

Mental Health Condition and Substance Use Disorder Parity Work Group Bylaws

1. Name and Legal Authority

The Mental Health Condition and Substance Use Disorder Parity Work Group (“Work Group”) is established under Texas Government Code § 531.02252.

The Work Group will be abolished on September 1, 2021, unless Texas Government Code §531.02252 is amended to provide a later date of abolition.

2. Purpose and Role

The Work Groups purpose is to advise the Health and Human Services Commission (“HHSC”) and make recommendations on:

- A. Compliance with state and federal rules, regulations, and statutes concerning the availability of, and terms and conditions of, benefits for mental health conditions and substance use disorders.
- B. Strengthening enforcement of the rules, regulations and statutes.
- C. Improving the complaint processes relating to potential violations of these laws for consumers and providers.
- D. Ensuring the commission and the Texas Department of Insurance can accept information on concerns relating to these laws and investigate potential violations based on de-identified information and data submitted to providers in addition to individual complaints.
- E. Increasing public and provider education on these laws.

The Work Group shall develop a strategic plan as described below:

- A. The strategic plan will serve as a roadmap to increase compliance with the rules, regulations, and statutes in this state and to increase education and outreach relating to these laws.
- B. The strategic plan will include metrics.
- C. The strategic plan will state the Work Group’s findings, recommendations, and strategic plan.

- D. The Work Group will submit the strategic plan no later than September 1 of each even-numbered year to the appropriate committees of the legislature and the appropriate state agencies.

3. Definitions

- A. "Mental health benefit" means a benefit relating to an item or service for a mental health condition, as defined under the terms of a health benefit plan and in accordance with applicable federal and state law.
- B. "Nonquantitative treatment limitation" means a limit on the scope or duration of treatment that is not expressed numerically. The term includes:
- a medical management standard limiting or excluding benefits based on medical necessity or medical appropriateness or based on whether a treatment is experimental or investigational;
 - a formulary design for prescription drug;
 - a network tier design;
 - a standard for provider participation in a network, including reimbursement rates;
 - a method used by a health benefit plan to determine usual, customary, and reasonable charges;
 - a step therapy protocol;
 - an exclusion based on failure to complete a course of treatment; and
 - a restriction based on geographic location, facility type, provider specialty, and other criteria that limit the scope or duration of a benefit.
- C. "Plan" A health benefit plan must define a condition to be a mental health condition or not a mental health condition in a manner consistent with generally recognized independent standards of medical practice. A health benefit plan must define a condition to be a substance use disorder or not a substance use disorder in a manner consistent with generally recognized independent standards of medical practice.
- D. "Quantitative treatment limitation" means a treatment limitation that determines whether, or to what extent, benefits are provided based on an accumulated amount such as an annual or lifetime limit on days of coverage or number of visits. The term includes a deductible, a copayment, coinsurance, or another out-of-pocket expense or annual or lifetime limit, or another financial requirement.
- E. "Substance use disorder benefit" means a benefit relating to an item or service for a substance use disorder, as defined under the terms

of a health benefit plan and in accordance with applicable federal and state law.

4. Work Group Composition

The Work Group is composed of 15 voting members appointed by the HHS Executive Commissioner and 4 agency appointed members as described in Texas Government Code § 531.02251 and 531.02252.

This membership includes the following representative of:

- A. Medicaid and the child health plan program;
- B. Office of Mental Health Coordination;
- C. Texas Department of Insurance;
- D. A Medicaid managed care organization;
- E. A commercial health benefit plan;
- F. A mental health provider organization;
- G. Physicians;
- H. Hospitals;
- I. Children 's mental health providers;
- J. Utilization review agents; and
- K. Independent review organizations;
- L. A substance use disorder provider or a professional with co-occurring mental health and substance use disorder expertise;
- M. A mental health consumer;
- N. A mental health consumer advocate;
- O. A substance use disorder treatment consumer;
- P. A substance use disorder treatment consumer advocate;
- Q. A family member of a mental health or substance use disorder treatment consumer; and
- R. The ombudsman for behavioral health access to care.

