Andrew N. Pollak, M.D.
CHAIR

STATE OF MARYLAND

Ben Steffen
EXECUTIVE DIRECTOR

MARYLAND HEALTH CARE COMMISSION

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Thursday, April 18, 2019

Minutes

Chairman Pollak called the meeting to order at 1:06 p.m.

Commissioners present: Boyle, Hammersla, Metz, Peters, Rymer, Sergent, along with Commissioners O'Grady, Hafey, Thomas, and Tomarchio, who participated by phone.

Chairman Pollak spoke about the passing of Speaker Michael Busch. He noted Speaker Busch's impact on every corner of the state and his impact on an array of public policy issues including health care. He stated that Speaker Busch's service until the last days of his life was a lasting tribute to his public service and his love for Maryland. At Chairman Pollak's request, those present held a moment of silence to honor Speaker Busch.

Chairman Pollak introduced Martin L Chip" Doordan, whom he noted stated had been appointed to the Commission by Governor Hogan. He stated that, although Mr. Doordan was present, he would be sworn in later and would first participate as a Commissioner at the May 2019 meeting. The Chairman noted that Mr. Doordan had directed the growth of Anne Arundel Medical Center from a community hospital in 1988 to what became, by 2011, a regional health care delivery system that has over 3,200 employees and an annual budget over half a billion dollars. He said that Mr. Doordan holds a Master of Arts in Health Care Administration from George Washington University, a Master of Science from the University of Maryland, and a Bachelor of Science from the University of Delaware. Mr. Doordan also served with the army from 1968 to 1971, including service in Vietnam from 1970 to 1971.

AGENDA ITEM 1.

Approval of the Minutes

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

Commissioner Peters made a motion to approve the minutes of the March 21, 2019 public meeting of the Commission with a correction that Commissioner Hammersla was present. The motion was seconded by Commissioner Hammersla and unanimously approved.

Commissioners Peters made a motion to approve the minutes of the March 15, 2019 legislative meeting conducted by teleconference. Commissioner Hammersla seconded the motion, which was unanimously approved.

AGENDA ITEM 2.

Update of Activities

Ben Steffen, Executive Director, thanked the Commissioners and staff for their diligence in attending legislative meetings over the previous three months. He stated that the Commission had a pretty successful legislative session that would be discussed later in the meeting. Mr. Steffen also noted that the Commission had received the final report from the Office of Legislative Audit and that it contained two findings: (1) a recommendation that the Commission should strengthen its procedures and controls over the fund, including separation of duties among staff; and (2) the identification of miscalculations on on-call payments to several hospitals. He stated that corrections had been made from subsequent payments but that staff will institute a more rigorous review of on-call payments.

Mr. Steffen pointed out that the infant mortality workgroup that was established through 2018 legislation was working diligently to develop recommendations on innovative programs that the State might consider. He stated that the next workgroup meeting is June 4th and that the group will also make a recommendation on whether or not the State should establish a permanent commission on infant mortality.

Mr. Steffen briefly discussed three ongoing workgroups on various issues relating to health. He stated that staff is aiming to have the workgroups' reports finalized well before the start of the 2020 legislative session. He also noted that a workgroup on updating the Psychiatric Services Chapter of the State Health Plan would meet on May 3rd and that House Bill 626 requires the Commission to report to legislative committees on progress in updating the Psychiatric Services Chapter before December 30, 2019.

In regard to procurement, Mr. Steffen noted that the Commission had released a RFP for the development of telehealth readiness tool. He stated that the MHCC will release an RFP for the work required under Senate Bill 1010, which requires MHCC and the Office of Health Care Quality to assess services at UM Shore Medical Center in Chestertown. He stated staff's expectations that a report regarding the assessment would be presented to the Commission by December and to the General Assembly by January 1, 2010.

Responding to Commissioner Sergent's request from the April 2019 Commission meeting, Mahlet Nigatu, Chief of APCD Public Reporting and Data Release, provided an update on plans for publishing additional episodes of care on the "Wear The Cost" website. Ms. Nigatu noted that Commission staff was working with contractors and anticipate that additional episodes of care would be complete by the end of June.

AGENDA ITEM 3.

