

Craig P. Tanio, M.D.
CHAIR



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MARYLAND HEALTH CARE COMMISSION

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Thursday, December 17, 2015

Minutes

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

Commissioners present: Carr York, Fleig, Moffit, Montgomery, Phillips, Pollak, Schneider, Stollenwerk, Thomas, and Weinstein. Commissioners Fronstin, Metz, and Peralta participated via telephone.

ITEM 1.

Approval of the Minutes

Commissioner Montgomery made a motion to approve the minutes of the November 19, 2015 meeting of the Commission, which was seconded by Commissioner Pollak and unanimously approved.

ITEM 2.

Update of Activities

Theresa Lee, Director of the Center for Quality Measurement and Reporting, provided a brief overview of the progress on the Maryland Health Care Quality Reports' website, noting that staff is continually working with AHRQ's contractor to resolve technical issues with the 6.2 software version. Ms. Lee also noted that outpatient emergency room data will be added to the website in January, and that the reporting requirement will be expanded to be consistent with CMS. Ms. Lee announced that Evanson Mukira, program manager, was leaving the Commission to complete his doctorate at the University of Southern California, and was joined by the Commissioners in thanking him for all his contributions.

Eileen Fleck, Chief of Acute Care Policy and Planning, provided an update on efforts to develop greater consensus on the definition for cardiac surgery. Ms. Fleck said that the Cardiac Services Advisory Committee met on November 18 to talk about strategies to define cardiac surgery more efficiently and effectively. She also noted that the Cardiac Surgery Quality Initiative provided a handout with a list of ICD-9 codes that they proposed for either including or excluding from a definition of cardiac surgery.

ITEM 3.

ACTION: Approval of Release of MCDB Data to Johns Hopkins Bloomberg School of Public Health

Srinivas Sridhara, Chief of Cost and Quality Analysis, provided the staff recommendation regarding the request by the Johns Hopkins Bloomberg School of Public Health (JHSPH) for release of MCDB data. Mr. Sridhara noted that in May 2015 the Commission recognized the JHSPH IRB as an authorized IRB for review of requests for release of MCDB data. He said that JHSPH is requesting access to the MCDB to: estimate the effect of the Total Patient Review (TPR) program implemented in ten rural Maryland hospitals in FY 2011 on overall hospital care utilization and spending by the privately insured and Medicaid population in Maryland; assess whether the TPR program affected the patterns of services use and utilization of low-value care by this population; and determine whether the TPR program affected the intensity of care and quality outcomes for patients admitted with one of four specific conditions (acute myocardial infarction, ischemic heart disease, hemorrhagic stroke, and ischemic stroke). Mr. Sridhara said that, if release is approved by the Commission, staff will execute a DUA with JHSPH and release the data. He also noted that staff will continue ongoing compliance review under the DUA. Commissioner Montgomery made a motion to approve the release of the data to JHSPH, which was seconded by Commissioner Thomas, and unanimously approved. Commissioner Schneider recused himself from this action.

ACTION: Request by Johns Hopkins School of Public Health for Release of MCDB Data is hereby APPROVED.

ITEM 4.

ACTION: Certificate of Need

Chairman Tanio said that there would be at least one matter on the agenda regarding the application of Adventist HealthCare to relocate Washington Adventist Hospital from Takoma Park, Maryland, to be replaced with a 170-bed general hospital in the White Oak section of Montgomery County. He stated that the application also proposed the renovation of space at Washington Adventist Hospital that currently houses 40 acute inpatient psychiatric beds, to be relicensed as a special hospital-psychiatric that will be operated by the Adventist Behavioral Health division of Adventist HealthCare.

Dr. Tanio noted that Commissioner Frances Phillips served as the Reviewer in this matter and that she recognized three Interested Parties in the review, Holy Cross Hospital of Silver Spring, Laurel Regional Hospital, and MedStar Montgomery Medical Center. The City of Takoma Park was recognized as a Participating Entity.

On November 18, Commissioner Phillips issued a 181-page Recommended Decision in the review. Written exceptions to the Recommended Decision were filed by Holy Cross Hospital and MedStar Montgomery Medical Center. In her cover memorandum, Commissioner Phillips advised the City of Takoma Park that it could file comments if it chose to do so and it did. Adventist HealthCare filed responses to the exceptions and to the City's comments.

Dr. Tanio stated that MedStar Montgomery Medical Center (MMMC) also filed an appeal to the Commission regarding Commissioner Phillips' denial of the hospital's request for an evidentiary hearing. Adventist HealthCare filed an opposition to the appeal. He then introduced the pending appeal.

- **Appeal Hearing: MedStar Montgomery Medical Center's appeal of Denial of Request for an Evidentiary Hearing in the Matter of the Relocation of Washington Adventist Hospital**

and the Establishment of a Special Hospital-Psychiatric (Docket No. 13-15-2359)

MMMC, through its counsel Kurt Fischer, argued that Commissioner Phillips should have granted an evidentiary hearing because of questions regarding the financial feasibility and viability of the project, the impact on access to care by indigent and medically underserved patients, the need of the population to be served, and the availability of more cost effective alternatives.

