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CHAIR



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MARYLAND HEALTH CARE COMMISSION

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Thursday, December 15, 2016

Minutes

Vice Chair Phillips called the meeting to order at 1:20 p.m.

Commissioners present: Carr-York, Fleig, Hafey, Metz, Moffit, O'Connor, Pollak, Sergent, Stollenwerk, Thomas, Tomarchio, and Weinstein.

Ben Steffen, Executive Director, announced that presentation on the *Overview of Maryland's Comprehensive Primary Care Program* will be rescheduled for the January 2017 public meeting.

ITEM 1.

Approval of the Minutes

Commissioner Fleig made a motion to approve the minutes of the November 17, 2016 meeting of the Commission, which was seconded by Commissioner Pollak and unanimously approved.

ITEM 2.

Update of Activities

Ben Steffen, Executive Director, said that Commission staff had requested that publication of the Freestanding Medical Facilities proposed regulations be delayed due to questions raised by the legislative leadership. Mr. Steffen said that staff will be reviewing the proposed regulations and may return to the Commission with recommended changes. He also noted that the first meeting of the ambulatory surgery work group had been scheduled for January 6, 2017.

ITEM 3.

ACTION: Annual Mandate Report: Coverage for Digital Tomosynthesis (3-D Mammograms) and Coverage for Lymphedema Diagnosis, Evaluation, and Treatment

Vice Chair Phillips noted that Maryland law requires that the Commission annually assess the impact of proposed mandated health insurance services that were either proposed but not adopted during the preceding legislative session or that were submitted to the Commission for analysis by a legislator before July 1 of the preceding year. The Commission received formal requests to assess proposed mandates for

coverage of lymphedema treatment and digital tomosynthesis for breast imaging. Janet Ennis, Chief of Special Projects, introduced the Commission's consulting actuary, Donna Novak, founder of NovaRest, and Karen Bender, NovaRest's subcontractor, who presented the report via webinar.

Donna Novak stated that NovaRest estimated that mandating the coverage for the diagnosis, evaluation, and treatment of lymphedema would increase the cost of health coverage in Maryland by about \$.07 per member per month. She noted that while the impact of any one mandate is small, the cumulative impact of a mandate can be significant. After discussion, Commissioner Thomas made a motion to approve the inclusion in the report of NovaRest's conclusion regarding digital tomosynthesis, which was seconded by Commissioner Fleig, and unanimously approved. Karen Bender stated that NovaRest concluded that mandating the coverage for digital tomosynthesis would not have a material impact on the total cost of health care in Maryland. Commissioner O'Connor made a motion to approve the inclusion in the report of NovaRest's conclusion regarding digital tomosynthesis and to release the report to the General Assembly, which was seconded by Commissioner Pollak, and unanimously approved. A discussion ensued, and the Commission agreed that urging the legislature to proceed with caution when considering the adoption of additional mandated health insurance services, given their cumulative deleterious impact on affordability, despite a minimal impact on premiums at the time of adoption. The Commission also suggested that staff make reference to the US Preventive Services Task Force report, which found that the evidence is inconclusive to assess the benefit and harms of digital breast tomosynthesis as a primary screening method for breast cancer. Staff agreed to capture those suggestions in the transmittal letter to the General Assembly.

ACTION: Approval of the Release - Annual Mandate Report: Coverage for Digital Tomosynthesis (3-D Mammograms) and Coverage for Lymphedema Diagnosis, Evaluation, and Treatment

ITEM 4.

ACTION: Certificate of Need – Reviewer's Recommended Decision – Recovery Centers of America – Earleville (Docket No. 15-07-2363)

Vice Chair Phillips stated that Recovery Centers of America applied for a Certificate of Need for 21 alcohol and substance abuse detoxification beds (American Society of Addictions Management, Level III-7.D), which are regulated by the Commission. Commissioner Randolph Sergent, who served as the Reviewer of the contested application, presented his Recommended Decision. He noted that there were two interested parties in this review, Ashley, Inc. d/b/a Ashley Addiction Treatment (previously known as Father Martin's Ashley), and Anne Arundel General Treatment Services, Inc. d/b/a Pathways. He stated that, because the interested parties did not file exceptions to the Recommended Decision, there would not be an exceptions hearing. Commissioner Sergent said that based on his review and analysis of the application and the record in the review, Recovery Centers of America – Earleville's proposed project complied with the applicable State Health Plan standards and Certificate of Need review criteria. He noted that the project's impact on existing providers will not be overly negative, especially in the longer term, while it will have a positive impact on consumers' access to services, especially the population that will benefit from the required charity care that will be offered. Commissioner Sergent recommended that the Commission adopt his Recommended Decision as its decision and approve the Certificate of Need application, as modified, to establish an Alcohol and Drug Abuse Intermediate Care Facility at 314 Grove Neck Road, Earleville, Maryland, with certain conditions. Commissioner O'Connor made a motion to adopt the Recommended Decision, which was seconded by Commissioner Moffit, and unanimously approved.

ACTION Certificate of Need – Reviewer's Recommended Decision – Recovery Centers of America – Earleville (Docket No. 15-07-2363) is hereby APPROVED.

ITEM 5.