To the greatest extent possible, the HHS Executive Commissioner appoints members who reflect the diversity of the state.

The HHSC Medicaid/Children's Health Insurance Program (CHIP) Office, Office of Mental Health Coordination, Office of the Ombudsman, and the Texas Department of Insurance must appoint staff (and their positions as applicable) as standing, non-voting representatives to the Work Group.

5. Member Terms

Voting members are appointed to serve one four-year term

Voting membership terms expire on September 1, 2021 unless if the Work Group is extended. Regardless of the term limit, a member serves until his/her replacement has been appointed. This ensures sufficient, appropriate representation.

6. Resignations and Vacancies

If any member of the Work Group wishes to resign, the member will contact, in writing, the current Chair and Work Group Liaison requesting the appointment of a successor member.

In the event of a vacancy for any reason, agency staff will work with the HHS Executive Commissioner to solicit applications as appropriate to fill the vacancy with a representative of the same membership category to serve the unexpired portion of the term of the vacant position. Persons who submitted applications within the previous year through the HHSC may be reconsidered for membership.

7. Presiding Chair and Vice-Chair

The HHS Executive Commissioner will name the Chair and Vice-Chair. The Chair and the Vice Chair will serve a two-year term. The Chair and Vice-Chair will serve no more than two consecutive terms. In the event that the Chair or Vice-Chair is unable to complete his/her term for any reason, the Executive Commissioner will appoint a new Chair or Vice-Chair.

The role of the Chair and Vice-Chair is to:

- A. Report to HHSC;
- B. Participate in agenda planning and preparation for Work Group meetings;
- C. Provide leadership in conducting Work Group meetings;

- D. Promote, maintain, and encourage a participatory environment;
- E. Identify the need for, and work with Work Group Liaison, to call meetings to accomplish the work of the Workgroup;
- F. Ensure the Work Group adheres to its charge;
- G. Call for the development of subcommittees (if applicable and with approval of agency staff); and
- H. Confer with HHSC staff to acquire the support needed for Work Group operations.

8. Work Group Operations and Meetings

A. Meetings

1. The Work Group meets during regular business hours at the call of the Chair, at least quarterly, but no more frequently than monthly, by agreement of Work Group Liaison.
2. The Work Group is subject to Texas Government Code Chapter 551 (the Texas Open Meetings Act) as if it were a governmental body.

B. Quorum

A majority of voting members constitutes a quorum for the purpose of transacting official business. (To calculate a majority for a work group with an even number of members, divide the membership by two and add one; for a work group with an odd number of members, divide the membership by two and round up to the next whole number.) If less than a quorum of the Work Group is present, members may not vote upon action items but may take testimony and public comments so long as the meeting is being conducted in accordance with the Texas Open Meetings Act.

C. Voting

1. Voting members have the right to vote on any subject that is listed on the agenda. However, members must abstain from deliberating or voting on issues that would provide monetary or other gain to the member or that could present, or reasonably appear to present, a conflict of interest.
2. The Work Group may determine procedural matters by majority or two-thirds vote of a quorum of the WorkGroup, or may use Robert's Rules of Order as a guide to its operations and proceedings.

3. Voting Work Group members may also vote on operational or procedural matters that come before the Work Group. A member may not authorize another individual to represent the member by proxy.
4. A member may participate and, if the member is a voting member, vote by telephone conference as deemed necessary by agency staff.
5. For all business except adopting or amending bylaws, a simple majority is needed. (A simple majority is defined as more than half of the votes cast by persons entitled to vote who are in attendance with a quorum, excluding abstentions.)
6. Except for bylaw amendments, Work Group recommendations will be adopted pursuant to a simple majority vote on a motion duly made and seconded.

