



- **TO:** Medical Care Advisory Committee
- DATE:** August 13, 2020
- FROM:** Constance Allison, Deputy Executive Commissioner of Policy and Rules

**SUBJECT:** HHSC 2020 Advisory Committee Rule Amendments and Repeal

**Agenda No.:** 9

**Amendments to:** §351.801, concerning Authority and General Provisions; §351.815, concerning the Policy Council for Children and Families; §351.817, concerning the Texas Council on Consumer Direction; §351.827, concerning the Palliative Care Interdisciplinary Advisory Council; and §351.833, concerning the STAR Kids Managed Care Advisory Committee

**Repeal of:** §351.829, concerning the Promoting Independence Advisory Committee

**BACKGROUND:**  Federal  Legislative  Other: Program Initiative

The Texas Health and Human Services Commission proposes to amend certain rules to extend advisory committees that are set to be abolished, to revise certain committees' membership and tasks to incorporate duties related to persons on the autism spectrum, to align the rules with statute and statutory interpretations, to clarify terms, and to repeal a rule for an advisory committee that no longer functions.

In 2015, the Texas Legislature removed 38 advisory committees from HHSC that were established by statute and, by adopting Texas Government Code §531.012, authorized the Executive Commissioner to establish advisory committees by rule. The Executive Commissioner's advisory committee rules were effective July 1, 2016. The Policy Council for Children and Families and the Texas Council on Consumer Direction are set to be abolished in 2020, and HHSC intends to continue them for four years. In addition, the rule governing the Palliative Care Interdisciplinary Council (which is established by statute other than §531.012) is amended to extend the Council for so long as the statute establishing the Council remains in effect. The Promoting Independence Advisory Committee rule indicates that the Committee was abolished in 2017, but the rule has yet to be repealed.

The rules for the Policy Council for Children and Families, the Texas Council on Consumer Direction, the Texas Council on Consumer Direction, and the Palliative Care Interdisciplinary Council are further amended to delete obsolete language, to align language with Advisory Committee Coordination Office guidance on term limits and reports, and to remove language stating that, in the selection of members, ethnic and minority representation and, in the case of the Policy Council

for Children and Families, diverse disability representation, are considered. Diversity in geographic representation is provided in §351.801(f).

In rules effective on January 27, 2020, and published in the January 24, 2020, issue of the *Texas Register* (45 TexReg 523), HHSC extended the Texas Autism Council until December 31, 2020. HHSC announced at that time that it would work to identify other, already existing advisory committees that could effectively address issues faced by persons on the autism spectrum. These proposed rules revise two advisory committee rules to accommodate those issues concerning children: §351.815, concerning the Policy Council for Children and Families; and §351.833, concerning the STAR Kids Managed Care Advisory Committee. We continue to look for a new “home” committee to accommodate autism-spectrum-related issues for adults.

Finally, the rule for advisory committees generally amends the definition of “quorum” to include nonvoting members, in recognition of an Attorney General Opinion, and to define the term “family member.” The definition aligns with Advisory Committee Coordination Office policy. The general rule also clarifies that every advisory committee, not just a committee established under Texas Government Code §531.012, is subject to Texas Government Code Chapter 2110 unless the statute establishing that committee expressly provides otherwise.

**ISSUES AND ALTERNATIVES:**

We are not aware of any issues. The primary alternative is to allow the expiring committees to expire, which will result in a loss of the committee’s perspectives on important issues.

**STAKEHOLDER INVOLVEMENT:**

The proposal will be presented at the HHSC Executive Council meeting on August 20, 2020.

Stakeholders will have an opportunity to comment during the public comment period when the rules are proposed in the *Texas Register*.

**FISCAL IMPACT:**

None  Yes

	SFY21	SFY22	SFY23	SFY24	SFY25
<b>State</b>	\$18,080	\$18,080	\$18,080	\$18,080	\$18,080
<b>Federal</b>	0	0	0	0	0
<b>Total</b>	\$18,080	\$18,080	\$18,080	\$18,080	\$18,080

**RULE DEVELOPMENT SCHEDULE:**

August 13, 2020 Present to Medical Care Advisory Committee  
August 20, 2020 Present to HHSC Executive Council  
September 2020 Publish proposed rules in *Texas Register*  
January 2020 Publish adopted rules in *Texas Register*  
January 2020 Effective date

**REQUESTED ACTION: (Check appropriate box)**

- The MCAC recommends approval of the proposed rules for publication.
- Information Only

TITLE 1	ADMINISTRATION
PART 15	TEXAS HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 351	COORDINATED PLANNING AND DELIVERY OF HEALTH AND HUMAN SERVICES
SUBCHAPTER B	ADVISORY COMMITTEES
DIVISION 1	COMMITTEES

#### PROPOSED PREAMBLE

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes the repeal of §351.829, concerning the Promoting Independence Advisory Committee. The Executive Commissioner also proposes amendments to §351.801, concerning Authority and General Provisions; §351.815, concerning the Policy Council for Children and Families; §351.817, concerning the Texas Council on Consumer Direction; §351.827, concerning the Palliative Care Interdisciplinary Advisory Council; and §351.833, concerning STAR Kids Managed Care Advisory Committee.