ACTION: Certificate of Need – Maryland House Detox (Docket No. 16-02-2374)

Vice Chair Phillips introduced this matter by noting that Delphi Behavioral Health Group and DCX Group, which will do business as Maryland House Detox, applied for a Certificate of Need to establish a new Intermediate Care Facility that will contain only detoxification beds in Linthicum, Anne Arundel County. Kevin McDonald, Chief of Certificate of Need, presented the staff recommendation. Mr. McDonald said that the proposed program would operate 16 adult alcohol and substance abuse detoxification beds (American Society of Addictions Management, Level III-7.D) Mr. McDonald noted that the detox program will occupy the structure at 817 South Camp Meade Road, which was formerly occupied by Hospice of the Chesapeake. He said that the estimated total project cost is \$1,936,275, which includes \$1,194,800 for the design, permits, and renovations to the proposed site, and \$741,475 in working capital costs for start-up and carrying costs related to land lease obligations, furniture, and staffing. Mr. McDonald stated that the applicant will finance the project with cash. He also stated that the project proposed by Maryland House Detox complies with applicable State Health Plan standards and Certificate of Need review criteria. Staff recommended that the Commission approve the application of the Maryland House Detox for a Certificate of Need, with conditions. Commissioner Carr-York made a motion to approve the staff recommendation, which was seconded by Commissioner Fleig, and unanimously approved.

ACTION: Certificate of Need – Maryland House Detox (Docket No. 16-02-2374) is hereby APPROVED.

ITEM 6.

ACTION: Massachusetts Avenue Surgery Center (Docket No. 16-15-2378)

Mr. McDonald presented the staff recommendation regarding the application of Massachusetts Avenue Surgery Center for a Certificate of Need to convert an existing non-sterile procedure room to a fourth operation room. Mr. McDonald said that Massachusetts Avenue Surgery Center is an ambulatory surgical facility with three operating rooms and one procedure room, located in Bethesda, Montgomery County, Maryland. He said that the applicant proposed to convert the existing non-sterile procedure room to a fourth operating room, and that the project's total estimated cost of \$266,397 will be funded with cash, and is anticipated to take five months to complete. Mr. McDonald said that the project complies with the applicable State Health Plan standards and CON review criteria. Staff recommended that the Commission approve the application of the Massachusetts Avenue Surgery Center for a Certificate of Need. Commissioner Pollak made a motion to approve the staff recommendation, which was seconded by Commissioner Moffit, and unanimously approved.

ACTION: Certificate of Need - Massachusetts Avenue Surgery Center (Docket No. 16-15-2378)

ITEM 7.

ACTION: User Fee Assessments – Report and Proposed Regulations

Bridget Zombro, Director of Administration, and Denise Ridgely, Program Manager, presented the study on user fee assessments, as well as draft amendments to existing regulations. Ms. Zombro provided background information noting that SB 786 “Department of Health and Mental Hygiene – Maryland Health Care Commission – Modifications and Clarifications” was enacted during the 2001 legislative session, and required that every four years the Commission: (1) make a recommendation on the Commission’s statutory cap; (2) use a methodology that accounts for the portion of the Commission’s workload attributable to each industry assessed and place that allocation into regulation; and (3) consider the hourly wages of the health care practitioners and give preference for exemption to those health care

practitioners with an average hourly wage substantially below that of other health care practitioners. Ms. Zombro also described how the assessment is calculated, the background of the assessment mechanism, and summarized the allocation of costs. Using an average between fiscal year 2017, 2018, and 2019, the recommended new allocation by industry is as follows: (1) Payers – 26%; (2) Nursing Homes – 19%; (3) Hospitals – 39%; and (4) Health Occupation Boards – 16%. Staff recommended amending COMAR 10.25.02, User Fee Assessment on Health Care Practitioners, and COMAR 10.25.03, User Fee Assessment of Payers, to reflect the new cost allocations. Staff will continue to study the feasibility of assessing other health care providers who benefit from the services provided by the Commission, and concurs with the Department of Legislative Services' conclusion that the user fee cap should be increased. Commissioner Thomas made a motion to approve the staff recommendation, which was seconded by Commission Stollenwerk, and unanimously approved.

ACTION: Report on User Fee Assessment APPROVED for Release. Amendments to COMAR 10.25.02, User Fee Assessment on Health Care Practitioners, and to COMAR 10.25.03, User Fee Assessment of Payers, adopted as proposed permanent regulations.

ITEM 8.

PRESENTATION: Grant Award – Improving Patient Outcomes Using mHealth Technology

Justine Springer, Program Manager, Center for Health Information Technology and Innovative Care Delivery, made a presentation regarding the Commission's award of a grant regarding mobile health. Ms. Springer said that staff received nine letters of intent in response to the August 2016 Announcement for Grant applications and that seven organizations were invited to submit applications. Ms. Springer announced that Johns Hopkins Pediatrics at Home was awarded the grant. Among other things, the grant aims to: increase access to health care services; improve communication between consumers and health care providers; improve public health; and enable consumers to take more responsibility in managing their health. A final report from Johns Hopkins Pediatrics at Home is due in July 2018.

ITEM 9.

Overview of Upcoming Initiatives

Mr. Steffen said that the January 2017 meeting of the Commission will include a telehealth grant award, several certificate of need actions, the hospital health IT report, and an update on the total cost of care benchmark report.

ITEM 10.

ADJOURNMENT

There being no further business, the meeting was adjourned at 4:10 p.m. following a motion by Commissioner Fleig, which was seconded by Commissioner Sergent and unanimously approved.