ACTION: Certificate of Need – Atlantic General Hospital Corporation Establishment of Ambulatory Surgical Facility (Docket No. 18-23-2431)

William Chan, Program Manager, stated that Atlantic General Hospital, located in Berlin, (Worchester County) seeks to establish an ambulatory surgical facility (ASF) in a medical office building currently under construction in the community of Ocean Pines, approximately 3.5 miles from the hospital. On completion, the ASF will have two operating rooms and three procedure rooms. Atlantic General will take one of its existing operating rooms out of service, reducing the number of mixed-use general purpose operating rooms at the hospital from four to three and will close three procedure rooms that currently in leased space adjacent to the hospital. Mr. Chan noted that, while staff concluded the applicant's assessment of demand for surgical services and needed operating room capacity was optimistic, there is no existing, non-rate-regulated operating room capacity in the county. He stated that staff recommends that the Commission issue a CON to Atlantic General Hospital Corporations to authorizing the establishment of an ambulatory surgical facility with two operating rooms and three procedure rooms in a medical office building located at 10592 Racetrack Road in Berlin (Worcester County) at an estimated cost of $285,044.

Commissioner Boyle made a motion to approve the Certificate of Need. The motion was seconded by Commissioner Hammersla and unanimously approved.

ACTION: Certificate of Need – Atlantic General Hospital Corporation - Establishment of Ambulatory Surgical Facility – is hereby APPROVED.

AGENDA ITEM 4.

ACTIONS: Exemptions from Certificate of Need Review – Shore Health System, Inc.

Chairman Pollak stated that he was recusing himself from consideration of two requests for exemption from Certificate of Need that involve Shore Health System, Inc. and that Commissioner Sergent would chair the meeting for those items. Commissioner Sergent stated that agenda item 4 involves two requests by Shore Health System, Inc. ("Shore") for exemption from CON regarding its hospitals in Dorchester and Talbot Counties.

Kevin McDonald, Chief of the Certificate of Need, gave background information regarding the two hospitals involved in the exemption requests. He stated that Shore Health System, Inc. d/b/a University of Maryland Shore Medical Center at Dorchester ("SMC-Dorchester") is a general hospital that currently operates 18 med-surg beds and 24 acute inpatient psychiatric beds in Cambridge (Dorchester County), Maryland in a facility built between 1906 and 1960. The facility had a little over 2,000 admissions in 2018 and over the last five years has averaged around 20,000 departmental visits. Mr. McDonald stated that Shore Health System, Inc. d/b/a University of Maryland Shore Medical Center at Easton ("SMC-Easton") is currently licensed for 104 beds and is located about 15 miles from SMC-Dorchester in Easton (Talbot County). He noted that the proposed changes to SMC-Dorchester make up the first step in Shore's plan to reorganize and modernize its facilities in the two counties.

A. ACTION: Conversion of University of Maryland Shore Medical Center at Dorchester to a Freestanding Medical Facility (Docket No. 18-09-EX006)

Mr. McDonald initially pointed out that what is licensed in Maryland as a freestanding medical facility ("FMF") is essentially a freestanding emergency department that can also include observation beds and other approved rate-regulated services. The proposed FMF will occupy the first floor of a two-story building and have 22 emergency department treatment spaces, six observation beds, and other rate-regulated services including cardiac rehabilitation, infusion services, intensive behavioral health and substance abuse outpatient treatment. He noted that the second floor will serve as medical office building space. He stated that staff concluded that the requested conversion of SMC-Dorchester to an FMF would result in a more efficient and effective delivery of health care services, noting that the existing hospital in Cambridge is old, oversized for its patient volume, and expensive to maintain. Staff recommended, that the Commission find this requested conversion of SMC-D to a freestanding medical facility to be in the public interest and approve the exemption request.

Commissioner Thomas made a motion to approve the request for Exemption from Certificate of Need Review. The motion was seconded by Commissioner Hammersla and unanimously approved by participating Commissioners.

ACTION: Exemption from Certificate of Need to Convert the University of Maryland Shore Medical Center at Dorchester to a Freestanding Medical Facility – is hereby APPROVED.

B. ACTION: Consolidation of University of Maryland Shore Medical Center at Easton and University of Maryland Shore Medical Center at Dorchester (Docket No. 18-09-EX007)

Mr. McDonald stated that Shore Health System's second request of exemption from Certificate of Need Review seeks to relocate and consolidate certain inpatient services from the Dorchester hospital to SMC-Easton. Mr. McDonald said that this project would move 17 medical surgical beds and 12 of 24 adult psychiatric beds from SMC-Dorchester to SMC-Easton. He noted that SMC-Easton would renovate approximately 10,000 square feet on the third and fifth floors for the relocated beds, at an estimated cost of $5,379,052, funded from cash. In order to complete the project, SMC-Easton will relocate and reduce the number of pediatric beds, which have a very small average daily census. It will also reduce its rehabilitation unit from 20 to 15 beds. Mr. McDonald noted that, during the course of the review, Shore made changes that reduced the estimated cost by more than $3 million. Staff recommended that the Commission find that the consolidation of inpatient care at Shore Medical Center in Easton to be in the public interest.

