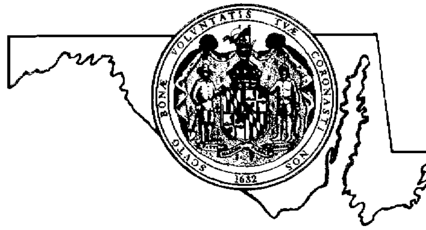
Craig P. Tanio, M.D.
CHAIR

STATE OF MARYLAND



Ben Steffen
EXECUTIVE DIRECTOR

MARYLAND HEALTH CARE COMMISSION

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Thursday, December 20, 2012

Minutes

Chairman Tanio called the meeting to order at 1:00 p.m.

Commissioners present: Conway, Falcone, Fleig, Fronstin, McLean, Montgomery, Moon, Petty, and Weinstein.

ITEM 1.

Approval of the Minutes

Commissioner Fleig made a motion to approve the minutes of the November 15, 2012 public meeting, which was seconded by Commissioner Montgomery and unanimously approved.

ITEM 2.

Update of Activities

Ben Steffen, Executive Director, noted that staff have completed and distributed the Commission's Annual Report. Mr. Steffen also discussed the outcomes of the Health Care Reform Coordinating Council (HCRCC) meeting that was held on December 17, 2012. HCRCC recommended changes in the State's Essential Health Benefits (EHB) benchmark. The changes are intended to promote greater stability in the small group and non-group markets when essential health benefits go into effect on January 1, 2014, and to provide for enhancements to behavioral health and habilitative services benefits. The HCRCC recommended the following changes: 1) Adopt the State's largest small group plan (CareFirst BlueChoice HMO HSA Open Access plan) as Maryland's base benchmark plan; 2) Import into EHB in the non-group market the State mandates not already covered by the small group plan; 3) Designate for the State's behavioral health benefit a benefit that better achieves parity (Government Employees Health Association, Inc., or GEHA, Standard Option federal employee plan); and 4) Designate for the State's habilitative services benefit the current state mandate up to age 19, with adoption of the small group rehabilitative benefit as the habilitative benefit for over age 19.

David Sharp, Director of the Center for Health Information Technology, announced that Commission staff has informally released draft regulations for Health Information Exchange.

ITEM 3.

ACTION: Determination of Compliance with Non-Primary PCI Research Waiver Requirements: Hospitals Providing Elective PCI Services on January 1, 2012 Through the C-PORT E Registry

Legislation in the 2012 General Assembly Session established a new approach to the regulatory oversight of percutaneous coronary intervention, or PCI, also known as angioplasty. Under this new law, which is planned for full implementation in 2014, hospitals proposing to provide primary (or emergency) PCI or non-primary (or elective) PCI services will be required to seek and obtain a Certificate of Conformance from the Commission. The law created an exception to that requirement for the eight hospitals that were authorized to participate in the C-PORTE research trials if the Commission determined that the C-PORT E study produced results that should guide public policy and the hospital continued to comply with the requirements established by the Commission for their research waivers. These hospitals were all found to be qualified, based on their performance, to move from research waiver to follow-on registry status in December, 2011.

Paul Parker, Director of the Center for Hospital Services and Christina Daw, Acting Chief for Specialized Services Policy and Planning presented the evaluation required to grant this exception and provided the staff recommendation to the Commission. Based on their analyses, staff recommended that the Commission find that the C-PORT E study did produce results that should guide public policy. They also concluded that, based on a review of National Cardiovascular Data Registry data and information provided by the eight hospitals that participated in the C-PORT E research trials (Anne Arundel Medical Center, Baltimore Washington Medical Center, Frederick Memorial Hospital, Johns Hopkins Bayview Medical Center, MedStar Southern Maryland Hospital Center, Meritus Medical Center, St. Agnes Hospital, and Shady Grove Adventist Hospital), all eight hospitals qualify for an exception to the requirement to obtain a Certificate of Conformance to provide non-primary PCI. They recommended that the Commission grant this exception. Commissioner Fleig made a motion to approve the staff recommendation, which was seconded by Commission Falcone and unanimously approved.

