67th MEETING

OF THE

MARYLAND HEALTH CARE COMMISSION

Thursday, January 27, 2005

Minutes

Chairman Salamon called the meeting to order at 1:10 p.m.

Commissioners present: Crofoot, Ginsburg, Moffit, Moore, Nicolay, Pollak, Risher, Row, Toulson, and Wilensky. Commissioner Lucht joined the meeting by teleconference for the discussion of Item 9.

Chairman Salamon welcomed newly appointed Commissioner Roscoe M. Moore, Jr., D.V.M., Ph.D., D.Sc. to the Commission.

ITEM 1.

Approval of the Minutes

Chairman Salamon explained that at the December 16, 2004 Commission meeting, Commissioner Row moved to amend the Minutes of the December 1, 2004 and the December 3, 2004 meetings. Because seven commission members did not concur on taking action, the approval of the December 1st and December 3, 2004 Minutes was tabled. Commissioner Row made a motion to amend the December 1, 2004 Minutes, which was seconded by Commissioner Larry Ginsburg. Following discussion, the Chairman called for a vote. Commissioners Ernest Crofoot, Ginsburg, and Row voted in favor of the amendment. Commissioners Robert Moffit, Roscoe Moore, Robert Nicolay, Andrew Pollak, Debra Risher, Clifton Toulson, Jr., Vice Chair Gail Wilensky, and Chairman Salamon voted against the motion. Vice Chair Wilensky made a motion to approve the December 1, 2004 Minutes, which was seconded by Commissioner Toulson. The Minutes were approved, with Commissioners Moffit, Moore, Nicolay, Pollak, Risher, Vice Chair Wilensky, and the Chairman voting in favor of approval, and Commissioners Crofoot, Ginsburg, and Row voting against approval.

Commissioner Row made a motion to amend the December 3, 2004 Minutes, which was seconded by Commissioner Ginsburg. Following discussion, the Chairman called for a vote. Commissioners Crofoot, Ginsburg, and Row voted in favor of the amendment. Commissioners Moffit, Moore, Nicolay, Pollak, Risher, Toulson, Vice Chair Wilensky, and Chairman Salamon voted against the motion. Vice Chair Wilensky made a motion to approve the December 3, 2004 Minutes, which was seconded by Commissioner Toulson. The Minutes were approved, with Commissioners Crofoot, Moffit, Moore, Nicolay, Pollak, Risher, Vice Chair Wilensky, and the

Chairman voting in favor of approval, and Commissioners Ginsburg and Row voting against approval.

Commissioner Nicolay made a motion to approve the December 16, 2004 meeting of the Commission, as amended, which was seconded by Commissioner Pollak, and unanimously approved.

Commissioner Pollak made a motion to approve Minutes of the January 6, 2005 meeting, which was seconded by Commissioner Ginsburg, and unanimously approved.

Commissioner Risher made a motion to approve the January 11, 2005 Minutes, as amended, which was seconded by Commissioner Crofoot, and unanimously approved.

ITEM 2.

Update on Commission Activities

- Data Systems and Analysis
- Health Resources
- Performance and Benefits

Pamela W. Barclay, Interim Executive Director, provided an update to the Commission on the Research Proposal Review Committee. She stated that no proposal to study elective angioplasty without on-site cardiac surgery had been formally submitted to the Commission. There were no questions from the Commissioners regarding the Update. Copies of the *Update of Activities* were available on the documents table and on the Commission's website at: http://www.mhcc.state.md.us/mhccinfo/cmsnmtgs/updates/.

ITEM 3.

FINAL ACTION: COMAR 10.24.02 – Data Reporting by Hospitals

The Chairman announced that this proposed action would amend Regulations .01-.04 under COMAR 10.24.02 – Data Reporting by Hospitals. Dolores Sands, Chief, Specialized Health Care Services, presented the regulations for final action. The purpose of these regulations is to assure that data needed by the Commission are collected and reported uniformly by hospitals. The proposed amendments include provisions that will allow the Commission, for example, to implement the recommendations of expert advisory committees concerning data required to support health planning. The proposed action also corrects dated references to the Commission's statutory authority and makes several other technical corrections. The proposed regulations were published in the *Maryland Register* on October 29, 2004. There were no public comments received on the proposed changes. Commissioner Row made a motion that the Commission approve the regulations for final action, which was seconded by Commissioner Risher, and unanimously approved.

FINAL ACTION: COMAR 10.24.02 – Data Reporting by Hospitals is hereby APPROVED.

ITEM 4.

