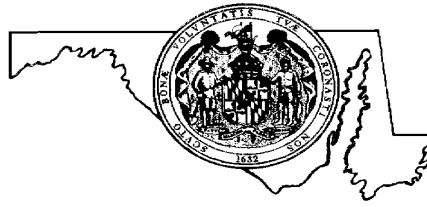


STATE OF MARYLAND

Andrew N. Pollak, M.D.
CHAIR



Ben Steffen
EXECUTIVE DIRECTOR

MARYLAND HEALTH CARE COMMISSION

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Thursday, March 18, 2021

Minutes

Chairman Pollak called the meeting to order at 1:05 p.m.

Commissioners present via telephone: Akintade, Bhandari, Boyer, Boyle, Doordan, Metz, Rymer, Sergent, and Wang

AGENDA ITEM 1.

Approval of the Minutes

Commissioner Rymer made a motion to approve the minutes of the February 18, 2021 public meeting by teleconference of the Commission. The motion was seconded by Commissioner Doordan and unanimously approved.

AGENDA ITEM 2.

Update of Activities

Mr. Steffen reported that in Maryland, cumulative Covid-19 infection numbers are at 396,746 cases and 7,929 deaths. In the seven-day moving average new case levels were at 877 and one of the variants of concern, the B.1.1.7 (UK Variant), is expected to be dominant by early April. Also, the vaccine uptake continues to expand with 23 percent of the Maryland population already having received at least one vaccine according to the Centers for Disease Control and Prevention. In the Maryland population, about 12% of the population are fully vaccinated.

Mr. Steffen stated that the Maryland Department of Health reported that just over two million vaccines have been administered, with the following demographic distribution: White at 67.4 percent; Black or African American at 18.2 percent; Asian at 5.8 percent; American Indian or Alaskan Native at 0.6 percent; Native Hawaiian or other Pacific Islander at 0.2 percent; Other Race at 4.8 percent; and Unknown at 3.0 percent. Also, the two counties with the lowest percent of fully vaccinated people are Prince George's at 6.9 percent and Charles at 8.5 percent; these two counties also lag on the percentage of population that has received a first dose. The eastern shore counties

that have the highest vaccination rates are Kent and Worcester, in which 20 percent are fully vaccinated and another 25 percent have received a first dose.

Mr. Steffen reported on the Agency for Healthcare Research and Quality (AHRQ) Physician and Physician Practice Research Database (3P-RD) prototype project background and policy goals. AHRQ and its subcontractor NORC at the University of Chicago are seeking to acquire state-level All-Payer Claims Data (APCD) from 13 states for the 3P-RD prototype database. This initiative aims to address gaps in current physician and physician practice data at the state and market-level. Using available administrative data, the 3P-RD will capture the census of active physicians and physician practices in a given state for AHRQ's internal purposes with the potential to create research physician practice databases for public release. The 3P-RD state prototype will be created to include data elements related to physician and physician practice characteristics that will be useful for informing policy-relevant health services research.

Mr. Steffen reported on the Commission and its adopted proposed permanent regulations for COMAR 10.24.21 – State Health Plan for Facilities and Services: Acute Psychiatric Services. The Administrative Executive Legislative Review Committee has released the regulations and they are now awaiting release by the Governor's Office for publication in the Maryland Register.

Finally, Mr. Steffen announced that Kevin McDonald informed MHCC that he will be retiring after the May meeting. Mr. Steffen noted that Kevin is a frequent presenter before the Commission, a trusted colleague on the staff, a workhorse in the organization, and that he will be missed.

Theresa Lee, Director, Center for Quality Measurement and Reporting, provided a brief update on the progress made on the redesign of the Quality Reports consumer website. Ms. Lee reminded Commissioners that the project consisted of the integration of four separate public reporting initiatives, and that the final review and editing is nearing completion. A test site link will be forwarded to the Commissioners for another preview before final release of the redesigned website to the public.

David Sharp, Director, Center for Health Information Technology and Innovative Care Delivery, provided an update on the Maryland Primary Care Program (MDPCP) Track 3 development. Staff said that the MDPCP Program Management Office (PMO), submitted a proposed Track 3 policy framework to the Center for Medicare & Medicaid Innovations (CMMI) on December 23, 2020 that closely aligns with the federal Primary Care First alternative payment model. CMMI provided comments on the framework in February; several clarifying conversations have occurred between the PMO and CMMI. Staff noted that planning is underway to make changes to the framework that address CMMI's comments.