#### BACKGROUND AND PURPOSE

The purpose of the proposal is to amend certain rules to extend advisory committees that are set to be abolished, to revise certain committees' membership and tasks to incorporate duties related to persons on the autism spectrum, to align the rules with statute and statutory interpretations, to clarify terms, and to repeal a rule for an advisory committee that no longer functions.

In 2015, the Texas Legislature removed 38 advisory committees from HHSC that were established by statute and, by adopting Texas Government Code §531.012, authorized the Executive Commissioner to establish advisory committees by rule. The Executive Commissioner's advisory committee rules were effective July 1, 2016. The Policy Council for Children and Families and the Texas Council on Consumer Direction are set to be abolished in 2020, and HHSC intends to continue them for four years. In addition, the rule governing the Palliative Care Interdisciplinary Council (which is established by statute other than §531.012) is amended to extend the Council for so long as the statute establishing the Council remains in effect. The Promoting Independence Advisory Committee rule indicates that the Committee was abolished in 2017, but the rule has yet to be repealed.

In rules effective on January 27, 2020, and published in the January 24, 2020, issue of the *Texas Register* (45 TexReg 523), HHSC extended the Texas Autism Council until December 31, 2020. HHSC announced at that time that it would work to identify other, already existing advisory committees that could effectively address issues faced by persons on the autism spectrum. These proposed rules revise two advisory committee rules to accommodate those issues concerning children: §351.815, concerning the Policy Council for Children and Families; and §351.833, concerning the STAR Kids Managed Care Advisory Committee. We continue to look for a new "home" committee to accommodate autism-spectrum-related issues for adults.

## SECTION-BY-SECTION SUMMARY

The proposed amendment to §351.801 aligns the definition of a quorum with Texas Attorney General Opinion JC-0580 (2002), which concludes that a nonvoting member counts in determining the presence of a quorum. The proposed section also defines the term "family member" to clarify the term throughout the subchapter and clarifies the definition of "Health and Human Services system." The general rule also clarifies that every advisory committee, not just a committee established under Texas Government Code §531.012, is subject to Texas Government Code Chapter 2110 unless the statute establishing that committee expressly provides otherwise.

The proposed amendment to §351.815 extends the abolition date of the Policy Council for Children and Family until December 31, 2024. It adds a task to encompass issues related to children on the autism spectrum and changes membership categories to accommodate this change. It also removes a reference to a statute that no longer exists; clarifies the due date for reports under subsection (d)(1); adds a subsection regarding open meetings and a subsection regarding training requirements. The proposed section also deletes a statement that ethnic and minority representation and diverse disability representation are considered in selecting members because none of those factors are stated in Texas Government Code §531.012; provides for one-quarter of all membership terms to expire each year in an effort to provide greater continuity; and allows a member whose term is expiring to apply to serve one additional term. Organizational and formatting edits are made for consistency and clarity.

The proposed amendment to §351.817 extends the Texas Council on Consumer Direction to July 31, 2024. It also clarifies that the Council has both voting and nonvoting members, but the total number of all members does not exceed 24 in compliance with Texas Government Code §2110.002(a). The due date for reporting requirements is updated in subsection (d). Subsections regarding open meetings and training requirements are added to this section. Organizational and formatting edits are made for consistency and clarity.

The proposed amendment to §351.827 deletes the abolition date of the Palliative Care Interdisciplinary Advisory Council and provides that the Council will continue as long as the state law establishing it remains in effect. The proposal clarifies that the Council has both voting and nonvoting members, the total number of which does not exceed 24 in compliance with Texas Government Code § 2110.002(a). It also deletes a statement that ethnic and minority representation are considered in selecting members; diversity in geographic representation is provided in §351.801(f). It provides for one-quarter of all membership terms to expire each year in an effort to provide greater continuity. Subsections regarding open meetings and training requirements are added to this section. Organizational and formatting edits are made for consistency and clarity.

Section 351.829 is repealed because the Promoting Independence Advisory Committee was abolished on September 1, 2017.

The proposed amendment to §351.833 revises membership on the STAR Kids Managed Care Advisory Committee to require the appointment of family members of children on the autism spectrum who are Medicaid recipients. It also deletes a statement that ethnic and minority representation are considered in selecting members; diversity in geographic representation is provided in §351.801(f). Subsections regarding open meetings and training requirements are added to this section. Organizational and formatting edits are made for consistency and clarity.