FINAL ACTION: COMAR 10.24.12 - *State Health Plan for Facilities and Services: Acute Hospital Inpatient Obstetric Services*

The Chairman introduced Pat Cameron, Chief, Acute & Ambulatory Care Services, to present the Acute Inpatient Obstetric Services regulations. Ms. Cameron stated that the Commission's mailing package included a Summary of Public Comments and Staff Recommendation on Proposed Changes to *COMAR 10.24.12 State Health Plan: Acute Hospital Inpatient Obstetric Services*. This document responds to the formal public comments submitted in response to the proposed changes to the State Health Plan chapter on hospital obstetric services. The proposed changes were published for comment in the November 29, 2004 *Maryland Register*. She also noted that comments were submitted by:

- Paula S. Widerlite, Vice President, System Strategy, Adventist HealthCare
- Stephen J. Sfekas, Esq., on behalf of MedStar Health
- Alan Bedrick, M.D., Chair, Committee on Fetus and Newborn, Maryland Chapter of the American Academy of Pediatrics

All comments were considered; however, the staff recommended no changes to the Plan Chapter and requested that it be adopted, as proposed. Commissioner Nicolay made a motion that the Commission approve the regulations as proposed, which was seconded by Commissioner Row, and unanimously approved.

FINAL ACTION: COMAR 10.24.12 – *State Health Plan for Facilities and Services: Acute Hospital Inpatient Obstetric Services* is hereby APPROVED.

ITEM 5.

FINAL ACTION: COMAR 32.11.06 – Comprehensive Standard Health Benefit

Chairman Salamon asked Enrique Martinez-Vidal, Deputy Director for Performance and Benefits, to present regulations related to the Comprehensive Standard Health Benefit Plan. Mr. Martinez-Vidal said that the proposed changes to the Comprehensive Standard Health Benefit Plan regulations are strictly technical changes that are non-substantive. He noted that no public comments were received and a Notice of Final Action would be published in the February 18, 2005 *Maryland Register*. Commissioner Crofoot made a motion that the Commission approve the regulations, which was seconded by Commissioner Risher, and unanimously approved.

FINAL ACTION: COMAR 32.11.06 – Comprehensive Standard Health Benefit is hereby APPROVED.

ITEM 6.

CERTIFICATE OF NEED (CON)

Union Hospital of Cecil – Expansion and Renovation Project, Docket No. 04-24-2140

The Chairman announced that this CON agenda item was an application for an expansion and renovation project at Union Hospital of Cecil. Pat Cameron presented the staff recommendation for the Commission's approval. Ms. Cameron said that Union Hospital of Cecil County ("UHCC") located in Elkton, Maryland provides medical/surgical, obstetric, pediatric and acute psychiatric services. Union Hospital, the sole community hospital in Cecil County, is proposing to renovate and expand its facility. New construction consists of a building connecting to the existing structure with a total of 48 new private patient rooms of 24 beds each on the second and

third floors. The first floor will be an 'open air utility pass-thru', and the basement level will contain a new HVAC system.

The south wings of the second and third floors, the north wing's third floor and the west wing's existing critical care unit will be renovated. The progressive care unit, the obstetrics unit and the psychiatric unit are not part of the renovation project. The third floor will change from one 48 bed unit in mostly semiprivate rooms (70%) to two 15 bed units with mostly private rooms (87%). On the second floor west wing, the critical care unit will get two new patient rooms through renovations, expanding its capacity from eight to ten beds. Some ancillary and support services will be relocated in renovated space, primarily the pharmacy.

The proposed project, completed in three phases, will add 38,230 gross square feet and renovate an additional 28,945 gross square feet of existing space. UHCC estimates the total capital cost of the project as $18,462,383, with additional financing costs of $1,981,335, for a total project cost of $20,443,718. Union proposes financing the project through $18,155,000 in long-term debt, created through the issuance of tax-exempt bonds, $1,500,000 from the proceeds of 2002 series bonds, supplemented by $412,565 in cash, and $376,153 in interest income.

There are no interested parties in this review. Union Hospital has made a reasonable case for additional medical/surgical bed capacity, based on its recent utilization trends and future growth, as described in the analysis under review standard A(1). The proposal to add 48 new inpatient beds and renovate existing beds for a net increase of 27 beds is consistent with the underlying assumptions driving the Commission's need projections. Union Hospital of Cecil County is a low cost hospital. UHCC anticipates that no adjustment in current rates will be needed to cover the cost of the project. The HSCRC has determined that this project is financially feasible. Union Hospital of Cecil County has made a significant commitment to maximizing patient safety through the design of the new addition and the renovations

The proposed project complies with all applicable review standards and criteria set forth in regulation with the exception of review standard A(7), "Transfer and Referral Agreements". For the reasons presented in the recommended decision, Staff recommends that the Commission order that, upon Union Hospital's timely filing of the signed and executed transfer agreements with long term care providers, and home health or aftercare providers, in the format required by review standard .06A(7), a Certificate of Need issue to Union Hospital of Cecil County for this renovation and expansion project. In addition, Staff recommends that the Certificate of Need provide that, in the event that Union Hospital of Cecil later seeks a rate increase to cover the debt associated with this project, the $658,992 cost that is associated with the excess square footage of the MSGA nursing units cannot be the subject of a rate increase.

Ms. Cameron asked the Commission to approve this project with the understanding that the CON will issue after the required transfer agreements are submitted. She noted that the applicant has agreed to submit these agreements by February 15, 2005. Commissioner Crofoot made a motion that the Commission accept the staff recommendation, which was seconded by Commissioner Row, and unanimously approved.