D. Adoption and Revision to Bylaws

1. Work Group members or HHSC staff may propose changes to these bylaws. All proposed changes from Work Group members, along with the rationale for the changes, should be submitted in writing to the Work Group Liaison at HHSC at least 30 days prior to the next committee meeting for inclusion in the publication of the agenda in the *Texas Register* and distribution to the members for their consideration. Amendments will be passed and become effective based on a two-thirds vote of a quorum of the Work Group, pending review and approval by HHSC staff.
2. The Work Group will review the Bylaws by December 31 of every even-numbered year. Work Group -proposed amendments that occur as a result of the biennial review will be considered in an open meeting and will be passed and become effective based on a two-thirds vote of a quorum of the Work Group, pending review and approval by HHSC staff.
3. All proposed changes are subject to review and approval by HHSC staff.
4. The Bylaws will become effective as of the date they are adopted by the Work Group. The Work Group will make note of the date of the adoption of the Bylaws in its minutes. Members will sign a Statement by Members when bylaws are amended (see attached Statement).

9. Responsibilities of Members

A. Attendance

Members are expected to attend all meetings in preferably in person but may on occasion call into the workgroup via teleconference. A member unable to attend a meeting should notify the Work Group Liaison in advance. The Work Group Liaison will notify the Chair and appropriate program staff. Members, other than ex officio/state agency representative members, may not send a substitute to attend a meeting in their place.

If any member misses three meetings within a one year period with or without notice to the Work Group Liaison, the member may be removed from the Work Group.

B. Member expectations:

1. Attend meetings in person;
2. Participate in subcommittees as assigned;
3. Review agendas and other information sent by staff prior to each meeting;
4. Participate in discussions at meetings;
5. Abstain from deliberating or voting on issues that would provide monetary or other gain to the member or that could present, or reasonably appear to present, a conflict of interest;
6. Attend/participate in an orientation session for the Work Group.
7. Complete the Texas Open Meetings Act Training and Public Information Act Training within 90 days of appointment and submit the Certificates of Completion to the Work Group Liaison. If a member has taken the trainings within the last five years, a copy of the Certificates of Completion may be submitted to the Work Group Liaison in lieu of taking the trainings;
8. Sign and submit to the Work Group Liaison the Statement by Members document (attached) within 30 days after appointment. This document includes a Conflict of Interest Statement and a Nondisclosure Agreement to which Work Group members must agree;
9. Notify the Work Group Chair and Work Group Liaison if a change of status alters the category of membership that the member was filling or if any circumstance occurs that prevents the member from being able to discharge his or her duties;

10. Maintain a high level of integrity that warrants public trust, including complying with all applicable ethics guidance provided by HHSC's Ethics Officers and all aspects of the Texas Open Meetings Act and Public Information Act; and
11. Hold and maintain in strictest confidence all confidential information and all agency-generated information in draft form, unless the HHS Executive Commissioner has approved the release in writing or the HHS Ethics Policy permits release. This requirement survives the member's tenure on the Work Group. For purposes of these bylaws and the Nondisclosure Agreement, the term "confidential information" includes all information protected by the Health Insurance Portability and Accountability Act (HIPAA), information that has commercial value or use, such as trade secrets, and information communicated in confidence by the HHS System.

Failure to comply with member expectations numbers 6-12 above are grounds for dismissal and may result in removal from the Work Group.

C. A Work Group member may not:

1. Participate in legislative or advocacy activities using his/her title or position on this Work Group without written approval from the Work Group chair and the HHS Ethics Office in coordination with the HHS Government Relations Office and the Work Group Liaison; however, members may represent themselves or other entities in the legislative process.
2. Accept payment for any services offered to the member because of his/her position on the Work Group.
3. Disclose confidential information or draft information (from any source including grants, requests for proposals, and contracts) acquired through his or her participation on the Work Group until such time as that information or document is released and made public. This includes all forms of communication including written, verbal, and social media.

A violation of any of these items are grounds for dismissal and may result in removal from the Work Group.