#### FISCAL NOTE

Trey Wood, Chief Financial Officer, has determined that for each year of the first five years that the rules are in effect, there will be an estimated additional cost to state government as a result of enforcing and administering the rules as proposed. Enforcing or administering the rules does not have foreseeable implications relating to the costs or revenues of local government.

The effect on state government is an estimated General Revenue cost of \$18,080 each fiscal year of the first five years the proposed rules are in effect.

#### GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the rules will be in effect:

- (1) the proposed rules will not create or eliminate a government program;
- (2) implementation of the proposed rules will not affect the number of HHSC employee positions;
- (3) implementation of the proposed rules will result in no assumed change in future legislative appropriations;
- (4) the proposed rules will not affect fees paid to HHSC;
- (5) the proposed rules will not create a new rule;
- (6) the proposed rules will repeal an existing rule;
- (7) the proposed rules will not change the number of individuals subject to the rules; and
- (8) the proposed rules will not affect the state's economy.

#### SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Trey Wood has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities to comply with the proposed rules. There are no entities other than HHSC required to comply with the proposal.

#### LOCAL EMPLOYMENT IMPACT

The proposed rules will not affect a local economy.

#### COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to these rules because the rules do not impose a cost on regulated persons and are necessary to implement legislation that does not specifically state that §2001.0045 applies to the rules.

#### PUBLIC BENEFIT AND COSTS

Constance Allison, Deputy Executive Commissioner of Policy and Rules, has determined that for each year of the first five years the rules are in effect, the public benefit will be accurate information available to stakeholders and the public regarding the duration and expiration of advisory committees making policy recommendations to HHSC, as well as updated information about the committees' membership and tasks.

Trey Wood has also determined that for the first five years the rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules. The proposed rules amend advisory committee statutory authority and provides administrative housekeeping. There are no entities other than HHSC that is required to comply with the proposal.

#### TAKINGS IMPACT ASSESSMENT

HHSC has determined that this proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under §2007.043 of the Government Code.

#### PUBLIC COMMENT

Written comments on the proposal may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4900 North Lamar Boulevard, Austin, Texas 78751; or e-mailed to [HHSCRulesCoordinationOffice@hhsc.state.tx.us](mailto:HHSCRulesCoordinationOffice@hhsc.state.tx.us).

To be considered, comments must be submitted no later than 14 days after the date of this issue of the *Texas Register*. Comments must be: (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 20R056" in the subject line.

## **STATUTORY AUTHORITY**

The amendments and repeal are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.012, which authorizes the Executive Commissioner to establish advisory committees by rule and to include in the rule a date of abolition.

The amendments affect Texas Government Code §531.0055 and Texas Government Code §531.012. The amendments also affect Texas Health and Safety Code chapter 118, which establishes the Palliative Care Interdisciplinary Council.

This agency hereby certifies that this proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

## **ADDITIONAL INFORMATION**

For further information, please call: (512) 707-6101.

Legend:

Single Underline = Proposed new language

~~[Strikethrough and brackets]~~ = Current language proposed for deletion

Regular print = Current language

(No change.) = No changes are being considered for the designated subdivision

TITLE 1	ADMINISTRATION
PART 15	TEXAS HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 351	COORDINATED PLANNING AND DELIVERY OF HEALTH AND HUMAN SERVICES
SUBCHAPTER B	ADVISORY COMMITTEES
DIVISION 1	COMMITTEES

*§351.801. Authority and General Provisions.*

*(a) Authority to establish advisory committees. In addition to specific statutory authority to establish particular advisory committees, the Texas Health and Human Services Commission has authority under Texas Government Code §531.012 to establish and maintain advisory committees to consider issues and solicit public input across all major areas of the health and human services system.*

*(b) Applicability of Texas Government Code Chapter 2110. An advisory committee established under Texas Government Code §531.012 is subject to Texas Government Code Chapter 2110. An advisory committee established under another statute is subject to Texas Government Code Chapter 2110 unless the establishing statute expressly states otherwise.*

*(c) Applicability of Texas Government Code Chapter 551. Unless otherwise expressly provided by statute or rule, an advisory committee established under this subchapter is subject to the Open Meetings Act, Texas Government Code Chapter 551, as if it were a governmental body.*

*(d) Quorum. Unless expressly provided otherwise, a majority of an advisory committee's ~~voting~~ members constitutes a quorum.*

*(e) General reporting requirement. In addition to reporting requirements set out in an advisory committee's section of this subchapter, an advisory committee established under Texas Government Code §531.012 must:*

*(1) report recommendations to the Executive Commissioner and the Health and Human Services Commission Executive Council; and*

*(2) submit a written report to the Texas Legislature of any policy recommendations made under paragraph (1) of this subsection.*

*(f) Geographic diversity generally. As necessary and appropriate, the members of an advisory committee established under Texas Government Code §531.012 will be*

appointed with a view to having committee members from diverse geographic areas of the state.

