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CHAIR

STATE OF MARYLAND

Ben Steffen
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MARYLAND HEALTH CARE COMMISSION

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Thursday, March 21, 2019

Minutes

Chairman Pollak called the meeting to order at 1:04 p.m.

Commissioners present: Boyle, Peters, Sergent, Metz, O'Connor, O'Grady, Tomarchio, Metz and Wang.

AGENDA ITEM 1.

Approval of the Minutes

The Commission considered three sets of meeting minutes in separate votes.

Commissioner Boyle made a motion to approve the minutes of the February 21, 2019 public meeting of the Commission with the correction of one grammatical error. The motion was seconded by Commissioner Wang and unanimously approved.

Commissioners Boyle made a motion to approve the minutes from the February 15, 2019 legislative meeting conducted by teleconference. Commissioner Tomarchio seconded the motion, which was unanimously approved.

Commissioner Hammersla made a motion to approve the minutes from the March 1, 2019 legislative meeting conducted by teleconference. Commissioner Tomarchio seconded the motion, which was unanimously approved.

AGENDA ITEM 2.

Update of Activities

Ben Steffen, Executive Director, introduced his new executive assistant Dee Stephens to the Commission. Mr. Steffen also gave an update on work groups that are underway. He noted that, over the next four to six months, these work groups will develop draft reports and recommendations for the Commission, which will result in MHCC reports to the General Assembly. Mr. Steffen stated that additional work groups are likely to be convened as the result of legislation that is expected to pass this year.

Mr. Steffen also stated that CMS updated results regarding its five-star rating system for hospitals. Those results showed some improvements for Maryland hospitals over previous years. He stated that Commission staff is reviewing proposals for continued development and maintenance of the Maryland Health Care Quality Reports website.

Commissioner Sergent asked Mr. Steffen about the episodes of care on the Wear the Cost website. He asked whether the Commission has a plan for expanding the number of episodes, which he said should be a Commission priority. Mr. Steffen responded that the staff will update the Commission on the plan for expanding the website at the April meeting. Mr. Steffen added that the next step will be to add episodes of care for the Medicare population followed by an expansion on the number of episodes for the privately insured population.

AGENDA ITEM 3.

ACTION: Certificate of Need – Prince George's County Hospice Review - Amedisys Maryland, L.L.C. (Docket No. 16-16-2382); Bayada Home Health Care, Inc. (Docket No. 16-16-2383); Montgomery Hospice, Inc. (Docket No. 16-16-2384); and P-B Health Home Care Agency, Inc. (Docket No. 16-16-2385)

Commissioner O'Grady reviewed the four applications for Certificates of Need to provide hospice services in Prince George's County. He identified the applicants as: Amedisys Maryland LLC d/b/a Amedisys Hospice of the Greater Chesapeake; BAYADA Home Health Care Inc. d/b/a Bayada Hospice; Montgomery Hospice, Inc.; and P-B Home Health Care Agency. Commissioner O'Grady noted that this was a comparative review and that he issued his Recommended Decisions on March 1, in which he recommended that the Commission approve all four applications. He pointed out that the Center for Medicare and Medicaid Services rated each of the applicants as relatively high-quality providers. Dr. O'Grady stated that Prince George's County has one of the lowest hospice use rates in the State and that there is a significant need within this county of 900,000 people. He said that approval of these four applicants will increase access for County residents to additional quality hospice services.

Commissioner O'Grady stated that his initial review showed that none of the applicants was fully in compliance with the Charity Care standard and other requirements in the Hospice Services Chapter of the State Health Plan. For this reason, he advised the applicants of the changes required for him to recommend that the Commission approve the applications. Each applicant submitted a modified application that met the standards in the Hospice Services Chapter and CON review criteria. Commissioner O'Grady moved to approve these applications with the

following conditions: (1) each hospice must provide documentation of its links with hospitals, nursing homes, home health agencies, assisted living providers, adult evaluation and review services, senior information and assistance programs, adult daycare programs, the Prince George's County Department of Social Services and home health delivered meal programs that operate within Prince George's County; and (2) prior to the first use of approval, each hospice must provide documentation of its system for providing respite care for the families and other caregivers of patients.

Commissioner Boyle asked whether there would there be enough trained staff to take care of the patients and families when four hospices enter the market at the same time. Commissioner O'Grady said that part of the review process was to confirm that the nursing ratios were reasonable. A concern was also raised about the HHS Office of the Inspector General's charges against Amedisys on submission of false Medicare claims. Ms. Marta Harting, counsel to Amedisys, stated that a compliance team put together two types of audits: a clinical review of claims; and a clinical review of documentation. She stated that, although the issue arose on the home health side, recent audits showed a 2.7 percent error rate in its claim submissions, which is below the expectations of the Corporate Integrity Agreement (CIA). She concluded by noting that the CIA with CMS will expire in April 2019.