ACTION: Union Hospital of Cecil – Application for Certificate of Need for Expansion and Renovation Project, Docket No. 04-24-2140, is hereby APPROVED.

ITEM 7.

CERTIFICATION OF ELECTRONIC HEALTH NETWORK: PracticeWorks

Chairman Salamon asked Dr. David Sharp, Chief of EDI Programs & Payer Information Systems, to present this agenda item. Dr. Sharp said that staff had completed its review of MHCC certification documentation from PracticeWorks and recommended that the Commission certify it as an Electronic Health Network (EHN). PracticeWorks Electronic Services meets all of the requirements for certification. Commissioner Crofoot made a motion that the Commission accept the staff recommendation, which was seconded by Commissioner Ginsburg, and unanimously approved.

CERTIFICATION OF ELECTRONIC HEALTH NETWORK: PracticeWorks is hereby APPROVED.

ITEM 8.

PRESENTATION: *State Health Care Expenditures, Experience from 2003*

Chairman Salamon said that this report is prepared annually in response to a legislative mandate to report on the state's total reimbursement for health services. Ben Steffen, Deputy Director for Data Systems and Analysis, presented a summary of the report. Some of the findings included:

- Rate of growth in Maryland health care spending slowed for first time since 1999;
- Hospitals and physicians saw moderate to strong growth, with costs likely to keep up the pace or exceed spending growth;
- Although Medicaid increased more rapidly, some of the additional cost is attributed to shifting of existing programs into Medicaid;
- Prescription drug spending growth slowed below 10%, a factor in the slowing out-of-pocket spending; and
- Medical expenses may be moderating, employers and consumers may see some relief in 2005.

ITEM 9.

PRESENTATION: *Spotlight on Maryland: Insurance Underwriting and Carrier Surpluses*

Dr. Deborah Chollet, Senior Fellow with Mathematica Policy Research, presented a summary of findings regarding how the underwriting cycle and market concentration may have contributed to growth in health insurance premiums. Following discussion, Chairman Salamon requested that Commissioners wishing to provide comments do so within the next 10 days.

ITEM 10.

LEGISLATIVE UPDATE

Chairman Salamon noted that the Maryland General Assembly began its legislative session on January 12th. He also noted that procedures for reviewing bills were discussed earlier in the month and Enrique Martinez-Vidal and Kristin Helfer-Koester, Chief of Legislative and Special

Project, would provide an update on relevant bills introduced to date. Ms. Helfer-Koester said that HB 52 allows an association, as defined in statute, to offer health insurance to eligible employees and their dependents of its member employer groups or its own employees and their dependents. This bill exempts association health benefit plans (AHBPs) from health care services, benefits, coverage, or reimbursements required under the Health-General and Insurance Articles, and also reimbursements required by a health benefit plan for services performed by a licensed health care provider. It also specifies that the statutory language governing the small group market does not apply to an AHBP. She said that staff recommends opposing HB 52 "Maryland Association Health Plan Act" because it will ultimately create risk segmentation in the small group market with those small employers with healthy employees leaving the small group market via these association plans while the less healthy groups would remain in the small group market leading to increased premiums for those still in the small group market. Commissioner Crofoot made a motion to accept the staff recommendation to oppose the bill. Commissioner Moffit spoke in support of this bill. After discussion, the Chairman asked for a motion to approve the staff recommendation to oppose HB 52. Commissioner Crofoot made a motion to approve staff recommendation, which was seconded by Commissioner Row. Commissioners Crofoot, Moore, Nicolay, Risher, Rowe, Toulson, Ginsburg, and the Chairman voted in favor of the motion, and Commissioner Moffit, Vice Chair Wilensky, and Commissioner Pollak voted against the motion.

Ms. Helfer-Koester said that HB 199, Hospital Infections Disclosure Act, would require the Commission to collect data on hospital-acquired infections rates, adopt certain regulations governing submission of hospital-acquired infection rate data; and publish the data and an annual report concerning hospital-acquired infection rates. Staff recommended supporting the bill with an amendment that would give the Commission a more general charge to include hospital infection information in the Commission's Hospital Performance Evaluation Guide, which was unanimously approved by the Commissioners.

Ms. Helfer-Koester said that HB 233, Public Health – Legibility of Prescriptions Workgroup Reports, requires the Secretary of the Department of Health and Mental Hygiene and a certain workgroup studying the legibility of prescriptions to submit an interim report on or before February 1, 2005, and a final report on or before August 25, 2005. Staff recommended that the Commission write a letter of support on this bill clarifying the Commission's involvement with the task force, which was unanimously approved by the Commissioners.

ITEM 11.

Hearing and Meeting Schedule

Chairman Salamon announced that the next meeting of the Commission would be on Wednesday, February 16, 2005 at 4160 Patterson Avenue, Room 100, in Baltimore, Maryland at 1:00 p.m.

Adjournment

There being no further business, the meeting was adjourned at 4:00 p.m. upon motion of Commissioner Risher, which was seconded by Commissioner Row, and unanimously approved by the Commissioners.