AGENDA ITEM 3.

ACTIONS: Certificates of Ongoing Performance – Percutaneous Coronary Intervention Services

Mary-Ann Dogo-Isonagie, Program Manager in the Division of Acute Care Policy & Planning, presented the staff report for the Certificate of Ongoing Performance applications for PCI services

of Holy Cross Hospital of Silver Spring and Jessica Raisanen, Program Manager in the Division of Acute Care Policy & Planning, presented the staff report for the Certificate of Ongoing Performance for the University of Maryland Prince George's Hospital Center.

3A. Holy Cross Hospital (Docket No. 19-15-CP026)

Ms. Dogo-Isonagie reviewed Holy Cross Hospital's compliance with key standards included on two slides presented. Ms. Dogo-Isonagie recommended that the Commission find all standards have been met by Holy Cross Hospital and approve the Certificate of Ongoing Performance for Holy Cross Hospital to continue providing primary PCI services for four years. The Commission approved staff's recommendation.

The representatives for Holy Cross Hospital who attended the meeting were Dr. Ann Burke, Liza Vizcarrondo, Dr. Rajeev Patel, Mark Lerner, Becky Vaughan, Judith Bouley-Ganthier, and Beth Begley.

Commissioner Boyer made a motion to approve the Certificate of Ongoing Performance for Holy Cross Hospital, which was seconded by Commissioner Bhandari and unanimously approved.

ACTION: Certificate of Ongoing Performance - Percutaneous Coronary Intervention (PCI) Services – Holy Cross Hospital is hereby APPROVED.

3B. University of Maryland Prince George's Hospital Center (Docket No. 19-16-CP029)

Chairman Pollak and Commissioner Akintade both noted that they were recusing themselves from agenda item 3B and Vice Chair Sergent chaired this part of the meeting.

Jessica Raisanen, Program Manager, Acute Care Policy and Planning, presented the staff report for the Certificate of Ongoing Performance application for PCI services by the University of Maryland Prince George's Hospital Center (UM PGHC).

Ms. Raisanen reviewed UM PGHC's compliance with key standards included on three slides presented. Ms. Raisanen recommended that the Commission find all standards have been met by UM PGHC and approve the Certificate of Ongoing Performance for Prince George's Hospital Center to continue providing elective and primary PCI services for four years with the following conditions: (1) UM PGHC shall consistently track continuing medical education activities for staff, particularly the cardiac catheterization laboratory and coronary care unit (CCU) staff and, on a semiannual basis, submit documentation of the continuing medical education activities of staff for the CCL and CCU, as required in COMAR 10.24.17.07D(4)(g); (2) UM PGHC shall track attendance at meetings with interventional case review and, on a semiannual basis, submit attendance lists to Commission staff documenting that technicians and nurses for primary PCI patients participated in case reviews, and that meetings were held at least every other month, as required in COMAR 10.24.17.07D(5)(a); and (3) UM PGHC shall track attendance at multiple care area group meetings and, on a semiannual basis, submit attendance lists to Commission staff

documenting that meetings are held monthly, as required in COMAR 10.24.17.07D(5)(b). The Commission approved staff's recommendation.

The representatives for UM PGHC who attended the meeting were Dr. James Brown, Holly Sowko, Dr. Ingrid Connerney, Constance Manning, Carmen Freeman, and Sonia Brown. Dr. Vivek Bahl also attended the meeting.

Commissioner Doordan made a motion to approve the Certificate of Ongoing Performance for University of Maryland Prince George's Hospital Center, which was seconded by Commissioner Boyer and unanimously approved.

ACTION: Certificate of Ongoing Performance – Percutaneous Coronary Intervention (PCI) Services – University of Maryland Prince George's Hospital Center is hereby APPROVED.

AGENDA ITEM 4.

ACTION: Certificate of Need Application- University of Maryland Medical Center to Add a Second Pediatric Hybrid Operating Room (Docket No 20-24-2445)

Chairman Pollak and Commissioner Akintade recused themselves on this agenda item and Vice Chair Sergent chaired this agenda item.

Laura Hare-Nirschl, Program Manager and Certificate of Need Analyst, presented the staff recommendation.

