

**Robert E. Moffit, Ph.D**  
CHAIR



**Ben Steffen**  
EXECUTIVE DIRECTOR

## **MARYLAND HEALTH CARE COMMISSION**

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**Thursday, February 15, 2018**

### **Minutes**

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

**Commissioners present:** Fleig, Peters, Pollak, Sergent, Thomas, Tomarchio, and Wang

Chairman Moffit asked fellow Commissioners, staff, and the public to join him in a moment of silence for the victims of the shooting at the Parkland, Florida high school.

### **ITEM 1.**

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

Commissioner Wang made a motion to approve the minutes of the January 18, 2018 public meeting of the Commission, which was seconded by Commissioner Fleig and unanimously approved. Commissioner Fleig made a motion to approve the minutes of the February 5, 2018 teleconference meeting of the Commission, which was seconded by Commissioner Wang and unanimously approved.

### **ITEM 2.**

#### **Update of Activities**

Ben Steffen, Executive Director, said in the interest of time, he would send an email to the Commissioners providing an update of current activities.

Kevin McDonald, Chief of Certificate of Need, introduced and welcomed Laura Hare, Program Manager for the Certificate of Need division.

### ITEM 3.

#### **ACTION: Certificate of Need – Broadmead, Inc. (Docket No. 17-03-2394)**

Broadmead, Inc., a Continuing Care Retirement Community, applied for Certificate of Need to renovate its 70-bed nursing home. Mr. McDonald presented the staff report and recommendation. Mr. McDonald noted that this project would not increase the number of licensed beds, but will increase the number of private rooms from 40 to 54 and will reorganize the CCF bed capacity into “households” for specific categories of nursing home patients. He said that Broadmead believes the project will reduce the institutional quality of the current facility, establishing a more home-like setting. Mr. McDonald noted that the total estimated cost Broadmead’s complete CCRC campus expansion and renovation project is \$78,528,000, and the reviewable CCF component is estimated to cost \$14,723,000. Broadmead will fund the project with borrowing, generated through the sale of bonds, totaling \$14,537,000 and \$186,000 in cash equity. Staff recommended approval of the Certificate of Need application, with conditions. Commissioner Fleig made a motion to approve the Certificate of Need application, which was seconded by Commissioner Thomas, and unanimously approved.

**ACTION: Certificate of Need – Broadmead, Inc. (Docket No. 17-03-2394) is hereby Approved.**

### ITEM 4.

#### **ACTION: Appointment of Dr. Stefan Schena to the MHCC Cardiac Services Advisory Committee**

Eileen Fleck, Chief of Specialized Programs, asked the Commission to approve Dr. Stefan Schena, Johns Hopkins Medicine, to the Cardiac Services Advisory Committee as a permanent replacement for Dr. John Conte, who left Johns Hopkins Medicine. Commissioner Pollak made a motion to approve Dr. Schena as a member of the Cardiac Services Advisory Committee, which was seconded by Commissioner Sergent and unanimously approved.

**ACTION: Appointment of Dr. Stefan Schena to the MHCC Cardiac Services Advisory Committee was hereby Approved.**

### ITEM 5.

#### **ACTION: COMAR 10.25.18 – Health Information Exchanges: Privacy and Security of Protected Health Information – Proposed Permanent Regulations**

Angela Evatt, Chief of Health Information Exchange, presented as proposed permanent amendments to COMAR 10.25.18 – *Health Information Exchanges: Privacy and Security of Protected Health Information*. The proposed amendments align existing sensitive health information requirements in the regulations with recent changes in federal regulations. Ms. Evatt reported that staff released draft amendments for informal public comment on September 22, 2017, and received two comment letters and two letters of support. Staff also received suggestions from the Health Education and Advocacy Unit of the Consumer Protection Division

of the Maryland Attorney General's Office. Staff recommended that the Commission adopt the amendments. Commissioner Pollak made a motion to approve the staff recommendations, which was seconded by Commissioner Thomas and unanimously approved.

**ACTION: COMAR 10.25.18 – Health Information Exchanges – Privacy and Security of Protected Health Information – Proposed Permanent Regulations are hereby Approved.**

#### **ITEM 6.**

**ACTION: COMAR 10.15.19 – State Recognition of an Electronic Advance Directives Service – Final Regulations**

Nikki Majewski, Chief of Health Information Technology, presented for consideration as final regulations, COMAR 10.15.19 – *State Recognition of an Electronic Advance Directives Service*. Ms. Majewski noted that the Commission, in collaboration with the Maryland Department of Health, is required to develop and implement a statewide electronic advance directives services program. Ms. Majewski reported that the Commission adopted the proposed regulations on June 15, 2017. Staff received four favorable comment letters on the proposed regulations that were published in the *Maryland Register* on December 22, 2017. Staff recommended that the Commission adopt the regulations as final. Commissioner Thomas made a motion to approve staff's recommendation, which was seconded by Commissioner Pollak and unanimously approved.

**ACTION: COMAR 10.15.19 – State Recognition of an Electronic Advance Directives Service – Final Regulations are hereby Approved.**

#### **ITEM 7.**

**PRESENTATION: Comprehensive Care Facility – A Health IT Adoption Update**

Eva Lenior, Program Manager for the Center for Health Information Technology and Innovative Care Delivery, provided an update on health IT diffusion among comprehensive care facilities (CCFs). Ms. Lenior reported that the rate of electronic health record (EHR) adoption by CCFs in Maryland exceeds the nation. Ms. Lenior mentioned that PointClickCare has been implemented by over half of Maryland CCFs with an EHR, and that about half of all CCFs access the State-Designated Health Information Exchange patient query portal. Staff intends to work with LifeSpan and the Health Facilities Association of Maryland over the next year to increase CCF awareness of EHRs and health information exchange. Ms. Lenior noted that staff plans to develop initiatives aimed at building consumer awareness of the value of an EHR in CCFs.

