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CHAIR



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## **MARYLAND HEALTH CARE COMMISSION**

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**Thursday, January 15, 2015**

### **Minutes**

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

Commissioners present: Barr, Falcone, Fleig, Kan, McLean, Phillips, Schneider, Stollenwerk, and Weinstein. Commissioner Peralta participated via telephone.

### **ITEM 1.**

#### **Approval of the Minutes**

Commissioner Kan made a motion to approve the minutes of the December 18, 2014 public meeting of the Commission, which was seconded by Commissioner Fleig and unanimously approved.

### **ITEM 2.**

#### **Update of Activities**

Ben Steffen, Executive Director, provided an update on enrollment in the Maryland Health Benefit Exchange. Mr. Steffen said that as of January 11, 169,462 Marylanders have enrolled in quality, affordable health coverage for calendar year 2015, since the 90-day open enrollment period began Nov 15<sup>th</sup>. He said that includes 91,137 people enrolled in private Qualified Health Plans and 78,325 newly enrolled in Medicaid. Mr. Steffen also said that as of January 1 the SHOP will feature Employee Choice, which will allow employers to designate a metal level for the company's plan, and then allows employees to choose their insurance companies.

David Sharp, Director of the Center for Health Information Technology and Innovative Care Delivery, reported that the application for a CMS Practice Transformation Network (PTN) grant was completed last month in partnership with CRISP; the Maryland Learning Collaborative; and MedChi, the Maryland State Medical Society. CMS plans to award up to 35 applicants between \$2M to \$50M for a four-year period. CRISP is prime in the application, and MHCC will facilitate the measures and evaluation activities of the PTN. CMS will notify awardees in April.

Erin Dorrien, Chief, Government and Public Affairs, provided an overview of the legislative process, noting that Administration proposals are the highest priority and any amendments to Administration legislation should only be offered by the Governor's Legislative Office. Ms. Dorrien said that concerns about language in Administration legislation or suggestions for amendments should be addressed to the appropriate person on the Governor's staff. She said departmental legislation must be approved by the Governor's Legislative Office before introduction, and no Executive Branch representative may oppose a departmental bill before the General Assembly. Ms. Dorrien provided a list of the upcoming briefing and hearings dates.

### **ITEM 3.**

#### **ACTION: Operations, Utilization, and Financial Performance of Freestanding Medical Facilities**

Eileen Fleck, Chief of Acute Care Policy and Planning, and Dennis Phelps, Associate Director of Audit and Compliance at the Health Services Cost Review Commission, presented the report on the operations, use, and financial performance of freestanding medical facilities or, as they are more commonly known, freestanding emergency centers. Ms. Fleck noted that the report includes an overview of both Maryland and national trends in hospital emergency department utilization; analysis of the impact of the Health Services Cost Review Commission's rate setting on the financial performance of Germantown Emergency Center; comparative information on the three Maryland FMFs; and recommendations regarding the development of Certificate of Need regulations for freestanding medical facilities. Ms. Fleck said that the audited financial statements issued by the hospital systems operating FMFs and HSCRC reports indicate that they rarely have positive net revenue. She noted that hospital emergency departments are generally not regarded as profitable on a stand-alone basis. She added that if the revenue generated from hospital admissions originating from the FMFs is included, then FMFs may be generating small amounts of income from operations. Following discussion among members of the Commission, Ms. Fleck, and Mr. Phelps regarding the amount of charity care provided by these FMFs and the facilities' financial losses, Mr. Phelps noted that the hospitals' financial management teams would not view those facilities' financial performance as a problem. Commission staff agreed to further investigate the financial statements for Queen Anne's Emergency Center (QAEC) because representatives for Shore Regional Health recently indicated that the FY 2013 statements included expenses not directly attributable to QAEC. Commission staff agreed to include a note in the report and an explanation in a cover letter for the report, if appropriate, following further investigation of the FY 2013 audited financial statement for QAEC.

Commissioner Falcone made a motion to approve release of the report with any subsequent corrections, which was seconded by Commissioner Barr and unanimously approved.