10. Removal from the Work Group

The HHS Executive Commissioner may remove a member from the Work Group for the following reasons:

- A. A member votes or deliberates on an issue that would provide monetary or other gain or that presents a conflict of interest to the member or an entity with which the member is closely affiliated.
- B. A member refuses to sign or violates the Statement by Members, which includes the Conflict of Interest statement or Nondisclosure Agreement, or another Nondisclosure Agreement.
- C. A member does not maintain a high level of integrity that warrants public trust, including complying with all applicable ethics guidance provided by HHSC's Ethics Officers and all aspects of the Texas Open Meetings Act and Public Information Act.
- D. A member changes status that alters the category of membership that they were filling.
- E. A member participates in legislative or advocacy activities using his/her title or position on the Work Group without approval from the Work Group chair and the HHS Ethics Office in coordination with the HHS Government Relations Office and Work Group Liaison.
- F. A member receives payment for any services requested because he or she holds a position on the Work Group.
- G. A member discloses confidential or draft information acquired through his or her participation on the Work Group not in accordance with the Bylaws.
- H. A member, in a 12-month period, misses three meetings with or without notice to HHSC staff.
- I. The HHS Executive Commissioner may remove a member who has violated the conflict of interest provisions or made a statement in violation of the Statements by Members form. Decisions to remove a member of the Work Group (by anyone other than the HHS Executive Commissioner) due to violations of this nature will require input from HHS legal counsel.

11. Subcommittees

Unless otherwise noted in statute, the Chair, with the approval of agency staff, may establish subcommittees that meet at other times for

purposes of studying and making recommendations on issues the Work Group determines appropriate to the charge of the Work Group. A subcommittee may be created for a limited period of time and will cease to exist when the assigned tasks are completed or upon determination of the Chair, or it may be a standing subcommittee. The Chair and agency staff will evaluate the need for all existing subcommittees annually.

Subcommittee Operations and Meetings

- A. Unless otherwise noted in statute or required by a grant document, members of subcommittees are required to be members of the Work Group.
- B. Except as set out in #D below, subcommittee(s) will follow the general rules of the Work Group as applicable.
- C. Subcommittee(s) must keep minutes of the meetings and report back to the full body.
- D. The presence of a quorum of the full Parity Workgroup at a subcommittee meeting:
 1. Constitutes a full Committee meeting that requires posting appropriate notice of the meeting as a full Committee meeting in accordance with the Texas Open Meetings Act; and
 2. Requires the Work Group meeting to be held in compliance with the Texas Open Meetings Act to include posting appropriate notice of the Work Group meeting.

12. Subject Matter Experts

HHSC recognizes the value of subject matter experts (SMEs) to provide information to the Work Group as it develops recommendations and initiatives relative to its charge(s). The primary role of a SME is to provide objective, independent information and analysis to be considered by the Work Group. SME participation will be subject to the request of voting Work Group members and will fall within the following guidelines:

- A. A SME may be invited to provide information on specific subjects and topics at the discretion of voting Work Group members, the Chair, and HHSC;

- B. An invited SME may be recognized by staff, the Work Group Chair or Vice-Chair to provide information or analysis during allotted time periods at a specified Work Group or subcommittee meeting;
- C. SMEs will participate in questions and answers at the direction of the staff, Work Group Chair, or Vice-Chair;
- D. All SMEs will participate and serve at the pleasure of the Work Group;
- E. SMEs do not hold any official capacity on the Work Group or subcommittees and do not have rights of deliberation or the right to vote on any Work Group activities or decisions;
- F. SMEs should disclose any conflicts of interest they may have prior to providing information to the Work Group;
- G. None of the information or guidance contained in this section shall prevent any individual from participating in or providing comments to the Work Group as allowed under the Texas Open Meetings Act.

13. Responsibilities of Support Staff

The Office of Mental Health Coordination will provide reasonable administrative and technical support and coordination for all Work Group and subcommittee activities. HHSC will coordinate as needed to provide the accommodations and supports needed by a Work Group member requiring accommodations to enable him/her to fully participate in Work Group and subcommittee meetings and activities.