(g) Definitions. For purposes of this subchapter, the following terms are defined as follows:

(1) C.F.R.--Code of Federal Regulations.

(2) CHIP--The Texas State Children's Health Insurance Program established under Title XXI of the federal Social Security Act (42 U.S.C. §§1397aa, et seq.) and Chapter 62 of the Texas Health and Safety Code.

(3) Executive Commissioner--The HHSC Executive Commissioner.

(4) Family member--A parent, spouse, grandparent, adult sibling, adult child, guardian, or legally authorized representative.

(5)-(4) Health and Human Services system-- The All-state agencies and departments under and including the Texas Health and Human Services Commission and, including the Texas Department of State Health Services. For purposes of this subchapter, the term also may include the Texas Department of Family and Protective Services, where appropriate Texas Department of Aging and Disability Services, and Texas Department of Assistive and Rehabilitative Services.

(6)-(5) HHSC--The Texas Health and Human Services Commission, or its designee.

(7)-(6) U.S.C.--United States Code.

§351.815. Policy Council for Children and Families.

(a) Statutory authority. The Policy Council for Children and Families (Policy Council) is established in accordance with ~~Texas Human Resources Code §22.0235 and Texas Government Code §531.012.~~

(b) Purpose. The Policy Council works to improve the coordination, quality, efficiency, and outcomes of services provided to children with disabilities and their families through the state's health, education, and human services systems.

(c) Tasks. The Policy Council performs the following tasks:

(1) studies and makes recommendations to improve coordination between the state's health, education, and human services systems to ensure that children with disabilities and their families have access to high quality services;

(2) studies and makes recommendations to improve long-term services and supports, including community-based supports for children with special health and

mental health care needs, as well as children with disabilities and their families receiving protective services from the state;

(3) studies and makes recommendations regarding emerging issues affecting the quality and availability of services available to children with disabilities and their families;

(4) studies and makes recommendations to better align resources with the service needs of children with disabilities and their families;

(5) studies and makes recommendations to ensure that the needs of children with autism spectrum disorder and their families are addressed, and that all available resources are coordinated to meet those needs;

~~(6)-(5)~~ makes recommendations regarding the implementation and improvement of the STAR Kids managed care program; and

~~(7)-(6)~~ performs other tasks consistent with its purpose as requested by the Executive Commissioner.

(d) Reporting requirements-Reports.

(1) Reporting to Executive Commissioner. By December 31 of each ~~fiscal~~ year, the Policy Council files a written report with the Executive Commissioner that covers the meetings and activities in the immediately preceding fiscal year. The report includes:

(A) a list of the meeting dates;

(B) the members' attendance records;

(C) a brief description of actions taken by the committee;

(D) a description of how the committee accomplished its tasks;

(E) a summary of the status of any committee recommendations to HHSC;

(F) a description of activities the committee anticipates undertaking in the next fiscal year;

(G) recommended amendments to this section; and

(H) the costs related to the committee, including the cost of HHSC staff time spent supporting the committee's activities and the source of funds used to support the committee's activities.

(2) Reporting to Executive Commissioner and Texas Legislature. By November 1

~~1st~~ of each even-numbered year, the Policy Council submits a written report to the Executive Commissioner and Texas Legislature that:

(A) describes current gaps and barriers to the provision of services to children with disabilities and their families through the state's health and human services system; and

(B) provides recommendations consistent with the Policy Council's purposes.

~~(e) The Policy Council complies with the requirements for open meetings under Texas Government Code Chapter 551, as if it were a governmental body. Date of abolition. The Policy Council is abolished, and this section expires, four years after the date of its creation, in compliance with Texas Government Code §2110.008(b).~~

(f) Membership.

(1) The Policy Council is composed of 24 members:

(A) ~~five nonvoting six non-voting~~, ex officio members, one from each of the following state programs and agencies or their successors, as selected by the represented agency:

~~(i) HHSC Medicaid and CHIP Services-STAR Kids-managed care program expert;~~

~~(ii) HHSC long term services and supports expert;~~

~~(ii)-(iii) HHSC Health, Developmental & Independence Services-Early Childhood Intervention Services;~~

~~(iii)-(iv) Texas Council on Developmental Disabilities;~~

~~(iv)-(v) Texas Department of Family and Protective Services; and~~

~~(v)-(vi) Texas Department of State Health Services;~~

(B) eleven voting members selected by the Executive Commissioner from families with a child under the age of 26 with a disability, including:

(i) at least one adolescent or young adult under the age of 26 with a disability receiving services from a health and human services system agency; and

(ii) at least one member of a family of a child with mental health care needs; and

(iii) at least one member of a family of a child with autism spectrum disorder;

(C) ~~eight professional-seven~~ voting members, selected by the Executive Commissioner, one each to represent the following types of organizations or areas of expertise:

(i) a faith-based organization;

(ii) an organization that is an advocate for children with disabilities;

(iii) a physician providing services to children with complex needs;

(iv) an individual with expertise providing mental health services to children with disabilities;

(v) an organization providing services to children with disabilities and their families;

(vi) an organization providing community services; ~~and~~

(vii) an organization or professional that advocates for or provides services or resources to children and the families of children with autism spectrum disorder; and

~~(viii)-(vii)~~ one at large position for an individual with expertise or experience relevant to the purposes and tasks of the Policy Council.

~~(2) In selecting members, the Executive Commissioner considers ethnic and minority representation and diverse disability representation.~~

~~(2)-(3)~~ Members appointed under paragraph (1)(B) and (C) of this subsection serve staggered terms so that the terms of approximately ~~one-quarter-half~~ of these ~~members' terms-members~~ expire on December ~~31 31st~~ of each ~~even-numbered~~ year.

~~(3)-(4)~~ Except as necessary to stagger terms, the term of office of each non-agency member, described in paragraph (1)(B) and (C) of this subsection, is four years.

~~(4)-(5)~~ A member with an expiring term may apply to serve one additional term is eligible for reappointment.

~~(5)-(6)~~ A member with an expiring term may continue to serve on the Policy Council until a new member is appointed.

(g) Officers. The Policy Council selects from among its members a presiding officer

and an assistant presiding officer.

(1) The presiding and assistant presiding officers must be appointed family representatives.

(2) The presiding officer serves until December 31 of each odd-numbered year. The assistant presiding officer serves until December 31 of each even-numbered year.

(3) A presiding officer or assistant presiding officer remains in his or her position until the Policy Council selects a successor; however, the individual may not remain in office past the individual's membership term.

(h) Required Training. Each member shall complete all training on relevant statutes and rules, including this section and §351.801 of this subchapter and Texas Government Code §531.012, and Texas Government Code Chapters 551 and 2110. HHSC will provide the training.

(i) Date of abolition. The Policy Council is abolished, and this section expires, on December 31, 2024.

§351.817. Texas Council on Consumer Direction.

(a) Statutory authority. The Texas Council on Consumer Direction (the Council) is established in accordance with Texas Government Code §531.012.

(b) Purpose. The Council advises HHSC on the development, implementation, expansion, and delivery of services through consumer direction in all programs offering long-term services and supports that enhances a consumer's ability to have freedom and exercise control and authority over the consumer's choices, regardless of age or disability.

(c) Tasks.

(1) The Council makes recommendations to HHSC to:

(A) expand the delivery of services through consumer direction to other programs serving persons with disabilities and elderly persons under Texas Government Code, Chapter 531, Subchapter B;

(B) expand the array of services delivered through consumer direction;

(C) increase the use of consumer direction models by consumers;

(D) optimize consumer choice of Financial Management Services Agencies (FMSAs);

(E) expand access to support advisors for consumers receiving long-term care services and supports through consumer direction;

(F) monitor and analyze research for best practices in self-determination, consumer direction, and training;

(G) provide guidance and support to consumer outreach efforts; and

(H) increase informed choices, opportunities, and supports as a means to lead self-determined lives through the use of consumer direction models.

(2) The Council performs other tasks consistent with its purpose as requested by the Executive Commissioner.

(d) Reporting requirements. The Council files an annual written report to the Executive Commissioner no later than December 31 that covers the meetings and activities in the immediately preceding fiscal year~~October 1st~~. The report includes:

(1) a list of the meeting dates;

(2) the members' attendance records;

(3) a brief description of actions taken by the Council, including staff and member orientation, training, strategic planning, retention, and evaluation efforts;

(4) a description of how the Council accomplished its tasks;

(5) a summary of the status of any rules that the Council recommended to HHSC;

(6) a description of activities the Council anticipates undertaking in the next fiscal year;

(7) recommended amendments to this section; and

(8) the costs related to the Council, including the cost of HHSC staff time spent supporting the Council's activities and the source of funds used to support the Council's activities.

(e) Open meetings. The Council complies with the requirements for open meetings under Texas Government Code Chapter 551 as if it were a governmental body.~~Abolition. The Council is abolished, and this section expires, on July 31, 2024 four years after the date of its creation, in compliance with Texas Government Code §2110.008(b).~~

(f) Membership.