#### **ACTION: Report on Operations, Utilization, and Financial Performance of Freestanding Medical Facilities is hereby approved for release**

#### **ITEM 4.**

##### **ACTION: Assignment of Benefits Study**

Linda Bartnyska, Director of the Center for Analysis and Information Systems, provided a recap of the report on the Impact of Assignment of Benefits Legislation. Ms. Bartnyska said that overall the legislation achieved its purpose to ease the financial burden on patients who use out-of-network providers by reducing reliance on balance billing. She also said there was increased predictability in payments for nonparticipating physicians as evidenced by the majority that accepted assignment of benefits. She reported that there was no evidence of systematic deterioration in payer networks, and that for most payers, out-of-network services reimbursements declined as a share of total services and reimbursements between 2010 and 2013. However, two of five carriers reported paying billed charges in 2013, which is higher than required by the law. Staff recommended removing the abrogation date but making no additional changes to the law because a change in the payment formula could resurrect old tensions between carriers and physicians. Staff also recommended that the MHCC assist carriers that are paying billed charges to move to reimbursement at a lower rate consistent with the law by MHCC staff producing carrier-specific 2009 fee schedules derived from the Medical Care Data Base and providing the Medical Economic Index (MEI) value for each year after 2009 to be used as the inflation factor. The Commission recommended that staff construct a fee schedule that meets the requirements of the Assignment of Benefits law. Commissioner Barr made a motion to approve the release of the report, which was seconded by Commissioner McLean and unanimously approved. Commissioners Fleig and Kan abstained.

**ACTION: Report on the Impact of the Assignment of Benefits Study is hereby approved for release**

#### **ITEM 5.**

##### **ACTION: Provider Carrier Workgroup Membership and Process**

Erin Dorrien, Chief of Government and Public Affairs, said that Chapter 614 of the 2014 legislative session required the Commission to establish a Health Care Provider/Carrier Workgroup. Ms. Dorrien stated that the bill requires the Commission to convene professional organizations, carriers and consumers to serve on the workgroup. She provided staff recommendations for payer participants, provider, and consumer participants. Ms. Dorrien reiterated that the group is not exclusive to the appointees and that others will be invited depending on issues under consideration. The Commission asked that staff consider adding more consumer and nonphysician representatives including nurse practitioners. Staff agreed. Commissioner Barr made a motion to approve the recommendations for membership, which was seconded by Commissioner Schneider and unanimously approved.

**ACTION: Provider Carrier Workgroup Membership is hereby APPROVED.**

## **ITEM 6.**

### **PRESENTATION: An EHR Assessment of State Hospital and Local Health Departments EHR Systems**

Angela Evatt, Chief of Health Information Technology, and Nikki Majewski, Health Policy Analyst presented a summary detailing EHR adoption by Maryland local health departments and State hospitals. Ms. Evatt provided background information noting that, last fall, Delegate Dan Morhaim inquired about Maryland local health departments and State hospitals' use of electronic health records. Ms. Majewski said that all 24 local health departments and 11 State hospitals were surveyed. She noted the following key findings: local health department have used EHRs for an average of six years; several local health departments utilize more than one EHR; some local health departments noted their plans to switch to an EHR that could support a wide-range of clinical services; and State hospitals are collaborating with the Department of Health and Mental Hygiene (DHMH) to identify an appropriate EHR solution. Staff recommended providing support to the local health departments by developing a local health department EHR Directory that lists EHRs in use and other relevant information identified by users; and establishing various local health department user workgroups to support EHR education and awareness initiatives. Ms. Majewski said staff also plans to provide ad hoc support to DHMH in evaluating EHR systems over the year.

## **ITEM 8.**

### **Overview of Upcoming Initiative**

Mr. Steffen stated that at the February Commission meeting staff will review legislation, provide an update on the forecast of cardiac surgery cases, and provide an update on the home health work group.

## **ITEM 10.**

### **ADJOURNMENT**

There being no further business, the meeting was adjourned at 2:40 p.m. upon motion of Commissioner Kan, which was seconded by Commissioner Schneider and unanimously approved.