

Marilyn Moon, Ph.D.  
CHAIR



Rex W. Cowdry, M.D.  
EXECUTIVE DIRECTOR

## MARYLAND HEALTH CARE COMMISSION

4160 PATTERSON AVENUE – BALTIMORE, MARYLAND 21215  
TELEPHONE: 410-764-3460 FAX: 410-358-1236

## MARYLAND HEALTH CARE COMMISSION

Thursday, January 21, 2010

### Minutes

Chair Moon called the public meeting to order at 1:05 p.m.

Commissioners present: Conway, Falcone, Fleig, Krumm, McLean, Moore, Ontaneda-Bernales, and Worthington. Commissioner Petty participated via teleconference.

### ITEM 1.

#### Approval of the Minutes

Commissioner Moore made a motion to approve the minutes of the December 17, 2009 meeting of the Commission, which was seconded by Commissioner McLean, and unanimously approved.

### ITEM 2.

#### Update of Activities

Pamela Barclay, Director of the Center for Hospital Services, announced that Dr. Cowdry was in Boston with Interim Insurance Commissioner Sammis learning about the Commonwealth Connector, CommonwealthCare, and the Commonwealth Authority.

Ms. Barclay introduced and welcomed Robin Hudson to the Commission staff. Ms. Hudson will serve as the Healthcare Associated Infections (HAI) Prevention Coordinator, in the Center for Hospital Services. Funding for Ms. Hudson's position is provided under the \$1.2 million Preventive block grant recently awarded to the Commission by the Department of Health and Health Services.

Ben Steffen, Director of the Center for Information Services and Analysis, announced that the Commission would release two issue briefs: *Insurance Coverage in Maryland 2007-2008*, and *Spotlight on Maryland: Diabetes Among Maryland's Privately Insured, Non-Elderly Population*. The issue briefs will be posted on the Commission's website.

### ITEM 3.

#### **ACTION: LEGISLATIVE UPDATE**

Rebecca Perry, Chief, Government Relations and Special Projects, provided an update on the 2010 legislative session and provided the staff recommendation on specific bills for action.

- **SB 27 – Health Insurance - Benefits for In Vitro Fertilization - Donor Sperm**

Ms. Perry said that SB 27 would prohibit insurers, nonprofit health service plans, and health maintenance organizations from excluding benefits for expenses arising from in vitro fertilization procedures when the patient's oocytes are fertilized with donor sperm under specified circumstances. Staff recommended sending a letter of concern regarding this bill, as the Commission has not evaluated the effects of this proposed legislation. Commissioner Falcone made a motion to accept the staff recommendation, which was seconded by Commissioner McLean, and unanimously approved.

**ACTION: SB 27 – Health Insurance - Benefits for In Vitro Fertilization - Donor Sperm – Staff Recommendation to submit a Letter of Concern, is hereby APPROVED.**

- **SB 181 – Health Insurance- Child Dependents- Qualifying Age Limit**

This bill would increase the age limit for an individual to be considered a child dependent under policies of individual or group health insurance, contracts issued by a nonprofit health service plan, and contracts issued by a health maintenance organization to age 30. Ms. Perry said that staff recommended sending a letter of concern addressing adverse selection regarding this bill. Commissioner Fleig made a motion to accept the staff recommendation, which was seconded by Commissioner Ontaneda-Bernales, and unanimously approved.

**ACTION: SB 181 – Health Insurance – Child Dependents – Qualifying Age Limit – Staff Recommendation to submit a Letter of Concern, is hereby APPROVED.**

- **HB 30 – Health Insurance – Coverage of In Vitro Fertilization Services**

Ms. Perry noted that this bill would alter the circumstances under which specified insurers, nonprofit health service plans, and health maintenance organizations must provide coverage for specified benefits for outpatient services arising from specified in vitro fertilization procedures. The proposed bill would change the definition of infertility. The effect of this bill has been evaluated by Mercer. Staff recommended sending a letter of information and the 2008 and 2009 Annual Mandated Health Insurance Services Evaluation reports by Mercer. Commissioner Ontaneda-Bernales made a motion to accept the staff recommendation, which was seconded by Commissioner Conway, and unanimously approved.