Commissioner O'Grady made a motion that the Commission adopt his Recommended Decision as its decision and approve each of the Certificate of Need applications. The motion was seconded by Commissioner Hammersla and unanimously approved.

ACTION: Certificates of Need – Amedisys Maryland, L.L.C. (Docket No. 16-16-2382); Bayada Home Health Care, Inc. (Docket No. 16-16-2383); Montgomery Hospice, Inc. (Docket No. 16-16-2384); and P-B Health Home Care Agency, Inc. (Docket No. 16-16-2385) – are hereby APPROVED.

AGENDA ITEM 4.

ACTION: Certificate of Need – Adventist Rehabilitation Hospital of Maryland, Inc. d/b/a Adventist HealthCare Rehabilitation, and Adventist HealthCare, Inc., d/b/a Washington Adventist, Hospital, (Docket No.18-15-2428)

Kevin McDonald, Chief of Certificate of Need, stated that Adventist Rehabilitation Hospital of Maryland, Inc., d/b/a Adventist HealthCare Rehabilitation, and Adventist HealthCare, Inc., d/b/a Washington Adventist Hospital sought Certificate of Need approval to relocate the hospital's 42 inpatient rehabilitation beds that are currently located in Takoma Park at the new hospital under construction in the White Oak area of Silver Spring (Montgomery County). The applicants seek to add two additional floors to the replacement hospital. Mr. McDonald stated that the additional cost associated with this relocation is about $19.5 million and that $14 million of this amount would come from an existing project budget and the remainder from the capital budget. He stated that, in the new location, the 42 beds will be private rooms. He noted that in Adventist HealthCare's justification that the relocation would lower the rehabilitation hospital's cost for ancillary services and free it of the depreciation expense that would be associated with it remaining at the Takoma Park campus. He explained that Adventist Rehabilitation currently has 55 beds in Rockville and the 42 beds in Takoma Park. These two facilities operate under one

hospital; license and that the resulting combined reporting presents a disadvantage in looking at utilization patterns and projecting needs. Staff recommended that the Commission approve the application with the condition that Adventist HealthCare establish two separate licenses, one for Washington Adventist Hospital in White Oak and the other for Adventist Rehabilitation Hospital in Rockville.

Commissioner O'Grady made a motion to approve the Certificate of Need application with the condition that, after the relocation of the 42 beds to White Oak, the hospital have two separate licenses. The motion was seconded by Commissioner Hammersla and unanimously approved.

ACTION: Certificate of Need – Adventist Rehabilitation Hospital of Maryland, Inc. d/b/a Adventist HealthCare Rehabilitation, and Adventist HealthCare, Inc., d/b/a Washington Adventist, Hospital – is hereby APPROVED.

AGENDA ITEM 5.

ACTIONS: Certificates of Ongoing Performance for Cardiac Surgery Services

Eileen Fleck, Chief of Acute Care Policy and Planning, noted that, for the first time, the Commission would consider applications for Certificates of Ongoing Performance regarding cardiac surgery services. She stated that this is a new process that the Commission will use to evaluate the performance of an established cardiac surgery program (or of percutaneous coronary intervention services, which were not before the MHCC that day). Through this process, the Commission will determine whether a hospital should be allowed to continue to provide the service under review for a period specified by the Commission.

Ms. Fleck reviewed reporting requirements for Certificates of Ongoing Performance. All Maryland hospitals with cardiac surgery programs are required to submit information to the nationally recognized Society of Thoracic Surgeons (STS) adult cardiac surgery data registry. The main purpose of the registry is to allow hospitals to receive feedback on their performance and compare their results to their peers and to the national baseline. A second use is for public reporting, which hospitals may opt to join, but are not required to do so by STS. Eight of the ten hospitals offering cardiac surgery report results publicly on the STS website. Hospitals submit data quarterly to the STS and MHCC. Hospitals also submit to the MHCC select information from the feedback performance reports they receive from STS. Ms. Fleck noted that STS audits data periodically to validate the accuracy of the data.

STS awards composite scores for specific categories of cardiac surgery cases, such as coronary artery bypass graft (CABG) cases, of one star, two star or three stars. Three stars are issued to a hospital that has performed statistically above the national average. A one star rating indicates that a hospital performed statistically worse than the national average. A two star rating is awarded to a hospital that performed at a level statistically no different from the national average. To obtain a Certificate of Ongoing Performance, a cardiac surgery program meet specific standards for data collection, quality assurance activities, and performance standards. Ms. Fleck concluded by stating that the Commission monitors programs ability to perform 200 cases annually. She emphasized that the 200 case threshold is no longer a fixed standard. She

went on to clarify that programs that fall below 200 cases could receive a Certificates of Ongoing Performance if their data collection and performance standards and quality assurance activities within the acceptable ranges.