Commissioner Hammersla made a motion to approve the request for Exemption from Certificate of Need Review. The motion was seconded by Commissioner Rymer and unanimously approved by participating Commissioners.

ACTION: Exemption from Certificate of Need Review - Consolidation of University of Maryland Shore Medical Center at Easton and University of Maryland Shore Medical Center at Dorchester – 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 second time, the Commission would consider applications for Certificates of Ongoing Performance regarding cardiac surgery services. She stated that, through this fairly new process, the Commission will determine whether a hospital should be allowed to continue to provide cardiac surgery service for a period specified by the Commission. She noted that 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, which allows hospitals to receive feedback on their performance and compare their results to peers and to the national baseline. A second use is for public reporting, which STS ford not require hospitals to join. She noted that eight of the ten Maryland hospitals offering cardiac surgery report results publicly on the STS website. Hospitals submit patient-level data quarterly to the STS and MHCC, and also submit select information from the STS performance reports to MHCC. Ms. Fleck noted that STS audits data periodically to validate its accuracy. She stated that 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 from the MHCC, a cardiac surgery program must meet specific standards for data collection, quality assurance activities, and performance. Ms. Fleck noted that the Commission monitors programs' ability to perform 200 cases annually. She clarified that the MHCC may grant a Certificate of Ongoing Performance to a program that falls below the 200 case goal if its data collection, quality assurance activities, and performance fall within the acceptable ranges.

A. ACTION: University of Maryland St. Joseph Medical Center (Docket No. 17-03-CP007)

Ms. Fleck stated that the University of Maryland St. Joseph Medical Center met all the requirements for a Certificate of Ongoing Performance, including the target of performing over 200 cases annually. She noted that it performed 400 cases in calendar year 2015, approximately 500 cases in calendar year 2016, and 500 cases in calendar year 2017. She stated that the hospital performed better than the national average by achieving a lower risk-adjusted operative mortality rate at a statistically significant level. Staff concluded that the hospital met all of the requirements for a Certificate of Ongoing Performance, and recommended that the Commission issue a Certificate of Ongoing Performance for a four-year period that permits the University of Maryland St. Joseph Medical Center to continue providing cardiac surgery services.

Commissioner Rymer made a motion to approve the application for Certificate of Ongoing Performance for Cardiac Surgery Services, as recommended by staff. The motion was seconded by Commissioner Boyle and unanimously approved by participating Commissioners. Chairman Pollak recused himself from consideration of this agenda item.

ACTION: Certificate of Ongoing Performance for Cardiac Surgery Services to University of Maryland St. Joseph Medical Center for Four Years is APPROVED.

B. ACTION: MedStar Union Memorial Hospital (Docket No. 17-24-CP008)

Ms. Fleck stated that MedStar Union Memorial Hospital established its cardiac surgery program in 1984 and has met all the requirements for a Certificate of Ongoing Performance, including the target of performing over 200 cases annually. She noted that the hospital performed over 400 annually cases in calendar years 2015, 2016, and 2017. Staff concluded that the hospital met all of the requirements for a Certificate of Ongoing Performance, and recommended that the Commission issue a Certificate of Ongoing Performance for a four-year period that permits MedStar Union Memorial Hospital to continue providing cardiac surgery services.

Commissioner Hammersla made a motion to approve the application for Certificate of Ongoing Performance for Cardiac Surgery Services, as recommended by staff. The motion was seconded by Commissioner Boyle and unanimously approved.

ACTION: Certificate of Ongoing Performance for Cardiac Surgery Services to MedStar Union Memorial Hospital for Four Years is APPROVED.