ACTION: The Commission finds that the C-PORT E study produced results that should guide public policy and APPROVED an exception to Anne Arundel Medical Center, Baltimore Washington Medical Center, Frederick Memorial Hospital, Johns Hopkins Bayview Medical Center, MedStar Southern Maryland Hospital Center, Meritus Medical Center, St. Agnes Hospital, and Shady Grove Adventist Hospital to the requirement to obtain a Certificate of Conformance to continue to provide non-primary PCI services.

ITEM 4.

ACTION: Certificate of Need

- Mercy Medical Center (Docket No. 12-24-2332)

Mercy Medical Center ("MMC") applied for a Certificate of Need to construct eight new mixed-use, general purpose operating rooms, four of which will replace existing operating rooms. Eileen Fleck, Program Manager, presented the staff recommendation. Ms. Fleck said MMC's proposed project includes replacing and relocating four mixed-use general purpose operating rooms and constructing four additional mixed-use general purpose operating rooms, for a total of 26 operating rooms. She said the construction of the surgical preparation, recovery, and storage areas will be on the first floor of the building. Ms. Fleck said the total cost of the project is $23,529,859. She also noted that the building space proposed for implementation of this project was previously approved, as part of earlier Certificate of Need, for the relocation of the hospital's emergency department, but MMC has subsequently determined that consolidating all surgical services in the Bunting Center would be the most effective use of that space. Thus, approval of this project also represents approval of a change in that previously authorized plan for the physical plant of MMC. Staff recommended that the Commission approve this project, with a condition excluding certain project cost from recognition in any future rate adjustments

sought by MMC from the Health Services Cost Review Commission. Commissioner Falcone made a motion to approve the staff recommendation, which was seconded by Commissioner Moon and unanimously approved. Commissioner McLean recused herself.

ACTION: Certificate of Need – Mercy Medical Center (Docket No. 12-24-2332) is hereby APPROVED with conditions.

- College View Center (Docket No. 12-10-2336)

College View Center ("CVC") applied for a Certificate of Need to construct a replacement facility. Rebecca Goldman, Health Policy Analyst, presented the staff recommendation. Ms. Goldman said that CVC is a 119-bed comprehensive care facility located in Frederick and operated by Genesis Corporation. She said Genesis proposed to construct a 130-bed replacement facility to be located 2.3 miles from the current location. Ms. Goldman said that 119 beds will come from the existing facility and that the applicant will add 11 temporarily delicensed beds formerly operated at Frederick Memorial Hospital. The total estimated cost of the project is $19.2 million, and sources of funding include $215,000 in cash from the applicant and $19 million in funds from Health Care REIT, the owner of the facility's real property assets. Staff recommended that the Commission approve this project, with a standard condition requiring execution of a memorandum of understanding with the Maryland Medicaid program concerning required minimum levels of Medicaid participation. Commissioner Montgomery made a motion to approve the staff recommendation, which was seconded by Commissioner McLean and unanimously approved.

ACTION: Certificate of Need – College View Center (Docket No. 12-10-2336) is hereby APPROVED with condition.

- Anne Arundel County Medical Center (Docket No. 12-02-2338)

Anne Arundel Medical applied for a Certificate of Need to finish one floor of shell space to include a general medical/surgical nursing unit. Ms. Goldman presented the staff recommendation. She said the floor will be finished as a 30-bed general medical/surgical nursing unit with all private rooms and will be located on the third floor of the expanded Acute Care Pavilion. The estimated cost of the project is $8.2 million and will be funded through cash generated from operations. Staff recommended that the Commission approve this project. Commissioner Moon made a motion to approve the staff recommendation, which was seconded by Commissioner Conway and unanimously approved.

ACTION: Certificate of Need – Anne Arundel Medical Center (Docket No. 12-10-2338) is hereby APPROVED.

ITEM 5.