(1) *The Council consists of no more than 17 voting members and seven nonvoting members.*

(2) Voting members.

(A) *Each member is appointed by the Executive Commissioner.*

(B) *Council membership must include:*

*(i) three members to serve as consumers or potential consumers of the array of services provided through consumer direction;*

*(ii) two members to serve as advocates for elderly persons who are consumers of the array of services provided to elderly persons through consumer direction;*

*(iii) two members to serve as advocates for persons with disabilities who are consumers of the array of services provided to persons with disabilities through consumer direction;*

*(iv) three members to represent financial management services agencies providing services through consumer direction;*

*(v) one member to represent a STAR+PLUS managed care organization;*

*(vi) one member to represent a STAR Kids managed care organization;*

*(vii) one member who serves as a mental health services advocate for consumers who receive consumer-directed services;*

*(viii) one member who represents a Local Intellectual and Developmental Disability Authority (LIDDA) for consumers who receive consumer-directed services;*

*(ix) one member with experience providing personal care attendants for consumers who receive consumer-directed services;*

*(x) one member to serve as an advocate for pediatric consumers or potential consumers of the array of services provided through consumer direction; and*

*(xi) one member to represent family members of pediatric consumers or potential consumers of the array of services provided through consumer direction.*

(C) *A majority of the members of the Council must be composed of consumers and advocates.*

*(D) Council membership must include, to the extent possible, individuals representing a range of ages and disabilities, including:*

*(i) individuals with an intellectual disability or related condition;*

*(ii) individuals with a physical disability;*

*(iii) individuals who are age 65 or older; (iv) individuals with mental health needs; and*

*(v) individuals with children with high medical needs.*

~~(3)-(E)~~ *Nonvoting members.*

~~(A)~~ *Each nonvoting member is appointed by his or her respective agency as follows:*

*(i) two representatives with an expertise in consumer direction from HHSC or another state agency as considered necessary by the Executive Commissioner;*

*(ii) two representatives from the Texas Workforce Commission, one representing state unemployment and one representing employment services for individuals with disabilities;*

*(iii) one representative with expertise on managed care organizations from HHSC or another state agency as considered necessary by the Executive Commissioner;*

*(iv) one representative of the Texas Department of Family and Protective Services; and*

*(v) one representative with expertise in mental health from HHSC or another state agency as considered necessary by the Executive Commissioner.*

~~(B)-(F)~~ *Additional nonvoting members may be added, as considered necessary by the Executive Commissioner and/or the Council, so long as the Council's total membership does not exceed 24.*

~~(4)-(2)~~ *Except as necessary to stagger terms, each member is appointed to serve a term of four calendar years, ~~including nonvoting members.~~*

*(g) Chairs.*

*(1) The Council selects a Chair and Vice-Chair from among its voting members.*

(2) The Chair serves until December 31 of each even-numbered year. The Vice-Chair serves until December 31 of each odd-numbered year.

(3) A member serves no more than two consecutive terms as Chair or Vice-Chair.

(h) Required Training. Each member shall complete all training on relevant statutes and rules, including this section and §351.801 of this subchapter and Texas Government Code §531.012, and Texas Government Code Chapters 551 and 2110. HHSC will provide the training.

(i) Abolition. The Council is abolished, and this section expires, on July 31, 2024.

§351.827. Palliative Care Interdisciplinary Advisory Council.

(a) Statutory authority. The Palliative Care Interdisciplinary Advisory Council (~~Palliative Care Council~~ or Council) is established in accordance with Texas Health and Safety Code Chapter 118, ~~as adopted by Act of May 23, 2015, 84th Leg., R.S., §2 (H.B. 1874).~~

(b) Purpose. The ~~Palliative Care~~ Council assesses the availability of patient-centered and family-focused, interdisciplinary team-based palliative care in Texas for patients and families facing serious illness. The Council works to ensure that relevant, comprehensive, and accurate information and education about palliative care is available to the public, health care providers, and health care facilities. This includes information and education about complex symptom management, care planning, and coordination needed to address the physical, emotional, social, and spiritual suffering associated with serious illness.

(c) Tasks. The ~~Palliative Care~~ Council performs the following tasks:

(1) consults with and advises HHSC on matters related to the establishment, maintenance, operation, and outcome evaluation of the palliative care consumer and professional information and education program established under Texas Health and Safety Code §118.011;

(2) studies and makes recommendations to remove barriers to appropriate palliative care services for patients and families facing serious illness in Texas of any age and at any stage of illness; and

(3) pursues other deliverables consistent with its purpose as requested by the Executive Commissioner or adopted into the work plan or bylaws of the council.

(d) Reporting requirements-Reports.