C. ACTION: The Johns Hopkins Hospital (Docket No. 17-24-CP009)

Ms. Fleck stated that The Johns Hopkins Hospital established its cardiac surgery program without obtaining a Certificate of Need because its program predates that requirement. She stated that the hospital has met all the requirements for a Certificate of Ongoing Performance, including the target of performing over 200 cases annually. She noted that the hospital performed approximately a thousand cardiac surgery cases annually in calendar years 2015 and 2016, and 800 cases in calendar year 2017. Commissioner Thomas questioned why the volume of cardiac surgeries declined in 2017 and a hospital representative responded that high volume surgeons left the hospital, which was actively recruiting three additional cardiac surgeons. Staff recommended that the Commission issue a Certificate of Ongoing Performance for a four-year period that permits The Johns Hopkins Hospital to continue providing cardiac surgery services.

Commissioner Peters made a motion to approve the application for Certificate of Ongoing Performance for Cardiac Surgery Services, as recommended by staff. The motion was seconded by Commissioner Sergent and unanimously approved.

ACTION: Certificate of Ongoing Performance for Cardiac Surgery Services to The Johns Hopkins Hospital for Four Years is APPROVED.

AGENDA ITEM 6.

ACTION: Approval of the Maryland Primary Care Advisory Council Members

Melanie Cavaliere, Chief of Innovative Care Delivery, and Alana Sutherland, Program Manager, Center for Health Information Technology and Innovative Care Delivery, presented an overview of the Maryland Primary Care Program (MDPCP) and staff recommendations for nominations to the MDPCP Advisory Council (Council). Ms. Sutherland said the Council will provide input on the operations of the MDPCP program management office, and serve as an advisory stakeholder group for the Secretary of the Maryland Department of Health. Commissioner Boyle asked

about the qualifications of the two Medicare beneficiary nominees. Ms. Cavaliere explained that James Campbell is a current Medicare beneficiary and also represents AARP, and that Robyn Elliott represents consumer groups. Commissioner O'Grady advised caution in including individuals representing more than one interest group. Mr. Steffen asked that the Commission defer the nomination of James Campbell because staff needs to confirm his interest. Chairman Pollak and Commissioners Boyle, Hammersla, O'Grady, and Sergent discussed the importance of nominating a nurse practitioner to the Council. Mr. Steffen said that he will discuss with the Secretary amending the Council charter to include a nurse practitioner.

ACTION: The MDPCP Council list of nominees was approved, with the exception of James Campbell's nomination, which was deferred.

AGENDA ITEM 7.

ACTION: Legislative Wrap-up

Lawanda Edwards, Program Director of Government Affairs and Special Projects, provided updates on the legislative session. She stated that the Commission focused on legislation that implemented recommendations in the CON Modernization Report that MHCC submitted to the General Assembly in December. Three bills that were consistent with report recommendations passed. Ms. Edwards noted that the Budget Reconciliation Financing Act of 2019 (BRFA) contained more than $34 million in special fund appropriation for MHCC. This appropriation reflected an $8.1 million reduction for the integrated care network (ICN) funding that was reallocated to the General Fund. This reduction impacts CRISP and the MDPCP activities that are funded from the ICN. She further stated that $500,000 of the Maryland Department of Health's appropriation is contingent on MHCC's completion of an assessment of services provided at the University of Maryland Shore Medical Center in Chestertown. There was no change to the Trauma Fund administered by MHCC. Ms. Edwards noted that MIEMSS will submit two reports this year: (1) a report completed with HSCRC on hospital emergency department overcrowding solutions is due November 1, and (2) a report on the progress of EMS's new model reimbursement, due December 1. The second report will be prepared with the assistance of the Commission and HSCRC. Another provision in the BRFA requires HSCRC to identify Total Cost of Care goals and quality measures for Medicaid and issue a report by December 1, 2018.

Ms. Edwards addressed specific bills of interest to the Commission.
HB 626/SB 649 - Health Care Facilities Change in Bed Capacity-Certificate of Need Exemption. House Bill 626, this bill, which permitted existing licensed general hospices to establish or add inpatient beds and certain high-intensity intermediate care facilities to add inpatient beds without CON review. The bill was enacted into law on April 5 and, as an emergency bill, was effective on that day.

HB 646/SB 597- Maryland Health Care Commission State Health Plan and Certificate of Need for Hospital Capital Expenditures. This bill, which increased the capital review threshold for hospital projects, was adopted by both the House and the Senate.

HB 931/SB 940- Health Care Facilities-Certificate of Need Modifications. This bill which decreased CON regulation of ambulatory surgical capacity was passed by the House and Senate.

