

Craig P. Tanio, M.D.
CHAIR



Ben Steffen
EXECUTIVE DIRECTOR

MARYLAND HEALTH CARE COMMISSION

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Thursday, February 18, 2016

Minutes

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

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

Chairman Tanio welcomed and introduced Dr. Michael O’Grady, who was very recently appointed to the Commission. The Chairman noted that Dr. O’Grady is Principal of O’Grady Health Policy, a health consulting firm where he provides health policy research and analysis for public, non-profit, and private sector entities. He is also a Senior Fellow at the National Opinion Research Center at the University of Chicago. Even though Dr. O’Grady had not been sworn in as a Commissioner, he attended the February meeting of the Commission. He appeared before the Senate Executive Committee on February 29, 2016 and his nomination was confirmed on March 4, 2016.

ITEM 1.

Approval of the Minutes

Commissioner Fleig made a motion to approve the minutes of the January 21, 2016 meeting of the Commission, which was seconded by Commissioner Schneider and unanimously approved.

ITEM 2.

Update of Activities

Ben Steffen, Executive Director, said that budget hearings were held in both the House and the Senate last week. He noted that staff was asked to comment on implementation of the recommendations of the Department of Legislative Services preliminary sunset review, including the Commission’s ability to operate under its current user fee cap. Mr. Steffen noted that the Commission’s appropriation of \$14.9 million will be funded through the Maryland Health Care Commission’s assessment and the fund balance.

ITEM 3.

ACTION: COMAR 10.25.18, Health Information Exchanges: Privacy and Security of Protected Health Information, Proposed Amendments

Angela Evatt, Chief of Health Information Exchange, recommended that the Commission adopt amendments to COMAR 10.25.18 *Health Information Exchanges: Privacy and Security of Protected Health Information*. Ms. Evatt noted that health information exchanges (HIEs) provide the capability for appropriately authorized and authenticated health care providers to securely exchange electronic protected health information. Ms. Evatt mentioned that HIEs can help improve quality, prevent medical errors, and reduce costs by delivering essential information to health care providers at the point of care delivery. The amendments to the regulations are designed to enhance the privacy and security of protected health information that is obtained or released through an HIE for secondary use. The amendments also include additional enhancements that permit emergency access for authorized health care providers to electronic health information through an HIE under certain circumstances. Commissioner Montgomery made a motion to adopt the proposed permanent amendments to COMAR 10.25.18, which was seconded by Commissioner Carr York, and unanimously approved.

ACTION: COMAR 10.25.18, Health Information Exchanges: Privacy and Security of Protected Health Information, are hereby ADOPTED as proposed permanent regulations.

ITEM 4.

ACTION: Certificate of Need/Change in Approved Project: Prince George's Post-Acute, LLC (Docket No. 13-14-2347)

Prince George's Post-Acute, LLC (PGPA), an affiliate of Future Care, submitted an application to modify its previously approved Certificate of Need to construct a 150-bed comprehensive care facility in Landover, Maryland. Kevin McDonald, Chief of Certificate of Need, presented the staff recommendation. Mr. McDonald said that PGPA is requesting authorization for several changes that require Commission approval. He said that PGPA now estimates that the cost of the project will be approximately \$8.86 million above the cost approved in 2014, which is an increase of 46.5%, far exceeding the permissible inflation allowance. Mr. McDonald said that the updated total project cost is estimated at \$27,929,096. He said that the applicant stated that the main reason for the large difference in cost, was that its 2014 estimate was poorly developed and that changes in facility design also contributed to the new and higher cost estimate. Mr. McDonald also noted that the applicant sought approval for a change to the project's financing mechanism, stating that the original financing plan included \$17.1 million to be financed through a commercial loan, and the applicant now plans to borrow \$22.4 million but obtain federal loan guarantees. Staff recommended that the Commission approve the proposed modification of the Certificate of Need issued to PGPA with the same conditions issued with the 2014 CON. Commissioner Pollak made a motion to approve the staff recommendation, which was seconded by Commissioner Thomas and unanimously approved.

ACTION: Modification to Certificate of Need: Prince George's Post-Acute, LLC (Docket No. 13-14-2347) is hereby APPROVED.

ITEM 5.

UPDATE: Development of a State Health Plan Chapter for Freestanding Medical Facilities

Paul Parker, Director of the Center for Health Facility Planning and Development, provided an update and the staff's approach for the development of the State Health Plan Chapter. Mr. Parker summarized the definition of a Freestanding Medical Facility (FMF), and noted that Maryland currently has three Freestanding Medical Facilities: Germantown Emergency Center, and Queen Anne's Emergency Center, Bowie Health Center. He described the main features of the policy framework and standards in developing the draft chapter of the State Health Plan. He said that the draft Chapter was released for informal comment in December 2015 and summarized the informal comments received. Mr. Parker discussed legislation that was filed during the current legislative session that, under certain circumstances, would permit the Commission to issue an exemption from Certificate of Need for a hospital conversion to a freestanding medical facility and the implications of that bill for development of the State Health Plan Chapter. A discussion ensued regarding options for next steps during this process.

ITEM 6.

PRESENTATION: 2016 Legislative Session

Erin Dorrien, Chief of Government and Public Affairs, said that SB 707/HB 1350 "Freestanding Medical Facilities – Certificate of Need, Rates and Definitions, would establish an exemption process for a licensed general hospital to convert to a freestanding medical facility through Commission approval of an exemption from Certificate of Need. Ms. Dorrien said it would also expand the scope of services that can be offered at a freestanding medical facility to observation stays and outpatient services authorized by the Health Services Cost Review Commission, and expand public notification requirement for closure or conversion. The Commission discussed the bill and requested that Commission testimony encourage a quality component and more flexibility. Mr. Steffen said that Commission staff will accomplish quality requirements through the State Health Plan standards. The Commission generally agreed to support SB 707. Ms. Dorrien provided a bill summary chart of all bills that are currently being tracked.

ITEM 7.

Overview of Upcoming Initiatives

Ben Steffen, Executive Director, reported that the Commission's March agenda will include a status report and update on hospice need projections, proposed legislation, final regulations regarding home health agency services, and an update on the 2014 PCMH shared savings.

ITEM 9.

ADJOURNMENT

There being no further business, the meeting was adjourned at 4:0 p.m. upon motion of Commissioner Schneider, which was seconded by Commissioner Thomas and unanimously approved.