

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: The Professional Staff of the Committee on Health Policy

---

BILL: SB 378

INTRODUCER: Senator Bean

SUBJECT: Cardiac Advisory Council for Children's Services Councils

DATE: October 7, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd	Stovall	HP	<b>Pre-meeting</b>
2.			GO	
3.			AP	

---

**I. Summary:**

SB 378 creates a Cardiac Advisory Council for Children within the Department of Health (department) for the purpose of advising the department on the delivery of cardiac services to children. The bill specifies the duties and composition of the council and provides for staggered terms for council members. SB 378 has no fiscal impact.

The effective date of the bill is July 1, 2016.

**II. Present Situation:**

**Children's Medical Services**

Children's Medical Services (CMS) is a group of programs that serve children with special health care needs under the supervision of the department. Within CMS, individual services or programs are designed to address specific conditions or family needs such as the newborn screening program, early intervention screenings, or its managed medical assistance plan. CMS is created under Chapter 391 of the Florida Statutes and divided into three parts: Part I (General Provisions), Part II (Children's Medical Services Councils and Panels), and Part III (Developmental Evaluation and Intervention Programs).

***Statewide Children's Medical Services Network Advisory Council***

The State Surgeon General has the discretion under s. 391.221, F.S., to appoint a 12-member Statewide Children's Medical Services Network Advisory Council to serve as an advisory body to the department. The council's duties shall include, but are not limited to:

- Recommending standards and credentialing requirements for health care providers in the CMS Network;
- Making recommendations to the director of CMS concerning the selection of CMS providers;
- Providing input to the CMS program on the policies governing the CMS Network;

- Reviewing the financial reports and financial status of the network and making recommendations concerning the methods of payment and costs controls for the network;
- Reviewing and recommending the scope of benefits for the network; and
- Reviewing network performance measures and outcomes and making recommendations for improvements to the network and its maintenance and collection of data and information.

Council members represent the private health care provider sector, families of children with special health care needs, the Agency for Health Care Administration (AHCA), the Chief Financial Officer, the Florida Chapter of the American Academy of Pediatrics, an academic pediatric program, and the health insurance industry.<sup>1</sup> The four-year terms were initially staggered and no member can be appointed for more than two consecutive terms. Members do not receive any compensation for their appointment except they are reimbursed for per diem and travel in accordance with s. 112.061, F.S.<sup>2</sup>

The department does not currently have an appointed Statewide Children's Medical Services Advisory Council.

### ***Cardiac Technical Advisory Panel***

The State Surgeon General also has general authority under s. 391.223, F.S., to establish technical advisory panels to assist with the development of specific policies and procedures for the Children's Medical Services program. On October 21, 2013, State Surgeon General John Armstrong created the Children's Medical Services Cardiac Technical Advisory Panel (CTAP) to provide both programmatic and technical advice to the department and its CMS program.<sup>3</sup> The enabling document provides several charges to the panel:

- Developing recommended standards for personnel and facilities rendering pediatric congenital cardiac services as well as heart disease;
- Developing recommendations for legislative initiatives, including appropriation items, related to the cardiac program and developing rules;
- Developing recommendations for statewide cardiac initiatives, including identifying panel members who will collaborate with other department councils or committees or state agencies;
- Assisting the AHCA, or as requested by individual hospitals, or as outlined in their individual contract with CMS, with the ongoing evaluation and development of congenital cardiovascular programs;
- Making a priority weight control programs and their implementation in all pediatric cardiovascular centers and clinics; and
- Developing recommendations to the department and the AHCA for congenital heart disease quality improvement to improve patient care and health and decrease the cost of care.<sup>4</sup>

The CTAP membership is appointed by the State Surgeon General, in consultation with the Deputy Secretary of Children's Medical Services and the Director of the Division of Children's

---

<sup>1</sup> Section 391.221(2), F.S.

<sup>2</sup> Section 391.221 (3), F.S.

<sup>3</sup> Florida Dep't of Health, *Creation of the Children's Medical Services Cardiac Technical Advisory Panel*, (October 2013) <http://www.cmsctap.com/files/documents/CTAP-Creation.pdf> (Last visited Oct. 6, 2015).

<sup>4</sup> *Id.*

Medical Services. Eleven members are designated in the creation document. They represent pediatric cardiologists or cardiovascular surgeons from specific pediatric cardiovascular children's hospitals across the state and include two at-large physicians and a community physician who are not affiliated with one of the named facilities. Non-voting advisory members may also be named by the State Surgeon General who may deliberate, but not vote, with the panel. Alternate members for each representative of the cardiovascular children's hospitals must also be named.

Under the creation document, CTAP members select their Chairperson and Vice Chairperson through majority vote every two years. Meetings of the CMS CTAP are upon the call of the Chairperson, at the request of the State Surgeon General, the Deputy Secretary of CMS, the Director of the Division of CMS, or the majority of the voting members.<sup>5</sup>

Members are reimbursed for per diem and travel expenses for required attendance at in-person or video conference committee meetings or CMS site visits in accordance with s. 112.061, F.S.<sup>6</sup>

### ***Cardiac Advisory Council***

Prior to the 2001 Regular Session, a Cardiac Advisory Council (council) in the Division of Children's Medical Services existed.<sup>7</sup> The council was appointed by the secretary of the Department of Health and included eight members with technical expertise in cardiac medicine who were charged with:

- Recommending standards for personnel and facilities rendering cardiac services;
- Receiving reports of the periodic review of cardiac personnel and facilities to determine if established standards for cardiac care are met;
- Making recommendations to the director as to the approval or disapproval of reviewed personnel and facilities; and
- Providing input on all aspects of the Children's Medical Services cardiac program, including the rulemaking process.<sup>8</sup>

The statute was repealed effective June 30, 2001, as part of an exhaustive review of more than three dozen boards, committees, commissions, and councils to determine whether to continue or abolish each entity.<sup>9</sup> The department recommended the repeal of the council and indicated it would absorb the functions of the council in 2001.<sup>10</sup>

### **Statutory Organization**

Chapter 20, F.S., authorizes the creation of a number of different types of entities to assist state government in the efficient performance of its duties and functions. Under s. 20.03(7), F.S., a "council" or "advisory council" is defined as:

---

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> See s. 391.222, F.S. (2000).