ACTION: Certificate of Need Modification

- NMS of Hagerstown (Docket No. 10-21-2307)

NMS of Hagerstown ("NMS") applied for a modification to their existing Certificate of Need to increase the total project costs and reduce the scope of their renovations. Joel Riklin, Program Manager, presented the staff recommendation. Mr. Riklin said that the facility currently has 12 four-bed rooms, 7 three-bed rooms, 55 semi-private rooms and 7 private rooms in buildings that were constructed in the 1950s through the 1980s. He said NMS is seeking to increase the total project costs by $1,608,228 and reduce their renovations from 16,660 square feet to 1,335 square feet, limiting the number of private rooms to 22 instead of 42 which was previously approved, but still eliminate all 3 and 4 bed rooms, while increasing the number of semi-private rooms from 82 to 92. Staff recommended that the Commission approve this

project, retaining the conditions approved on the original CON approval. Commissioner Weinstein made a motion to approve the staff recommendation, which was seconded by Commissioner Montgomery and unanimously approved.

ACTION: Certificate of Need Modification – NMS of Hagerstown (Docket No. 10-21-2307) is hereby APPROVED.

- **Carroll Hospital Center (Docket No. 12-06-2330)**

Carroll Hospital Center ("CHC") applied for a modification to their existing Certificate of Need to increase the capital costs of the project. Mr. Riklin presented the staff recommendation. He said that, based on discussions with contractors, the CHC estimates that the capital costs of this project will be $3 million more than the amount previously approved. Mr. Riklin said that the final materials selections and construction plans have increased the cost estimate. He said that an Interior Design Team for the facility noted that the material change will provide a longer life expectancy and require less maintenance than the materials that were used on past projects. Mr. Riklin noted that no significant changes in the physical plant design approved for the project were identified. Staff recommended that the Commission approve this project. Commissioner Montgomery made a motion to approve the staff recommendation, which was seconded by Commissioner Fronstin and unanimously approved.

ACTION: Certificate of Need Modification – Carroll Hospital Center (Docket No. 12-06-2330) is hereby APPROVED.

ITEM 6.

ACTION: SB 163 – Health Insurance – Diabetes Treatment – Coverage for Orthotics, Report to the General Assembly

Janet Ennis, Chief, Small Group Market, reminded the Commission that the mandate study on orthotics for diabetes care was presented at last month's meeting. Ms. Ennis asked for the Commission to approve the release of the report to the General Assembly. Commissioner McLean made a motion to approve the release of the report, which was seconded by Commissioner Moon and unanimously approved.

ACTION: SB 163 – Health Insurance – Diabetes Treatment – Coverage for Orthotics was approved to be released to the General Assembly

ITEM 7.

ACTION: Feasibility of Including Reductions in Disparities as a Performance Factor in Maryland's Multi-payer PCMH Program, Report to the General Assembly

Erin Dorrien, Chief, Governmental Programs, reported on the Commission's findings in studying the feasibility of incorporating measures to reduce racial and ethnic disparities in the Commission's multi-payer PCMH program. Commissioner Conway made a motion that the Commission approve release of the report to the General Assembly, which was seconded by Commissioner McLean and unanimously approved.

ACTION: Feasibility of Including Reductions in Disparities as a Performance Factor in Maryland's Multi-payer PCMH Program, was approved to be released to the General Assembly

ITEM 8.

PROPOSED ACTION: User Fee Assessment

- **Presentation of the User Fee Assessment Study**
- **COMAR 10.25.02 – User Fee Assessment of Health Care Practitioners**
- **COMAR 10.25.03 – User Fee Assessment of Payers, Hospitals, and Nursing Home**

Chairman Tanio announced that the Commission performed a workload study to determine how the Commission's total assessment will be allocated among payers, hospitals, nursing homes, and licensed health professionals every four years. Bridget Zombro, Director of Administration, presented the results of the study. Ms. Zombro said that in 2001 the Maryland General Assembly required (among other things) that the Commission adopt regulations to permit waiver of the user fee to certain health care practitioners earning an average hourly wage which is substantially below that of other health care practitioners. Subsequent legislative action in 2007 allowed the Commission to study the extent to which health care providers not currently subject to a user fee assessment utilize the Commission's resources, and to consider the feasibility and desirability of extending a user fee to additional types of providers regulated by the Commission.