**ACTION: HB 30 – Health Insurance – Coverage of In Vitro Fertilization Services – Staff Recommendation to submit a Letter of Information, is hereby APPROVED.**

- **HB 32 – Health Insurance – Small Group Market– Cap on Comprehensive Standard Health Benefit Plan (CSHBP)**

Janet Ennis, Chief, Small Group Market, discussed the effect of the proposed legislation on the affordability cap of the CSHBP, and said that staff recommended opposing the bill. The bill would repeal the option for the Maryland Health Care Commission to adjust cost-sharing arrangements in the CSHBP if the average rate for the Standard Plan exceeds a specified percentage of the average annual wage in the State. Commissioner Falcone made a motion to accept the staff recommendation, which was seconded by Commissioner McLean and, following discussion, unanimously approved. Chair Moon and other members of the Commission volunteered to testify in opposition to this bill.

**ACTION: HB 32 – Health Insurance – Small Group Market– Cap on Comprehensive Standard Health Benefit Plan (CSHBP) – Staff Recommendation to Oppose, is hereby APPROVED.**

- **HB 41 – Health Insurance – Copayments for In Vitro Fertilization Procedures and Surgical Treatment of Morbid Obesity**

This bill would authorize insurers, nonprofit health service plans, and health maintenance organizations to require, notwithstanding specified provisions of law, a copayment not to exceed a specified amount for in vitro fertilization procedures and surgical treatment of morbid obesity. Ms. Perry said that staff recommended opposing the bill. Commissioner Conway made a motion to accept the staff recommendation, which was seconded by Commissioner Ontaneda-Bernales, and unanimously approved.

**ACTION: HB 41 – Health Insurance – Copayments for In Vitro Fertilization Procedures and Surgical Treatment of Morbid Obesity – Staff Recommendation to Oppose, is hereby APPROVED.**

Commissioner McLean made a motion that the Commission revisit the upcoming change in law in the small group market that will allow carriers to use health status as a rating factor and requested that staff provide the Commission with recommendations for its consideration at the February 2010 public meeting. This motion was seconded by Commissioner Krumm and unanimously approved.

**ACTION: Motion that Staff Update Commissioners on Recommendations on Health Status/Rating Bands for Consideration at the February 2010 Commission Meeting – APPROVED.**

Ms. Perry also announced that Commission staff is working with Department of Health and Mental Hygiene and Maryland Insurance Administration staff to draft proposed legislation regarding the Patient Centered Medical Home (PCMH) pilot. Mr. Steffen added that in addition to the departmental staff mentioned by Ms. Perry, staff from health insurance carriers, other stakeholders, the Governor’s Office and the Lt. Governor’s Office have been instrumental in

drafting the proposed PCMH bill and that it would be shared with the Commission members as soon as it was ready for filing.

Commissioner Moore requested, and other Commissioners agreed, that copies of the final position papers/letters of information/concern be sent to all Commissioners. Ms. Perry said that staff would send copies of all legislative letters and position papers to the Commission members throughout the legislative session as they become finalized.

#### **ITEM 4.**

##### **ACTION: Certificate of Need – Montgomery General Hospital (Docket No. 09-15-2293)**

Montgomery General Hospital (MGH) applied for a Certificate of Need for new construction and renovation at its facility. Joel Riklin, Health Policy Analyst, presented the staff recommendation. Mr. Riklin said that the proposed project includes finishing the hospital's third floor, currently under construction as part of a project approved in 2007. The proposed project also includes the construction of the fourth, fifth, and sixth floors as shell space, a total of 26,010 square feet, as well as renovation to existing patient rooms. The project is estimated to cost \$15,857,986 and will be funded through the sale of \$11.5 million in bonds, \$4 million in cash, and interest income of \$344,161. Staff recommended that the Commission approve the Certificate of Need project, subject to several conditions.

Paul Parker, Chief, Certificate of Need, noted that Holy Cross Hospital had expressed concern regarding Condition 1 with regard to bed need. Mr. Parker said that even though Holy Cross is not an interested party in this matter, the hospital has filed two applications for Certificate of Need in Montgomery County, and staff wanted to address the concerns. Mr. Parker stated that the first condition limits the ultimate number of medical/surgical beds that MGH can put into operation without Commission approval to 150 beds, which is the medical/surgical/gynecological/addictions (MSGA) bed capacity that the Hospital would have if it completed the project approved in its 2007 CON. He noted that this exceeds MGH's current licensed 129 MSGA beds, which is not an unusual circumstance since most Maryland hospitals have physical bed capacity that is greater than their licensed bed capacity. Because licensed acute care hospital bed capacity is fluid and formula-driven in Maryland, the Commission uses physical bed capacity when considering whether or not a hospital is changing its bed capacity, which is defined as an action requiring CON approval. As a practical matter, nothing that a hospital does with its physical facilities or that the Commission approves with respect to a hospital's physical facilities, can alter licensed acute care hospital bed capacity. These actions can only change the maximum potential number of hospital beds that a hospital can operate in conformance with licensure requirements.