(1) Reporting to Executive Commissioner. By December 31 of each ~~fiscal~~ year, the ~~Palliative Care~~ Council files a written report with the Executive Commissioner

that covers the meetings and activities in the immediately preceding fiscal year. The report includes:

- (A) a list of the meeting dates;
- (B) the members' attendance records;
- (C) a brief description of actions taken by the committee;
- (D) a description of how the committee accomplished its tasks;
- (E) a summary of the status of any rules that the committee recommended to HHSC;
- (F) a description of activities the committee anticipates undertaking in the next fiscal year;
- (G) recommended amendments to this section; and
- (H) the costs related to the committee, including the cost of HHSC staff time spent supporting the committee's activities and the source of funds used to support the committee's activities.

(2) Reporting to Executive Commissioner and Texas Legislature. By October ~~1~~<sup>1</sup>st of each even-numbered year, the Council submits a written report to the Executive Commissioner and the standing committees of the Texas senate and house with primary jurisdiction over health matters. The report:

- (A) assesses the availability of palliative care in Texas for patients in the early stages of serious disease;
- (B) analyzes barriers to greater access to palliative care;
- (C) analyzes policies, practices, and protocols in Texas concerning patients' rights related to palliative care, including:
  - (i) whether a palliative care team member may introduce palliative care options to a patient without the consent of the patient's attending physician or practitioner;
  - (ii) the practices and protocols for discussions between a palliative care team member and a patient on life-sustaining treatment or advance directives decisions; and
  - (iii) the practices and protocols on informed consent and disclosure requirements for palliative care services; and

(D) provides recommendations consistent with the purposes of the ~~Palliative Care~~ Council.

(e) ~~Open meetings. The Council complies with the requirements for open meetings under Texas Government Code Chapter 551 as if it were a governmental body. Date of Abolition. Palliative Care Council is required by statute and will continue as long as the state law that requires it remains in effect.~~

(f) Membership.

(1) The ~~Palliative Care~~ Council is composed of at least 15 voting members appointed by the Executive Commissioner and nonvoting agency, ex officio representatives as determined by the Executive Commissioner. Total membership on the Council will not exceed 24.

(2) Voting membership.

(A) The ~~Palliative Care~~ Council must include:

(i) at least five physician members, including:

(I) two who are board certified in hospice and palliative care; and

(II) one who is board certified in pain management;

(ii) three palliative care practitioner members, including:

(I) two advanced practice registered nurses who are board-certified in hospice and palliative care; and

(II) one physician assistant who has experience providing palliative care;

(iii) four health care professional members, including:

(I) a nurse;

(II) a social worker;

(III) a pharmacist; and

(IV) a spiritual-care professional; and

(iv) at least three members:

(I) with experience as an advocate for patients and the patients' family caregivers;

- (II) who are independent of a hospital or other health care facility; and
- (III) at least one of whom represents an established patient advocacy organization.

(B) Health care professional members listed in subparagraph (A)(iii) of this paragraph must meet one or more of the following qualifications:

- (i) experience providing palliative care to pediatric, youth, or adult populations;
- (ii) expertise in palliative care delivery in an inpatient, outpatient, or community setting; or
- (iii) expertise in interdisciplinary palliative care.

~~(C) The committee may include nonvoting agency, ex-officio representatives as determined by the Executive Commissioner.~~

~~(2) In selecting voting members, the Executive Commissioner considers ethnic and minority representation and geographic representation.~~

~~(C)-(3) Members are appointed to staggered terms so that the terms of approximately one-quarter of half the members' terms members expire on December 31 ~~31st~~ of each ~~odd-numbered~~ year.~~

~~(D)-(4) Except as necessary to stagger terms, the term of each voting member is four years.~~

(g) Officers. The ~~Palliative-Care~~ Council selects from its members a presiding officer and an assistant presiding officer.

(1) The presiding officer serves until December 31 of each odd-numbered year. The assistant presiding officer serves until December 31 of each even-numbered year.

(2) The presiding officer and the assistant presiding officer remain in their positions until the ~~Palliative-Care~~ Council selects a successor; however, the individual may not remain in office past the individual's membership term.

(h) Required Training. Each member shall complete all training on relevant statutes and rules, including this section and §351.801 of this subchapter and Texas Government Code §531.012, and Texas Government Code Chapters 551 and 2110. HHSC will provide the training.

(i) Abolition. The Council is required by statute and will continue as long as the state law that requires it remains in effect.