Staff is expected to perform the following tasks:

- A. Develop effective working relationships with Work Group members;
- B. Solicit nominations for membership in accordance with the appropriate HHSC procedures;
- C. Assist the membership with development of the strategic plan.
- D. Serve as liaison between members and operating agencies' staff; and
- E. Plan, coordinate, and organize Work Group and subcommittee meetings and activities, including but not limited to:
 - 1. Schedule meeting dates and ensure meeting sites are set up;
 - 2. Notify members of upcoming meeting dates, times, and locations;
 - 3. Develop agenda and support materials for each meeting;

4. Prepare and oversee that the agenda is posted in the *Texas Register* in a timely manner and on the HHSC website;
 5. Serve as point of contact for the public including ensuring contact information, agendas, and meeting support materials are easily accessible on the HHS website;
 6. Prepare and distribute information and materials for member review;
 7. Prepare and maintain Work Group records and documentation in accordance with the HHSC records retention policy; and
- F. Staff may perform other duties within staff discretion provided the necessary resources are available.

14. Compensation and Travel Reimbursement

A member of the Mental Health Condition and Substance Use Disorder Parity Work Group is not entitled to any compensation (stipend) or reimbursement of expenses.

Bylaws approved on _____ by a two-thirds vote of a quorum of the Work Group.

 Chairperson
 Printed Name

 Signature

 HHSC
 Printed Name

 Signature

Statement by Members

- The Health and Human Services Commission and the Mental Health Condition and Substance Use Disorder Parity Work Group (“Work Group”) are not bound in any way by any statement or action on the part of any Work Group member except when a statement or action is in pursuit of specific instructions from HHSC or the Work Group.
- The Work Group and its members may not participate in legislative or advocacy activities using his/her title or position on this Work Group without approval from the Work Group Chair and the HHS Ethics Office in coordination with the Government Relations Office. Work Group members are not prohibited from representing themselves or other entities in the legislative or advocacy process.
- A Work Group member may not accept payment for services that are requested because of the members’ title or position on this Work Group.
- A Work Group member shall not accept or solicit any benefit that might reasonably tend to influence the member in the discharge of the member’s official Work Group duties.
- A Work Group member shall not knowingly solicit, accept, or agree to accept any benefit for having exercised the member’s official powers or duties in favor of another person.
- A Work Group member shall complete the Texas Open Meetings Act Training and the Public Information Act Training within 90 days of appointment and submit the Certificates of Completion to the Work Group Liaison. If a member has taken the training within the last five years, a copy of the Certificate of Completion may be submitted to the Work Group Liaison in lieu of taking the training.
- Nondisclosure agreement. A Work Group member may not disclose confidential information or agency-generated information in draft form acquired through his or her Work Group membership, unless the HHS Executive Commissioner has approved the release in writing or the HHS Ethics Policy permits release. This requirement survives the member’s tenure on the Work Group. For purposes of the Nondisclosure Agreement, the term “confidential information” includes all information protected by the Health Insurance Portability and Accountability Act (HIPAA), information that has commercial value or use, such as trade secrets, and information communicated in confidence by the HHS System.
- Conflict of Interest Statement. I agree to disclose any personal or private interest that myself or my family have in a measure, proposal, or decision pending before HHSC. (“Personal or private interest” does not include the member’s engagement in a profession, trade, or occupation when the member’s interest is the same as all others similarly engaged in the profession, trade, or occupation, or if the member merely provides a personal experience, with no personal or private financial interest, in giving feedback on the subject matter.) If there is a direct personal or financial interest in a motion under consideration, I further agree to disclose that fact in a public meeting and will recuse myself from any Work Group deliberations or decisions on that matter.

I have been provided a copy of the Mental Health Condition and Substance Use Disorder Parity Work Group bylaws. I understand that as a member of the Work Group I must adhere to the bylaws.

Work Group Member Signature

Printed Name

Date

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Adopted/Revised: November 27, 2017

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Revisions Tracking Page

Document Version #	Revision Date	Revisions / Purpose	Author

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