HB 607/SB 901- Maryland Trauma Fund - State Primary Adult Resource Center- Reimbursement of On-Call and Standby Costs. This bill was passed by both the House and Senate. The bill provides PARC (Shock Trauma) with access to the on-call and standby costs payments from the Trauma Fund managed by the Commission

HB 924/SB 733: State Board of Physicians- Registered Cardiovascular Invasive Specialist. This bill involved a level of provider that works under a doctor in a cardiac cath lab. The Commission submitted a letter of information on this legislation. Both bills passed both chambers. This bill is significant to the Commission because it must a conduct a review of hospital cardiac care catheterization laboratories in the State that includes specified information and submit findings to the Governor and the General Assembly by October 1, 2023.

Ms. Edwards also noted that the Commission has several new responsibilities resulting from the 2019 legislative session that are in addition to MHCC's ongoing obligations, including studies assigned from last year's session that will be completed this year.

ACTION: NO ACTION REQUIRED

AGENDA ITEM 8.

PRESENTATION: Payment for Professional Services in Maryland

Ken Yeates-Trotman, Acting Director of the Center for Analysis and Information Systems, presented the results from this Commission's annual report on expenditures for privately insured professional services, using information from the Maryland Medical Care Data Base (MCDB). He noted that the report on Payment for Professional Services in Maryland examines variation in payment rates for these services in Maryland and provides a comparison of private in-network payment rates to Medicare and Medicaid payment rates in Maryland for the same set of services. He discussed the variation in payment rates for professional services in Maryland between large and other payers, and compared these rates to Medicare and Medicaid. The data source for this project health care professional services claims from the MCDB. In looking at the all private payers rate, the increase from 2015 to 2017 is uniform, at 2.6% to 2.7%. He noted that, in Maryland, private payer rates have been very close to Medicare and that the private payer rates are consistently above the Medicaid rate, as expected. Other (smaller) private payer rates are substantially more than the large payers (CareFirst and United), ranging from 18 percent more in 2015 to about 20 percent more in 2016 and 2017. Commissioner Rymer asked if the Commission could get the data on Medicare rates versus Medicaid rates against private payers. Mr. Yeates-Trotman responded that the private payer rates as of 2017 were about three percent above Medicare rates and that private rates are always higher than Medicaid. Mr. Steffen, also commented that these results were consistent with previous Health Care Commission studies and results from other studies, including the Congressional Budget Office – that found professional fees in the Mid-Atlantic and the Northeast are typically lower than professional fees in the Midwest, South, and West. He said one reason is because physician practice consolidation has progressed much farther in the Midwest, South, and West.

ACTION: NO ACTION REQUIRED

AGENDA ITEM 9.

PRESENTATION: **Experience of Care in Nursing Homes Report: Results from the 2018 Family Satisfaction Survey**

Stacy Howes, Chief of Provider and Health Plan Quality Initiatives and Long Term Care, summarized the survey results from the Commission's 2018 Family Satisfaction Survey. She stated that the Commission administers an annual Nursing Home Family Experience of Care Survey, which is designed to show levels of satisfaction with loved one's care in a Maryland nursing home. She stated that staff surveyed responsible parties of nursing home residents, usually a loved one or a family member. The results were used to evaluate quality of care and performance of Maryland nursing homes. Ms. Howes noted that the scores compiled by the Commission make up 40 percent of the score used by Maryland Medicaid in its pay for performance program. She noted that the Commission began administering the survey almost yearly since 2007 and that several changes made to the 2018 survey. We added a Spanish language version and 13 more questions because the contractor did an analysis and determined that there were multiple gaps in the information that we were gathering. So, we looked at other States and the nursing home CAHPS and added additional questions. She said that Commission staff is involved in plans and campaigns to enhance survey awareness. Ms. Howes noted that, even with a decline in satisfaction, the results are still in the good range in all categories. She suggested that the Commission needs to pay very close attention to any changes in 2019.

ACTION: NO ACTION REQUIRED

AGENDA ITEM 10.

Overview of Upcoming Activities

Mr. Steffen noted that staff was reviewing two CON applications that focus on inpatient psychiatric beds. He stated that Dr. Sharp's team plans to present one of his health IT report at the May or June Commission meeting. He said that Mr. Yeates-Trotman was working on a report regarding spending for the privately insured. He stated that Commission staff would strive to be efficient so that Commission meetings can be completed in two hours.

AGENDA ITEM 11.

ADJOURNMENT

There being no further business, the meeting was adjourned at 3:41 p.m. upon motion of Commissioner Peters, which was seconded by Commissioner Boyle and unanimously approved.