University of Maryland Medical Center (UMMC) proposes to expand the capacity of its pediatric cardiac surgical and interventional service line by adding the hospital's second special purpose hybrid pediatric operating room that will serve the University of Maryland Children's Hospital Pediatric Cardiac Program, which is located on the seventh floor of the North Building at its general hospital campus at 22 South Greene Street in Baltimore City. The project will be implemented through a phased-in-place renovation of 7,520 square feet (SF) on the seventh floor of UMMC's north building. The first phase will create space for the new hybrid OR by relocating support services within the existing operating room (OR) suite and relocating two existing mixed-use general purpose ORs into the vacated support service space. The second phase will involve constructing the proposed hybrid OR in the footprint of the two relocated mixed-use general purpose ORs.

The total capital cost of the project is estimated at \$9.56 million. The sources of funds for this project include \$3.0 million in philanthropy and \$6.56 million in cash from operations.

In reviewing the application against the State Health Plan chapter's standards and review criteria Ms. Hare-Nirschl stated that the proposed project will improve the current situation in which patients are experiencing delays in critical treatment, because of the limited capacity of the program's single existing hybrid OR, which the applicant states are operating in excess of full capacity. Currently 33% of cases that should be performed in the single existing hybrid OR are

being performed in general ORs that are not optimally equipped and staffed for such cases. In addition, the cost effectiveness and viability of the project have been demonstrated and the project should have a positive impact by improving availability and accessibility to needed cardiac procedures and surgeries. The project will not impact other existing providers in the health care system.

Staff recommended approval of the project with the following condition:

The University of Maryland Medical Center shall provide to the public upon inquiry information concerning charges for the full range of surgical services that it provides and shall maintain compliance with applicable laws and regulations regarding the posting of charges.

Commissioner Bhandari made a motion to approve the Certificate of Need for University of Maryland Medical Center with one condition, which was seconded by Commissioner Boyle and unanimously approved.

ACTION: Certificate of Need Application - University of Maryland Medical Center to Add a Second Pediatric Hybrid Operating Room (Docket No 20-24-2445) is hereby APPROVED, with one condition.

AGENDA ITEM 5.

ACTION: Certificate of Need- Request for Project Change After Certificate of Need Approval for Encompass Health Rehabilitation Hospital of Southern Maryland

Chairman Pollak and Commissioner Akintade recused themselves on this agenda item and Vice Chair Sergent chaired this part of the meeting.

Jeanne-Marie Gawel, Program Manager and Certificate of Need (CON) Analyst stated that Encompass Health Rehabilitation Hospital of Southern Maryland, LLC (Encompass-Southern Maryland) requested a project change after CON approval (modification) of a CON granted on May 21, 2020 to authorize an increase of the total allowable project costs by \$6,962,312 (17.8%) from \$39,019,894 to \$45,982,206. Ms. Gawel explained that Encompass-Southern Maryland attributes part of the cost increase to the fact that the original cost estimates were made without the benefit of final construction bids, and that the inflation cost is now higher with delays in construction. In addition, changes in the site necessitated by the City/County required a new entrance which needed a retaining wall, additional paving, and changes to the storm weather management system. In addition, there are increased costs due to upgrades to patient equipment and added contingency costs to cover future unforeseen expenses. Ms. Gawel stated that because there are no material changes occurring either in the location, capacity, or nature of the project, staff concludes that this requested modification does not change the need for the project or its impact on existing providers, consistent with the Commission's prior findings in the initial CON review. She added that the cost increase will not result in higher costs for the Medicare program. Ms. Gawel noted that the applicant will cover the additional costs with cash. For these reasons, Ms. Gawel stated that staff recommends that the Commission approve the proposed changes to the

approved CON issued to Encompass-Southern Maryland to construct a 60-bed, 61,810 square foot inpatient rehabilitation hospital in Bowie, Maryland (Docket No. 18-16-2423) and issue a modified CON.

Commissioner Rymer made a motion to approve the Certificate of Need for Encompass Health Rehabilitation Hospital of Southern Maryland for a project change after certificate of need approval, which was seconded by Commissioner Boyer and unanimously approved.

ACTION: Project Change after Certificate of Need Approval (Docket No. 18-16-2423) - Encompass Health Rehabilitation Hospital of Southern Maryland is hereby APPROVED.

AGENDA ITEM 6.

ACTION: Certificate of Need- Request for Project Change After Certificate of Need Approval for Sheppard Pratt at Elkridge

Moira Lawson, Program Manager, Certificate of Need, stated that the Sheppard Pratt Hospital System (Sheppard Pratt) requested a project change after CON approval (modification) of a CON granted in September 2016 to authorize an increase of the total allowable project costs from \$96,532,907 to \$105,638,412. Ms. Lawson stated that Sheppard Pratt attributes the cost increase to additional costs for building materials due to the COVID pandemic, design changes that added materials cost, and increased architect and engineering costs due to the associated design adjustments and extension of the project timeline.

