HHSC: Palliative Care Interdisciplinary Advisory Council, November 5th, 2020

The Palliative Care Interdisciplinary Advisory Council consults with and advises on matters related to the establishment, maintenance, operation and outcome evaluation of the statewide palliative care consumer and professional information and education program.

House Bill (HB) 1874, 84th Legislature, Regular Session, 2015 established the Palliative Care Interdisciplinary Advisory Council to assess the availability of patient-centered and family-focused palliative care in Texas. HB 1874 charges the council to consult with and advise the Texas Health and Human Services Commission (HHSC) on matters related to the establishment, maintenance, operation, and outcome evaluation of the statewide palliative care consumer and professional information and education program.
In addition, the council must submit a biennial report assessing

- the availability of palliative care in Texas,
- barriers to greater access to palliative care and
- policies, practices, and protocols in Texas concerning patients' rights related to palliative care.

The Council will publish its first report by Oct. 1, 2016. The Palliative Care Interdisciplinary Advisory Council is codified under Chapter 118, Texas Health and Safety Code.

Members
Physician Representatives
Advanced Practice Registered Nurse Representatives
Physician Assistant Representative
Nurse Representative
Social Worker Representative
Pharmacist Representative
Spiritual Care Professional Representative
Advocate for Patients and Families Representatives
Ex-Officio Members

1. Welcome and Introductions. Larry Driver, MD, Chair convened the meeting**.**

2. Review and approval of meeting minutes from July 28, 2020, and September 1, 2020, meetings. The minutes for both meetings were approved as written.

3. Discussion: 2020 Legislative Report. The recommendations were approved at the last meeting and the final language is being developed and is in the format required by HHSC. This is a report of the Council however and not the agency.

Legislative Recommendations Cover:

- Enhancing Family Caregiver Support
- Utilizing Telemedicine for Supportive Palliative Care
- Adoption of a Medicaid community-based palliative care benefit

- Fine-tuning Texas policy surrounding Low THC cannabis eligibility requirements for cancer patients

Advanced Directive completion in many cases lags behind the rest of the country, though it has improved. We have also improved in the number of hospitals that have palliative care provided. These variations were discovered through the survey. The survey should be sent out again in a few years.

Report distributed by Chair to the standing committees of the Texas senate and house with primary jurisdiction over health matters and will be posted to the PCIAC website. The report will go to the Executive Council on November 19th. Council educational activities are ongoing.

Questions/Answers/Comments
83% of total population said "my family would know my wishes" but only 52 percent had an advanced directive. Stress around end-of-life decisions is significantly reduced by having an advanced directive. We will be asking the behavioral health survey in the future. HHSC stated that we might ask for this next year. A question should be added if you have given a copy of the advanced directive to their provider.

It is not just documenting what has been done, but how we explain the concept and get patients and families involved. If families say they do not have one, what opportunities exist to engage the family in the dialogue?

Mr. Blanton stated that the questions can be developed for the next survey.

We had talked about advance directive discussions and discussed putting information about advanced directives on patient's statements and other techniques.

Are any physicians being asked how they are dealing with advanced directives? Mr. Blanton stated that the survey is only for adult residents; that is put out by the CDC and we get to add questions to it. We do not have data like this from physicians. We could look to other forms HHSC puts out and see what data exists. We could also partner with TMA on their surveys. We don't like putting an additional reporting burden on physicians.

4. Review and approval of Bylaws. Mr. Blanton stated that all members had a copy of the bylaws. The changes are clean-up and phrasing. The changes that were made were to align with the rules. There is language in there about election of officers that are two-year terms. There is language about sunset date for committee which was removed due to legislative action.

Questions/Answers/Comments

There will be a signed statement by members required.

The Sunset provision has been removed which recognizes the important work by the council.

In the section on 2.A, patients' rights language was deleted. Mr. Blanton stated that this does not take away rights— there is a legal review that is required, and this statement aligns with the rules. This is standard language across committees that is adapted by specific committee rules. This is in the section for the biennial report. We could make a recommendation for informing patients and families about palliative care and their rights under palliative care.

MOTION: *Approve bylaws as written - prevailed*.

5. Palliative skilled nursing care services. Maxcine Tomlinson, Texas and New Mexico Hospice Association, made the presentation.

Palliative Care skilling and general nursing facility (NF) skilling of care are allowed and paid for in the SNF. It is payment that drives this type of care. It is in the Medicare handbook. Areas of concern include:

- Use of the term "skilled palliative care";
- Lack of palliative care services in the skilled nursing facility (SNF);
- Insufficient training or lack of training for physicians and nursing staff; and
- Lack of treatment plans and goals of care.

This affects:

- Hospice Providers;
- Palliative Care Providers;
- Patients; and
- Families.

They are asking that NF and Home and Community Support Services Agencies (HCSSA) consider rule amendments in NF, HCSSA and palliative care programs, which address skilling for palliative care and general skilling of care consider amendments. For example only:

- Staff education and training for palliative care
- Treatment plans within the SNF
- Goals of care

Questions/Answers/Comments

How do we reward organizations that do a good job in the nursing home environment? How will your proposal be enforced? Ms. Tomlinson stated that in this area, it is driven by money and patients often do not get the care that they need. I don't know how to reward them other than when they recommend to skilling care.