#### **ITEM 8.**

**PRESENTATION: Proposed Legislation**

Mr. Steffen provided an update on the following legislation that could affect the Commission.

***HB 384 “Substance Use Facilities and Programs – CON – Repeal Requirement”*** – Mr. Steffen noted that staff testified in support of HB 384 before the Health Government Operations Committee on February 13<sup>th</sup>. He said that there was opposition to the bill by providers and the Health, Education, and Advocacy Unit of the Office of the Attorney General that this proposed

change in the scope of Certificate of Need regulation is premature. Staff will provide a follow-up letter to the Committee Chair.

***SB 17 “Health Information Exchanges – Definitions and Regulations”*** - Staff testified in support of SB 17 before the Senate Finance Committee in January. Staff worked with the Maryland Hospital Association, and the Health, Education, and Advocacy Unit of the Office of the Attorney General, and CRISP to agree on amendments to this bill. SB 17 has passed in Senate Finance, and has crossed over to the House Health and Government Operations Committee.

***SB 896 “Public Health – Health Record and Payment Clearinghouse – Pilot Program”*** – Mr. Steffen said that this bill would require the Commission to establish a pilot program to test the feasibility of combining clinical health, claim submission, and payment clearinghouse data. Staff recommended submitting a letter of information outlining concerns about the proposed legislation as much of the work is currently underway by the State-Designated HIE, and the bill may have unintended consequences on ICN activities.

***SB 1024 “Self-Referrals – Oncology Group Practices – Exemption”*** – This legislation would allow one medical oncology practice to establish integrated medical and radiation therapy services by establishing an additional exemption in the Maryland Patient Referral Law. Mr. Steffen recommended working with the sponsor and the Maryland Hospital Association to develop a compromise.

***SB 682 “Medical Assistance Program and Health Insurance – Emergency Medical Services Providers – Coverage and Reimbursement of Services”*** – This legislation would expand the scope of services that may be billed by EMS providers, and is based on a successful program in Queen Anne’s County and five other counties. Staff recommended working with the sponsor and payers to resolve any concerns, and submitting a letter of information.

***SB 1056 “Rural Health Collaborative Pilot”*** - This legislation would establish a regional planning collaborative composed of up to 35 members that plans establishment of rural health complexes in the Mid-Eastern Shore, including a 12-member executive committee. The key functions of this bill are to: assess the needs of communities in the mid-shore region that lack access to essential community-based care; identify care delivery modes that may reduce deficits in care; convene health and hospital systems, community organizations, and local stakeholders to build consensus on the appropriate scale of a rural health complex; and recommend rural health complexes for approval by the Health Secretary. Staff recommended supporting SB 1056.

## **ITEM 9.**

### **PRESENTATION: Privately Insured Spending in the Individual Market**

Ken Yeates-Trotman, Chief of All Payer Claims Database, presented information on spending and utilization by individuals covered through the individual market products purchases on the Health Insurance Exchange and off the Exchange. Mr. Yeates-Trotman said that there was a significant slowdown in overall health care spending growth Maryland’s individual market in 2016 compared to 2015. He said that spending could accelerate if healthier people exit the individual market due to higher premiums and the elimination of the tax penalty. He also said

that the departure of healthier people would result in insurers' pooled claims experience getting worse, causing large financial losses to insurance companies. As a result, premiums would increase substantially, with individuals covered through the off-exchange market bearing the full burden of the rise in premiums because they do not have access to federal subsidies. Mr. Steffen noted that staff will share the individual market report with the legislature.

#### **ITEM 10.**

##### **PRESENTATION: Findings from the NHRI Report "Healthcare Affordability: Untangling Cost Drivers"**

Linda Bartnyska, Director of the Center for Analysis and Information Systems, presented the finding from the NHRI Report "Healthcare Affordability: Untangling Cost Drivers. Ms. Bartnyska said this is NRHI's second annual report comparing the total cost of care in various U.S. regions. She noted that the report focused on how different care delivery patterns and local prices have led to significant cost differences between Oregon, Utah, Colorado, Minnesota, and Maryland. Ms. Bartnyska said that among the five states, Maryland was lowest, with the total cost being 16 percent lower than the average, risk-adjusted per member, per month cost across participating regions. She said that Maryland's cost performance was driven by price, which was the lowest among the regions at 13% below the group average. On resource use, Maryland ranked in the middle, with total resource use 3% below the group average. Ms. Bartnyska said that Maryland had the lowest risk-adjusted costs for inpatient, outpatient, and professional services, but ranked fourth in pharmacy cost at 7% above the average. The results for 2015, the most recent year for which consistent data are available for all five states, mirrors results for 2014 where Maryland also ranked the lowest.

#### **ITEM 7.**

##### **Overview of Upcoming Initiatives**

Mr. Steffen announced that the March meeting of the Commission will include presentations from our Health IT team related to telehealth grants and Hospital Health IT, a Certificate of Need application, an update to the Cardiac Surgery Chapter of the State Health Plan to be released for informal public comment, an update on the status of legislation, and an update to the consumer website for healthcare quality reports.

#### **ITEM 8.**

##### **ADJOURNMENT**

There being no further business, with meeting was adjourned at 4:00 p.m. upon motion of Commissioner Sergent, which was seconded by Commissioner Wang and unanimously approved.