Ms. Lawson reported that because there are no material changes occurring either in the location, capacity, or nature of the project, staff concludes that this requested modification does not change the need for the project or its impact on existing providers, consistent with the Commission's prior findings in the initial CON review. She added that the cost increase will not result in higher costs for the Medicare and Medicaid programs and that the applicant will cover the additional cost with philanthropy. For these reasons, Ms. Lawson stated that the staff recommends that the Commission approve the proposed changes to the CON issued to Sheppard Pratt Hospital System to construct an 85-bed psychiatric hospital (Docket No. 15-23-2367) and issue a modified CON.

Commissioner Doordan made a motion to approve the Certificate of Need for Sheppard Pratt at Elkridge for a project change after certificate of need approval, which was seconded by Commissioner Sergent and unanimously approved.

ACTION: Project Change after Certificate of Need Approval (Docket No. 15-13-2367) - Sheppard Pratt at Elkridge is hereby APPROVED.

AGENDA ITEM 7

PRESENTATION: Legislative Update

Tracey DeShields, Director of Policy Development in the Executive Office, provided an update on the 2021 legislative session. Ms. DeShields gave an overview on the legislative session to date. She noted there are 25 days remaining in the 90-day legislation session and that the crossover date is coming up on March 22, 2021. She explained that the crossover date is important because it marks when in the legislative session the House bills must move over to the Senate and the Senate bills must move over to the House. Between the House and Senate there have been approximately 3,297 bills introduced. MHCC staff are tracking roughly 160 bills and have taken positions on 17 to 20 bills.

Ms. DeShields discussed MHCC priority bills and other bills of interest that are being monitored as follows:

HB 1375 - Health Information Exchanges - Electronic Health Information - Sharing and Disclosure

- HB 1375 is the MHCC agency bill, which requires MHCC to adopt regulations for the privacy and security of protected health information (PHI) obtained or released through a health information exchange (HIE).
- It governs the access, use, maintenance, disclosure, and redisclosure of PHI, and includes protections for the secondary use of PHI obtained or released through an HIE.
- The bill requires the Chesapeake Regional Information Systems for our Patients (CRISP), the State-Designated HIE, to develop and maintain a consent management utility (CMU), which allows a person in interest to opt-out of having their electronic health information shared or disclosed by an HIE.
- HB 1375 requires CRISP to provide an HIE with the opt-out status of a person, on receipt of an electronic request from that HIE for the opt-out status of the person in interest, before sharing or disclosing the person's electronic health information.
- HB 1375 also aligns the definition of an HIE in statute with the federal definition.

HB 1022 – Public Health - State Designated Exchange - Clinical Information

- This bill requires a nursing home, on request of the Maryland Department of Health (MDH), to electronically submit clinical information to the State-designated exchange.
- In accordance with State and federal law, the exchange may provide the clinical information submitted by a nursing home to (1) a health care provider; (2) an authorized health information exchange user; (3) a health information exchange (HIE) authorized by MHCC; (4) a federal official; (5) and a State official.
- An Electronic Health Network (EHN) must provide administrative transactions to the exchange for public health and clinical purposes. An EHN may not charge a fee to a health care provider or to the State-designated exchange for providing the required information.
- The exchange must develop and implement policies and procedures that are consistent with regulations adopted by MHCC.
- The adopted regulations must provide for a uniform, gradual implementation of the exchange of clinical information.
- Regulations may: (1) limit redisclosure of financial information, including billed or paid amounts available in electronic claims transactions; (2) restrict data of patients who have

opted out of records sharing through the exchange or an HIE authorized by MHCC; and (3) restrict data from health care providers that possess sensitive health care information.

HB 123 and SB 3 – Preserve Telehealth Access Act of 2021

- This bill requires Medicaid to: (1) provide health care services appropriately delivered through “telehealth” to program recipients regardless of their location at the time telehealth services are provided; and (2) allow a “distant site provider” to provide health care services to a recipient from any location at which the services may be appropriately delivered through telehealth.
- The bill expands the definitions of “telehealth” for both Medicaid and private insurance. Insurers, nonprofit health service plans, and health maintenance organizations (collectively known as carriers) must reimburse for a covered service appropriately provided through telehealth on the same basis and at the same rate as if delivered in person.
- A carrier may not impose as a condition of reimbursement for a telehealth service that the service be provided by a provider designated by the carrier. The bill’s insurance provisions apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after January 1, 2022.
- MHCC is required to conduct a study and a survey of health occupation professionals.