The Commission staff uses the State Personnel System Standard Salary Scale in making its determination of health practitioners' average annual wage, which is currently $36,280, or grade 14 under the state's salary scale. Using an average between the Commission's FY 12 expenditures and FY 13 projected budget, staff recommended a new allocation percentage among assessed entities to be: Payers – 28%; Nursing Homes – 17%; Hospitals – 33%; and the Health Occupation Boards – 22%. As there has been no change in the State Personnel System Standard Salary Scale since 2007, the average annual wage calculation remains at $32,280/grade 14. The following groups of health care practitioners remain excluded from being assessed the user fee: Occupational Therapist Assistants; Social Worker Associates; LPNs, Nurse Psychotherapists, and Nurse Assistants; Physical Therapy Assistants; Psychology Associates; Dental Hygienists; and Dental Assistants.

Ms. Zombro noted that the Commission's current statute states that the Commission cannot assess more than $12 million. The Commission will be appropriated more than $12 million with the inclusion of the FY 13 budget amendment, though we assessed the industries only $10,887,124 in order to spend down the Commission's reserves. Ms. Zombro added that the last statutory increase of the cap was in FY 2008 and recommended that the Commission seek to increase the statutory cap to $14 million in the future, with the increase in the user fee assessment not implemented until FY 2015. Commissioner Falcone made a motion that the Commission amend COMAR 10.25.02 – User Fee Assessment on Health Care Practitioners, and COMAR 10.25.03 – User Fee Assessment of Payers to reflect the cost allocations recommended; amend COMAR 10.25.02 to reflect the continuing average annual wage for practitioner exemption to the fee as $36,280; to continue to study the feasibility of assessing other health care providers who benefit from the services provided by the Commission; and to request raising the user fee cap in FY 2015, which was seconded by Commissioner Weinstein and unanimously approved.

ACTION: COMAR 10.25.02 – User Fee Assessment of Health Care Practitioners; and COMAR 10.25.03 – User Fee Assessment of Payers, Hospitals, and Nursing Homes are hereby approved as PROPOSED PERMANENT REGUATIONS

ITEM 9.

PRESENTATION: Health Care Practitioner Performance Measurement Project

Chairman Tanio noted that several months ago Secretary Sharfstein challenged the Commissioners to take on important tasks such as this. Although many challenges remain, he noted that we are now at a point where the MHCC should begin to develop a provider measurement system. He added that health services research has for many years demonstrated the persistence of quality defects, wide practice variations in

costs, and significant overuse, underuse, and misuse of services. Over the past several years, stakeholders working with health care providers have made important progress in measuring and improving clinical performance. Organizations such as the National Quality Forum (NQF) and the Physician Consortium for Performance Improvement (PCPI) have made significant progress in developing robust approaches for reviewing and endorsing valid performance measures. More complete and accurate data systems exist, including the Commission's all payer claims data base (or APCD) for testing and implementing these measures. New, more robust, risk adjustment processes have been developed to assure that factors that a provider cannot control do not unfairly bias results.

Linda Bartnyska, Acting Director of the Center for Information Services and Analysis, presented an overview of the Commission's plans for practitioner performance measurement. Ms. Bartnyska said that the purposes of the project include: producing consistent information on quality, cost or resource use, and efficiency for providers, payers, and patients on practitioner performance; to promote transparency in practitioner performance measurement; and to promote performance improvement in the provision of health care services. In developing the health care practitioner performance measurement project, the Commission will collaborate with stakeholders through the use of workgroups, and will align its collaborative processes with those mandated for a CMS-designated Qualified Entity. Following discussion among the members of the Commission, Ms. Bartnyska noted that provider performance data would be publicly available only after having been reviewed by the providers included. Chairman Tanio thanked Ms. Bartnyska for her presentation.

ITEM 10.

ADJOURNMENT

There being no further business, the meeting was adjourned at 3:05 p.m., upon motion of Commissioner Petty, which was seconded by Commissioner Moon and unanimously approved.