. 227, Sec. 20, eff. Sept. 1, 2003.

Sec. 81.122. DUTIES OF EXECUTIVE COMMITTEE. The executive committee shall:

- (1) on the recommendation of the president of the state bar, approve the creation of additional standing and special committees of the state bar in accordance with Section 81.123;
- (2) conduct a comprehensive review of standing and special committees of the state bar at least biennially and more frequently as the executive committee determines necessary to assess whether there is:
 - (A) a continued need for each committee; and
 - (B) unnecessary overlap of the committees' activities; and
- (3) perform other duties as delegated by the board of directors.

Added by Acts 2003, 78th Leg., ch. 227, Sec. 20, eff. Sept. 1, 2003.

Sec. 81.123. APPROVAL OF COMMITTEES. Before the executive committee may approve the creation of an additional standing or special committee of the state bar, the committee must:

(1) study and determine the fiscal impact creating the committee would have on the state bar budget;
and

(2) poll the chair of each existing committee and conduct a review to determine whether the matter to be addressed by the proposed committee could be addressed by an existing committee.

Added by Acts 2003, 78th Leg., ch. 227, Sec. 20, eff. Sept. 1, 2003.