- **ACTION: Certificate of Ongoing Performance for Cardiac Surgery Services to Adventist HealthCare Washington Adventist Hospital (Docket No. 17-15-CP001)**

Ms. Fleck stated that Washington Adventist Hospital met all the requirements for a Certificate of Ongoing Performance, including the target of performing 200 cases annually. She noted that Washington Adventist Hospital achieved two stars or higher for all six of the reporting periods shown, and that it achieved three stars in four of those reporting periods. As noted in the staff report, isolated CABG is only one of multiple types of cardiac surgery that may be performed. However, it is one of the most common procedures performed and allows for a fair and consistent basis to look at hospitals and evaluate their overall performance. Ms. Fleck stated that MHCC staff recommended the issuance of a Certificate of Ongoing Performance to Washington Adventist Hospital for a four-year period. Commissioner Boyle made a motion to adopt staff's recommendation and issue a Certificate of Ongoing Performance to Washington Adventist Hospital for a period of four years. The motion was seconded by Commissioner Peters and unanimously approved

ACTION: Certificate of Ongoing Performance for Cardiac Surgery Services to Adventist HealthCare Washington Adventist Hospital for Four Years is APPROVED.

- **ACTION: Certificate of Ongoing Performance for Cardiac Surgery Services to Western Maryland Regional Medical Center (Docket No. 17-15-CP002)**

Ms. Fleck stated that Western Maryland Regional Medical Center is the only hospital that performs cardiac surgery in the Western Maryland Planning Region. She noted that the hospital met all the requirements for a Certificate of Ongoing Performance except for the target of performing 200 cases annually. Although the hospital did not met 200-case target, it is performing well above the minimum annual volume of 100 cases that could result in a focused. Commissioner O'Connor asked if there was just one surgeon who performs all the surgeries. Dr. Gerald Goldstein, Chief Medical Director of the hospital, responded that one or two surgeons primarily conduct the procedures. The second surgeon is always available when first is performing surgery or scheduled off. Ms. Fleck said that MHCC staff recommended the issuance of a Certificate of Ongoing Performance to Western Maryland Regional Medical Center for a three-year period. Commissioner Boyle made a motion to adopt staff's recommendation and issue a Certificate of Ongoing Performance to Western Maryland Regional Medical Center for a period of three years. The motion was seconded by Commissioner Hammersla and unanimously approved

ACTION: Certificate of Ongoing Performance for Cardiac Surgery Services to Western Maryland Regional for Three Years is APPROVED.

- **ACTION: Certificate of Ongoing Performance of Cardiac Surgery Services to Peninsula Medical Center (Docket No. 17-22-CP004)**

Ms. Fleck stated that Peninsula Regional Medical Center met all the requirements for a Certificate of Ongoing Performance, noting that it exceeded the target of performing 200 cases annually. She said that MHCC staff recommended the issuance of a Certificate of Ongoing Performance to Peninsula Regional Medical Center for a four-year period. Commissioner Hammersla made a motion to adopt staff's recommendation and issue a Certificate of Ongoing Performance to Peninsula Regional Medical Center for a period of four years. The motion was seconded by Commissioner Boyle and unanimously approved

ACTION: Certificate of Ongoing Performance for Cardiac Surgery Services to Peninsula Regional Medical Center for Four Years is APPROVED.

AGENDA ITEM 6.

ACTION: Legislative Update

Megan Renfrew, Chief of Government Affairs and Special Projects, provided updates on the legislative session. She stated that the Maryland General Assembly is in the final three weeks of the 2019 Session. Over the past several weeks, all three CON bills that conformed to MHCC's CON Modernization Report recommendations have crossed over to the opposite body. She said that MHCC staff is monitoring some other bills, including several that will direct MHCC to conduct studies or convene workgroups. We started with bills that we submitted testimony on this week.

SB 901- Maryland Trauma Fund - State Primary Adult Resource Center- Reimbursement of On-Call and Standby Costs – *Support*. House Appropriations and Senate Finance will request a study of unmet trauma needs.

SB 1010- Maryland Health Care Commission - Assessment of Services at the University of Maryland Shore Medical Center in Chestertown --*Letter of Information*. This was favorably reported out by the Senate Finance Committee and passed second reader in the Senate.

SB 1028- Rural Health Care Scholarship and Grant Program – Established -- *Letter of Information*. This bill was heard in Committee earlier this week but there is no status update as of yet.

SB 733: State Board of Physicians- Registered Cardiovascular Invasive Specialist -- *Letter of Information*. This bill is a level of provider that works under a doctor in a cardiac cath lab and it has already passed in the Senate and crossed over to the House. It will have a hearing before the House Health and Government Operations Committee on Tuesday.