~~§351.829. Promoting Independence Advisory Committee.~~

~~a) Statutory authority. Texas Government Code §531.02441 requires the Executive Commissioner to establish the Promoting Independence Advisory Committee (PIAC), which the statute refers to as the "Task Force on Ensuring Appropriate Care Settings for Persons with Disabilities."~~

~~(b) Purpose. The PIAC advises HHSC in the development of a comprehensive, effective working plan to ensure appropriate care settings for persons with disabilities.~~

~~(c) Tasks. The PIAC performs the following tasks:~~

~~(1) makes recommendations to HHSC through regularly scheduled meetings and HHSC staff assigned to the committee; and~~

~~(2) performs other tasks consistent with its purpose as requested by the Executive Commissioner.~~

~~(d) Reporting requirements. Not later than September 1 of each year, the PIAC submits a report to the Executive Commissioner on its findings and recommendations.~~

~~(e) Abolition. The PIAC is abolished, and this section expires, on September 1, 2017.~~

~~(f) Membership.~~

~~(1) The Executive Commissioner determines the number of members.~~

~~(A) Each member is appointed by the Executive Commissioner.~~

~~(B) The Executive Commissioner must appoint:~~

~~(i) representatives of appropriate health and human services agencies, including the Texas Department of State Health Services;~~

~~(ii) representatives of related work groups, including the Policy Council for Children and Families;~~

~~(iii) representatives of consumer and family advocacy groups; and~~

~~(iv) representatives of service providers for persons with disabilities.~~

~~(2) Each member serves at the will of the Executive Commissioner.~~

~~(g) Officers.~~

~~(1) The Executive Commissioner designates a member of the PIAC to serve as presiding officer.~~

~~(2) The members of the PIAC elect any other necessary officers.~~

§351.833. STAR Kids Managed Care Advisory Committee.

(a) Statutory authority. The STAR Kids Managed Care Advisory Committee (STAR Kids Advisory Committee) is established under Texas Government Code §531.012.

(b) Purpose. The STAR Kids Advisory Committee advises HHSC on the establishment and implementation of, and recommends improvements to, the STAR Kids managed care program.

(c) Tasks. The STAR Kids Advisory Committee makes recommendations consistent with its purpose to HHSC through regularly scheduled meetings and staff assigned to the committee.

(d) Reporting requirements-Reports.

(1) Reporting to Executive Commissioner. By December ~~31~~ ~~31st~~ of each fiscal year, the STAR Kids Advisory Committee must file a written report with the Executive Commissioner that covers the meetings and activities in the immediately preceding fiscal year. The report:

(A) lists the meeting dates;

(B) provides the members' attendance records;

(C) briefly describes actions taken by the committee;

(D) describes how the committee has accomplished its tasks;

(E) summarizes the status of any rules that the committee recommended to HHSC;

(F) describes anticipated activities the committee will undertake in the next fiscal year;

(G) recommends amendments to this section, as needed; and

(H) identifies the costs related to the committee, including the cost of HHSC staff time spent supporting the committee's activities and the source of funds used to support the committee's activities.

(2) Reporting to Texas Legislature. By December 31 of each even-numbered year, the committee must file a written report with the Texas Legislature of any

policy recommendations made to the Executive Commissioner.

~~(e) Open meetings. The STAR Kids Advisory Committee complies with the requirements for open meetings under Texas Government Code Chapter 551 as if it were a governmental body. Abolition. On December 31, 2023, the advisory committee is abolished, and this section expires.~~

(f) Membership.

(1) The Executive Commissioner appoints the members of the STAR Kids Advisory Committee.

(2) The STAR Kids Advisory Committee may consist of:

(A) representatives from families whose children will receive private duty nursing, are IDD waiver recipients, or receive mental and behavioral health services under the program;

(B) medical care providers;

(C) providers of home and community-based services, including at least one private duty nursing provider, one durable medical equipment provider, and one pediatric therapy provider;

(D) managed care organizations;

(E) advocates for children with special health care needs; ~~and~~

~~(F) family members of children with autism spectrum disorder who are Medicaid recipients; and~~

~~(G)-(F)~~ other stakeholders as the executive commissioner determines appropriate.

(3) The STAR Kids Advisory Committee may have no more than 24 members.

~~(4) In selecting voting members, the Executive Commissioner considers ethnic and minority representation and geographic representation.~~

(g) Presiding officer.

(1) The committee selects from its members a presiding officer, ~~and, at the discretion of the committee,~~ an assistant presiding officer ~~at the discretion of the committee.~~

(2) The presiding officer serves until August ~~31 31st~~ of each even-numbered year. The assistant presiding officer, if applicable, serves until August ~~31 31st~~ of

each odd-numbered year.

(3) A member serves no more than two consecutive terms as presiding officer or assistant presiding officer.

(h) Required Training. Each member shall complete all training on relevant statutes and rules, including this section and §351.801 of this subchapter and Texas Government Code §531.012, and Texas Government Code Chapters 551 and 2110. HHSC will provide the training.

(i) Abolition. On December 31, 2023, the advisory committee is abolished, and this section expires.