Ms. DeShields also noted the bills passing in the legislature dealing with health disparities and gave a brief overview on the bills with a focus on HB 309 – Public Health - Data - Race and Ethnicity Information and SB 796 - Maryland Office of Minority Health and Health Disparities and Maryland Health Care Commission – Reporting Requirements. Both bills require the Office of Minority Health and Health Disparities to work with MHCC to develop a policy report that includes ethnicity and racial data.

Ms. DeShields reported on the budget that the legislature must pass by the 83rd day of the legislative session. She noted that the House is debating the budget today and will likely pass the budget on Monday and then the budget will move to the Senate and be debated there next Wednesday or Thursday. Ms. DeShields further noted that Johns Hopkins is seeking a budget narrative requiring MHCC and the Health Services Cost Review Commission (HSCRC) to conduct a study on the home hospital model. This will require MHCC and HSCRC to consult with the MDH, in particular Medicaid and the Office of Health Care Quality.

Ms. DeShields also addressed several other bills of interest to the Commission as follows:

HB 936 - Hospitals and Freestanding Medical Facilities - Closing or Partial Closing - Public Notice

- MHCC must publish notice of the proposed closing or partial closing of a hospital or freestanding medical facility within 15 days after receiving the notice of the proposed closing.
- Any required notice must be published at least once a week for two consecutive weeks in a daily or weekly newspaper of general circulation in the geographical area in which the hospital or freestanding medical facility is located.

- MHCC must require that notice of any informational meeting or a public hearing be given by mail to each person requesting the meeting or hearing, or to the person’s authorized representatives, and to elected officials of the district in which the hospital or freestanding medical facility is located.
- MHCC must also post the notice, including specified information, on its website and provide a method for interested persons to request any additional notices related to the closure or partial closure of a hospital or freestanding medical facility.

HB 599/SB 652 – Public Health - Long-Term Care Planning

- This bill requires MDH, by April 1, 2022, to develop and publish materials to assist Maryland residents with long-term care family planning.
- The materials developed must be consistent with recommendations made in the final report of the Task Force on Long-Term Care Education and Planning. Uncodified language requires MHCC, the Maryland Department of Disabilities (MDOD), and the Maryland Department of Aging (MDOA) to update their websites in accordance with recommendations of the task force, also by April 1, 2022.
- The bill takes effect January 1, 2022.

HB 674/SB 708 - Nursing Homes - Transfer of Ownership – Surveys

- This bill requires MDH to make site visits and conduct a full survey of a licensed nursing home if ownership of the nursing home is transferred to a person that does not own or operate another nursing home in the State at the time of the transfer.
- MDH must conduct a full survey within three months of the date of transfer and an unannounced follow up 120 days after the full survey was completed.

Ms. DeShields also reported that during the last legislative session, HB 1095, and SB 669 - Prescription Drug Affordability Board and Fund passed in the General Assembly. The bill requires the Prescription Drug Affordability Board (PDAB) to assess and collect an annual fee on drug manufacturers to fund the PDAB. All fees must be paid to the newly established PDAB Fund. The bill also requires that the PDAB must repay any of the funding that the PDAB received from MHCC for its initial establishment over a three-year period, beginning June 1, 2021. The bill would have taken effect June 1, 2020; however, the bill was vetoed by the Governor. On February 12 and 13 of 2021, the House and Senate overrode the veto, and the bill will go into effect June 1, 2021. This means that the PDAB will now be able to assess and collect an annual fee from drug manufacturers; however, the amount of the fees that can be collected is capped at \$2 million. Lastly, Ms. DeShields noted that there were no positions that the Commission needed to take on legislation and announced that the legislative policy conference call scheduled for Friday was cancelled.

ACTION: NO ACTION REQUIRED

AGENDA ITEM 8.

Overview of Upcoming Activities

Mr. Steffen stated that the April's Commission meeting may include applications for CONs, the Privately Insured Report for 2019, an evaluation of the Telehealth Grant Program, and a presentation on the plan to update State Health Plan Chapters in 2022.

AGENDA ITEM 9.

ADJOURNMENT

There being no further business, the meeting was adjourned at 2:57 p.m. upon motion of Commissioner Bhandari, which was seconded by Commissioner Boyle and unanimously approved.