There is two components with this bill 1) providing the authority for this provider type and gives the Board of Physicians regulatory authority over them. 2)a study for MHCC to do a review several years down the road on performance and cardiac cath labs.

HB 1407/ SB 1040- Budget Reconciliation and Financing Act of 2019 (BRFA). House Bill passed with amendments and crossed over. The House Bill transfers $2.0 million from the

Maryland Trauma Fund to Medicaid in FY 2020. The Senate Bill had a Committee Hearing 3/13. We understand Senate bill has no Trauma Fund cut, but amended bill is not posted. Difference will be resolved in Conference Committee.

HB 100 /SB 125- Budget Bill (Fiscal Year 2020). There will also be some reporting requirements that we will want to stay abreast of and have some involvement in MIEMSS which has authority over EMS system in Maryland. We also will be required to report on ER overcrowding in collaboration with HSCRC and submit a report on the progress on reimbursement for EMS new model programs. Also, HSCRC will need to identify total cost of care goals and quality measures for Medicaid.

HB 409/SB 469- Drugs and Devices- Electronic Prescriptions-Requirements. The Commission opposed this bill in February when the House and Senate had hearings. No Update as of yet.

HB 47/SB 404- State Department of Education and Maryland Department of Health- Maryland School-Based Health Center Standards. We are tracking this bill as it relates to the telehealth school based health workgroup and has crossed over in the House and Senate.

HB 626/SB 649 -Health Care Facilities Change in Bed Capacity-Certificate of Need Exemption (Hospice and ICF). House and Senate both passed this bill.

HB 646/SB 597- Maryland Health Care Commission State Health Plan and Certificate of Need for Hospital Capital Expenditures (MHA bill). House and Senate both passed this bill.

HB 931/SB 940- Health Care Facilities-Certificate of Need Modifications (Ambulatory Surgical Facility bill). House and Senate both passed this bill.

SB 1018- Health Facilities Chestertown Rural Health Care Delivery Innovations Pilot Program -- *Letter of Information (Passed out of Committee – 3-19).*

ACTION: NO ACTION REQUIRED

AGENDA ITEM 7.

PRESENTATION: Patient and Family Advisory Council Guide for Ambulatory Practices

Melanie Cavaliere, Chief of Innovative Care Delivery, and Alana Sutherland, Program Manager, presented the Patient and Family Advisory Council (PFAC) Guide (Guide). The Guide is meant to support ambulatory practices in establishing and maintaining a PFAC. Ms. Cavaliere described the development process and how the Guide can be used by practices. Ms. Sutherland discussed key components of the Guide. Ms. Cavaliere noted that the Guide will be posted on MHCC's website and that staff will work with stakeholders to promote its use. Commissioner Boyle asked if PFACs are voluntary or required. Ms. Cavaliere responded that PFACs are voluntary in most value-based care programs; however, they are required under the Maryland Primary Care Program. Chairman Pollak noted the engagement of a practice's PFAC could contribute to the success of the practice in a value-based care program. Commissioner O'Connor inquired about PFAC use in primary care versus specialty practices. Ms. Cavaliere responded that PFACs are commonly used in hospitals, but are less common in specialty practices because

value-based programs are uncommon as of yet. Ben Steffen added that PFACs are only required in primary care programs in the current Care Redesign Programs offered by HSCRC. Ms. Cavaliere further clarified by explained that the PFAC typically provides advice to the practice and not to patients.

ACTION: NO ACTION REQUIRED

AGENDA ITEM 8.

Overview of Upcoming Activities

Ben Steffen recognized the work of Commissioner O'Grady and thanked him for his diligence on this project. He noted that the Commission had not approved a hospice application for many years. He noted that the Maryland Trauma and the Palliative Care Network, the association for hospices industry, had opposed expansion, but had recently become more open to expanding access. He also noted that noted that the Commission and the Network supported HB 626, legislation that would existing hospices in the state to establish or expand inpatient hospice capacity.

Commissioner O'Grady reminded the Commissioners and staff that Maryland hospice use rates are lower than the U.S. rates. Early access to hospice care at the end of life important factor in high-quality end-of-life care and may lower the total cost of care. He noted that Maryland still has work to do and especially in some Western Maryland jurisdictions where use rates are especially low. He speculated that access to hospice services may be the cause, not the population's reluctance to use the service.

Mr. Steffen stated that the Commission may want to focus on economists' longstanding positions on the importance of CON reform, noting that the U.S. Department of Labor could be more proactive in helping. He noted that, at the April meeting, the Commission is expected to consider members to be appointed to the Maryland Primary Care Advisory Council.

AGENDA ITEM 9.

ADJOURNMENT

There being no further business, the meeting was adjourned at 2:45 p.m. upon motion of Commissioner Peters, which was seconded by Commissioner Boyle and unanimously approved.