John F. Morkan III, on behalf of Adventist HealthCare, argued that Commissioner Phillips was correct in her conclusion that an evidentiary hearing was unnecessary. He stated that MMC's appeal did little more than reargue positions set forth in its earlier filings that had been considered by Commissioner Phillips in her Recommended Decision.

Commissioner Phillips also addressed the Commission. She noted that she had reviewed the voluminous record and had asked additional questions of the parties as necessary. She stated that, in her judgment, she concluded that she had all the information she needed and that still believed that an evidentiary hearing was not necessary.

Commissioner Schneider made a motion that the Commission reject MMC's appeal and consider Commissioner Phillips' Recommended Decision, which was seconded by Commissioner Pollak and unanimously approved.

- **Exceptions Hearing: Recommended Decision in the Matter of the Relocation of Washington Adventist Hospital and the Establishment of a Special Hospital-Psychiatric (Docket No. 13-15-2349)**

Chairman Tanio said that, because the Commission had voted to uphold Commissioner Phillips' decision not to hold an evidentiary hearing in the Adventist HealthCare review, the Commission would move to the agenda item regarding Commissioner Phillips' Recommended Decision. He noted that the Commission would hear oral argument on exceptions to that proposed decision, and would also hear comments from the City of Takoma Park. He asked Commissioner Phillips to introduce her Recommended Decision.

Commissioner Phillips noted that the Commission members had received her Recommended Decision in her review of the application by Adventist HealthCare to relocate Washington Adventist Hospital from Takoma Park and replace it with a smaller 170-bed general hospital in the White Oak area of Silver Spring, a site that is approximately 6 ½ miles from the existing hospital. She pointed out that, as part of its application, Adventist HealthCare proposed to renovate space at the existing hospital that houses 40 acute inpatient psychiatric beds and to relicense the service as a special hospital-psychiatric service to be operated by Adventist Behavioral Health, a division of Adventist HealthCare. She stated that Washington Adventist Hospital had operated in Takoma Park for over a century. She said that the site visit she conducted was important to her decision.

Commissioner Phillips stated that, after reviewing the record and analyzing various issues raised in the review, she issued a proposed decision in which she recommended that the Commission approve the application with a condition designed to assure that Adventist HealthCare follows through on its commitment to keep unscheduled outpatient medical care services operating on its Takoma Park campus. She pointed out her recommendation that the Commission require Adventist HealthCare to report to the Commission on the operation of the specialty behavioral health hospital in its fourth year of operation, and noted that her Recommended Decision has other standard conditions that the Commission requires when shell space is constructed as part of a hospital project.

Chairman Tanio announced the procedure for the presentation of arguments on exceptions filed by Holy Cross Hospital and MedStar Montgomery Medical Center. He noted that the third interested party in the review did not file exceptions and that the City of Takoma Park, a participating entity in the review, filed

comments on the Recommended Decision. He pointed out that each Commissioner had received copies of the Recommended Decision, the exceptions, the City's comments, and the applicant's responses to exceptions and comments.

The Commission heard oral arguments on exceptions to the Recommended Decision from Holy Cross Hospital, through its counsel Tom Dame, and from MedStar Montgomery Medical Center, through its counsel Kurt Fischer. Mayor Kate Stewart and City Attorney Susan Silber presented comments of the participating entity, the City of Takoma Park. Adventist HealthCare, through Terry Forde, its President and CEO, and Jack Morkan, its counsel, argued in favor of the Reviewer's Recommended Decision.

Following those arguments, Commissioner Phillips stated that she had considered the written exceptions, comments, and responses to comments made by the parties and that she had listened carefully to their oral arguments. She noted that many of the points made in the exceptions echoed earlier comments that she had addressed in her Recommended Decision. She said that she believed that, upon completion, the proposed project will be of great benefit to the residents of southeastern Montgomery County and the neighboring northern quadrant of Prince George's County. She stated that the proposed project is needed, will be financially viable, and is consistent with State Health Plan standards and CON review criteria. She said that she carefully considered the impact on the local community, and concluded that the new hospital would preserve the population's access to hospital services but in a modern facility rather than in a deteriorating one. She said that the replacement hospital and changes to the Takoma Park campus will benefit the area's population while avoiding an undue negative impact on other hospitals.

Commissioner Phillips made a motion that the Commission adopt her Recommended Decision and award the Certificate of Need with proposed conditions, which was seconded by Commissioner Moffit. Following discussion among the members of the Commission and additional comments by the parties, the Certificate of Need was unanimously approved. Commissioner Thomas recused himself from this action.

ACTION: Certificate of Need, Relocation of Washington Adventist Hospital and the Establishment of a Special Hospital-Psychiatric (Docket No. 13-15-2359) is hereby APPROVED.

ITEM 5.

Overview of Upcoming Initiatives

Ben Steffen, Executive Director, reported that the Commission's January agenda will include a presentation on the Electronic Health Record Incentive Report, a presentation of the dashboard developed for the Maryland Insurance Administration, and a preview of the 2016 session of the Maryland General Assembly.

ITEM 6.

ADJOURNMENT

There being no further business, the meeting was adjourned at 3:20 p.m. upon motion of Commissioner Schneider, which was seconded by Commissioner Moffit and unanimously approved.