Mr. Blanton stated that SB916, rules are being developed relating to Palliative care definition and will be published in the Texas Register January of 2021 for a formal comment period.

SB 916 Bill Summary. Palliative care provides support and care planning services to patients and families of patients with serious illnesses and seeks to relieve their suffering and improve their quality of life. Palliative care also offers advantages to health care organizations since it lowers incidents of preventable readmissions. In 2015, the legislature passed Rep. Zerwas' H.B. 1874 creating the Palliative Care Interdisciplinary Advisory Council (PCIAC) to advise the state of Texas on issues relating to palliative care. S.B. 916 seeks to implement one of the advisory council's recommendations about a clearer definition in statute for "supportive palliative care." A forthcoming committee substitute will strike a vague definition of "palliative care" in current statute and will create and clarify statutory language for "supportive palliative care" that is slightly different from the original bill in order to encompass all patients, not just those with terminal illnesses. The committee substitute will require the Health and Human Services Commission (HHSC) to conduct a study, with consultation from the current PCIAC, to seek improvements in current supportive palliative care programs in Texas, including those who are recipients under the Medicaid program. HHSC can partner with and solicit funds from public or private sources, as needed, to fund the study. The PCIAC must report HHSC's findings in their biennial report not later than October 1, 2020. Finally, the committee substitute will entirely strike the original version of Sec. 142A.0002 and 142A.0003 which would have set rules and minimum standards and created a pilot program for certain parts of the state. These changes were made based upon suggestions from stakeholders and allies, including PCIAC. Baylor Scott and White, University Health System-Supportive Palliative Care System, and Texas Medical Association are in support of the committee substitute for S.B. 916. (Original Author's/Sponsor's Statement of Intent) S.B. 916 amends current law relating to supportive palliative care.

Fiscal Note: The bill would require the Health and Human Services Commission (HHSC) to study the potential improvements to patient care and health outcomes,and to potential cost savings to the state, from supporting or providing Medicaid reimbursement for supportive palliative care. The study would include an evaluation and comparison of other states that provide Medicaid reimbursement for supportive palliative care. HHSC would provide the study's findings to the Palliative Care Interdisciplinary Advisory Council not later than September 1, 2022. HHSC indicates that the provisions of the bill could be absorbed with existing resources.

The Health and Human Services Commission would be required to implement the provisions of the bill only if the agency receives a gift, grant, or donation or if the legislature appropriates money specifically for that purpose. If the agency does not receive a gift, grant, or donation and the legislature does not appropriate money specifically for that

purpose, the commission may, but is not required to, implement the provisions of the bill using other appropriations available for that purpose.

6. Update: Continuing education event

- November 5th from 1pm to 4pm
- Three Sessions:
  - Session 1: Emerging Developments in COVID-19 & Supportive Palliative Care
  - Session 2: Structure and Best Practices of Telehealth in Supportive Palliative Care
  - Session 3: Supportive Palliative Care in the Time of COVID-19

7. Planning for 2021

Key Deadlines & Meetings

- **11/05/2020 -** Host 2020 continuing education event
- **12/19/2020 -** 2020 Legislative Report presented to the Executive Council
- **1/26/2021 -** Full PCIAC Council Meeting
- **5/31/2021 -** Complete evaluation of Palliative Care Council progress
- **9/01/2022 -** HHSC provides the council the findings of the pilot study
- **10/01/2022 -** The council includes the findings of the pilot study in their Legislative report

8. Action items and topics for staff or member follow-up.

- Staff will send statement to be signed
- Alterations to survey questions working with TMA

9. Public Comment.

Written Comment was received and is summarized below:

Dr. Robert Creedon (used numerous acronyms) said there are three types of palliative Care in a nursing facility:

1. Using a Community Care Hospital—people are often not transferred to hospice timely
2. Attending geriatric practitioners—can often have board certification in Hospice. An HPN certification requires an internship.
3. Special Consultative Palliative Care Services

Dr. Lauren Templeton, palliative care provider in Abilene stated that she has had the same experiences that Dr. Creedon wrote about. She stated that it often goes wrong. Concerns include:

- Lack of officially trained providers
- Lack of understanding of what a palliative benefit is
- Financially driven program and can be barriers and delays to hospice

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Cary Arp, Three Oaks Hospice and Palliative Care, stated that patients are not getting timely care through skilling care. When a patient is assigned to a skilled bed, there is no guarantee that they get skilled care including palliative care.

10. Adjourn. There being no further business, the meeting was adjourned.

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This summary contains supplemental information from third-party sources where that information provides clarity to the issues being discussed. Not every comment or statement from the speakers in these summaries is an exact transcription. For the purpose of brevity, their statements are often paraphrased. These documents should not be viewed as a word-for-word account of every meeting or hearing, but a summary. Every effort has been made to ensure the accuracy of these summaries. The information contained in this publication is the property of the organization and is considered confidential and may contain proprietary information. It is meant solely for the intended recipient. Access to this published information by anyone else is unauthorized unless the organization grants permission. If you are not the intended recipient, any disclosure, copying, distribution or any action taken or omitted in reliance on this is prohibited. The views expressed in this publication are, unless otherwise stated, those of the author and not those of the organization or its management.