Mr. Parker stated that the first recommended condition does not permit the Hospital to operate more than the 129 MSGA beds for which it is currently licensed. It permits MGH to potentially set up and staff more than 129 medical/surgical beds in the future, but only if its licensed number of MSGA beds increases. The Hospital would have this potential if the project under consideration were denied or if it had never been filed. The first condition has the effect of capping this MSGA potential at 150; this upper limit is the same as under the 2007 CON issued

by the Commission. Mr. Parker said that the recommended condition is intended to allow an improvement in patient care at the hospital but to limit the hospital's ultimate MSGA bed potential to the ceiling for which it is currently approved, unless the Hospital obtains necessary Commission approval.

Mr. Parker pointed out that, because this condition does not alter the physical MSGA bed capacity that the Hospital could potentially set up and staff, it does not alter the manner in which the Commission will evaluate MSGA bed need in Montgomery County when reviewing proposed hospital projects. The inventory of MSGA beds at Montgomery General that would be used to calculate a net MSGA bed need figure for the jurisdiction, net of licensed beds, will be the licensed number of MSGA beds at the hospital.

Commissioner Krumm made a motion to approve the staff recommendation, which was seconded by Commissioner Falcone. Following discussion among the members of the Commission and staff, the Commission unanimously approved staff's recommendation on the Certificate of Need application. Commissioner Ontaneda-Bernales recused herself from this matter.

**ACTION: Certificate of Need – Montgomery General Hospital (Docket No. 09-15-2293) is hereby AWARDED.**

#### **ITEM 5.**

##### **PRESENTATION: Status Report on Freestanding Medical Facility Pilot Project**

Ms. Barclay presented information on the two freestanding medical facility pilots projects in Maryland, the Germantown Emergency Center and the under-construction Queen Anne's Emergency Center, and summarized staff's analysis of available data regarding number of visits to the Germantown Emergency Center for Fiscal Years 2007 through 2009.

#### **ITEM 6.**

##### **PRESENTATION: Improvements in the Hospital Guide**

Theresa Lee, Chief of the Hospital Quality Initiative for the Center for Hospital Services, presented key components of the current status and planned improvements to Maryland's online Hospital Performance Evaluation Guide. Commission staff is currently working on an expansion of quality and outcomes data. Next steps include the addition of: health care associated infection data; data regarding patient experiences; updated medical conditions; quality measures; and expanded and updated hospital profile measures.

## **ITEM 7.**

### **PRESENTATION: Racial, Ethnic, and Language Disparities Work Group 2009 Report**

Sule Calikoglu, Senior Policy Analyst in the Center for Long Term Care and Community Based Services, presented the second annual Racial, Ethnic, and Language Disparities Work Group report. Dr. Calikoglu noted that the Work Group included representatives from health plans, academic institutions, public policy organizations, and various agencies in state government. Health plans have been especially enthusiastic participants. The current state of health plan readiness to report on data collected regarding policy holders' race, ethnicity, and preferred language spoken for receiving health care services ranges from not collecting any data, to being platform ready in pilot mode. The Work Group adopted recommendations of the Institute of Medicine on standardization of race, ethnicity and language data. A consensus was reached to report Hispanic ethnicity separate from race categories and have race categories reported in two question format to capture detailed information on individuals with more than one race. In addition, spoken language preferred for health care will be collected and reported. The Work Group adopted the Maryland Medical Care Data Base (MCDB) expansion time line for the Medical and Pharmacy Eligibility File, which provides for voluntary submission of 2009 claims data by the four largest health plans in Maryland due June 30, 2010; voluntary submission of 2010 claims data by all health plans due June 30, 2011; and mandatory submission by all health plans of 2012 claims data by June 20, 2013. The work group identified primary challenges in collecting race, ethnicity and language data including, IT barriers, cost, data storage, member education, setting appropriate thresholds, tracking clinical data over time, and measuring effectiveness of programs aimed at reducing disparities. The Work Group will focus on member education and provider training during calendar year 2010.

## **ITEM 8.**

### **ADJOURNMENT**

There being no further business, the meeting was adjourned at 3:10 p.m., upon motion of Commissioner Falcone, which was seconded by Commissioner Ontaneda-Bernales and unanimously approved.