<sup>8</sup> *Id.*

<sup>9</sup> Chapter 2001-89, s. 27, Laws of Fla.

<sup>10</sup> Senate Committee on Governmental Oversight and Productivity, *CS/SB 1410 Staff Analysis and Economic Impact Statement* (March 28, 2001) p. 9, <http://archive.flsenate.gov/data/session/2001/Senate/bills/analysis/pdf/2001s1410.go.pdf> (Last visited Oct. 6, 2015).

an advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives.

Advisory bodies, commissions and boards may only be created by statute in furtherance of a public purpose and must be terminated by the Legislature once the body, commission or board notifies the Legislature that the public purpose has been achieved. Members of such bodies are appointed for staggered, four-year terms and unless otherwise provided, serve without compensation, but are authorized to receive reimbursement for per diem and travel as provided in s. 112.061, F.S.

Private citizen appointees to an advisory body that is adjunct to an executive agency must be appointed by the Governor, the head of the department, the executive director of the department, or a Cabinet officer. Private citizen appointees to a board or commission that is adjunct to an executive agency must be appointed by the Governor, unless otherwise provided by law, confirmed by the Senate, and are subject to dual office holding provisions of s. 5(a), Art. II of the State Constitution.

Unless exempted, all meetings of advisory bodies, boards and commissions are subject to public meetings requirements under s. 286.011, F.S., and minutes must be maintained for all meetings.

Technical advisory panels are not separately defined in statute.

### III. Effect of Proposed Changes:

**Section 1** creates s. 391.224, F.S., and the Cardiac Advisory Council under the Department of Health (department) for the purpose of advising the department on the delivery of cardiac services to children. The council's duties include, but are not limited to:

- Recommending standards for personnel and facilities rendering cardiac services;
- Analyzing reports on the periodic review of cardiac personnel and facilities to determine if established standards for the cardiac services are met;
- Making recommendations to the Children's Medical Services director as to the approval or disapproval of personnel and facilities. At the recommendation of the cardiac advisory council and director's approval, the department's secretary shall designate facilities approved under this paragraph as "Pediatric and Congenital Cardiovascular Centers of Excellence." The designation is withdrawn automatically if a particular center no longer meets state and national professional standards of care for children with heart disease;
- Making recommendations as to the intervals for re-inspection of approved personnel and facilities;
- Providing input on all aspects of Children's Medical Services cardiac programs, including rulemaking;
- Addressing all components of the care of adults and children with congenital heart disease and children with acquired heart disease;
- Abiding by the recognized state and national professional standards of care for children with heart disease;

- Making recommendations for legislation and appropriations for children’s cardiac services; and
- Providing advisory opinions to the Agency for Health Care Administration (AHCA) before the AHCA approves a certificate of need for children’s cardiac services.

The bill provides for an 11-member advisory council of individuals with expertise in cardiac medicine appointed by the department for staggered four-year terms. An employee of the department is not eligible to serve as either a member or ex-officio member and no member may serve more than two consecutive terms. A member may be re-appointed to the council after a two-year hiatus from the council. Vacancies are filled in the same manner as an original appointment.

Council members do not receive compensation; however, they are entitled to reimbursement in accordance with s. 112.061, F.S., for per diem and travel. Council meetings must be conducted via teleconference where that capability is available.

**Section 2** provides an effective date of July 1, 2016.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None

##### **C. Trust Funds Restrictions:**

None.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

Individuals from the private sector with expertise in cardiac medicine are eligible to serve as members of the advisory council. Members are selected by the department to serve staggered terms of four years and will have an opportunity to provide input on all aspects of CMS’ cardiac programs, including rulemaking, address components of cardiac care for both adults and children, make recommendations for legislation and appropriations and provide advisory opinions before the AHCA approves a certificate of need for children’s cardiac services.

**C. Government Sector Impact:**

The council is housed in the department and makes recommendations to the department and the Children's Medical Services program. Since October 2013, the department has been supporting a similar technical advisory panel, the Children's Medical Services Cardiac Technical Advisory Panel, and SB 378 includes similar duties and responsibilities of that technical advisory panel. With passage of SB 378, the technical advisory panel would no longer be necessary and any administrative support that had been provided to the panel could be shifted to the new council.

**VI. Technical Deficiencies:**

The bill creates the Cardiac Advisory Council for Children under Part II of Chapter 391, the section of statute for Children's Medical Services Councils and Panels; however, the bill's title references a cardiac advisory council for children's services councils. These are two separate, unrelated entities. Children's Services Councils are independent special districts created by county ordinance to fund children's services under s. 125.901, F.S. A more appropriate reference might be *an act relating to a cardiac advisory council for children*.

References as to who makes appointments to the cardiac advisory council should also be changed from either the *secretary* or the *department* to the *State Surgeon General*.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 391.224 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.