



**MARYLAND HEALTH CARE COMMISSION**

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**Thursday, February 20, 2020**

**Minutes**

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

**Commissioners present:** Boyer, Boyle, Doordan, Hammersla, O’Grady, Rymer and Wang. Commissioners Metz and O’Connor were present via telephone.

**AGENDA ITEM 1.**

**Approval of the Minutes**

Commissioner Rymer made a motion to approve the minutes of the January 16, 2020 public meeting of the Commission. The motion was seconded by Commissioner Boyer and unanimously approved.

**AGENDA ITEM 2.**

**Update of Activities**

Ben Steffen, Executive Director, announced that Governor Hogan had appointed Dr. Arun Bhandari to MHCC. He stated that Dr. Bhandari would begin participating after his Senate Confirmation hearing in March. He also stated that Commissioner Doordan had his Confirmation hearing and had been confirmed. Mr. Steffen also informed the Commission that Chair Pollak, Vice-Chair Sergent, and Commissioners Wang and McCarthy had been reappointed to full four-year terms.

Mr. Steffen informed the Commission that the Maryland Primary Care Program (MDPCP) Advisory Council met on February 13<sup>th</sup> and discussed how to move practices into more advanced tracks that incorporate up and downside risk beginning in 2022. Mr. Steffen noted that the Advisory Council needed to move promptly because changes to the program design would require extensive reviews at CMMI and CMS. He announced that CareFirst agreed to align its Primary Care Medical Home (PCMH) program with the MDPCP. Mr. Steffen referenced several potential areas of alignment including coordination on quality measurement and collaboration in the use of care managers. He concluded by noting that MHCC has been asked to

provide \$500K in funding in 2021 to keep the MDPCP's Program Management Office in operation. Mr. Steffen also described the relationship between the federal Comprehensive Primary Care (CPC) Plus program and the MDPCP. Mr. Steffen also reminded Commissioners that the MDPCP was a variant design of CPC Plus and suggested that Maryland could use evaluation results from CPC Plus as a guide to on the savings the MDPCP can be expected to produce.

Mr. Steffen responded to a question from Commissioner Boyle regarding the status of MHCC's request to the federal Office of Personnel Management (OPM) to allow health plans that sell in the federal market to submit claim information to the MHCC's APCD. He noted that OPM had informed health plans selling in the federal market that they were not permitted to release data to the State APCDs. He added that MHCC had submitted a request to OPM to meet to discuss the matter, but had not received a response.

Mr. Steffen also stated that Commissioner Boyle inquired about the status of the Prescription Drug Affordability Board (PDAB). He began by reminding the Commission that in 2019 the Governor had requested that MHCC assist in establishing the PDAB. Mr. Steffen informed the Commission that Chairman Van Mitchell had committed to returning the funding when the PDAB had stabilized. He also announced that Kenneth Yeates-Trotman will present on the usefulness of the APCD for managing drug prices and utilization.

Lastly, Mr. Steffen reported that MHCC staff plans to hold the next meeting of the Acute Psychiatric Services Workgroup in March to provide input to MHCC staff on revisions to the Acute Psychiatric Services Chapter regulations of the State Health Plan. The MHCC aims to have these regulations promulgated this summer.

Courtney Carta, Chief of Hospital Quality Initiatives, provided an update on two recent updates from national hospital rating systems. CMS updated its five star ratings in the latest release of Medicare Hospital Compare. The five star rating is a summary metric intended to show how well hospitals perform across seven domains of quality. Maryland hospitals' performance was mixed; more hospitals earned five star ratings compared to the 2019 release, but there was a decrease in the number of hospitals awarded three stars and an increase in the number of hospitals assigned two stars. Ms. Carta also noted that Healthgrades recently released its annual "America's Best Hospitals" list. This system identifies the top 250 hospitals in the country based on a set of 32 conditions and procedures. Ten Maryland hospitals were named in the list. Ms. Carta agreed to provide a presentation detailing the methodologies for the various national hospital ratings and ranking systems at a future Commission meeting.

David Sharp, Director of the Center for Health Information Technology and Innovative Care Delivery, provided an update to the Advancing Telehealth in Nursing Home Grant Announcement that was released in November. The grant seeks applicants with a robust vision for large scale diffusion of telehealth in nursing homes. Staff received 12 applications, seven from provider-led entities, four from vendors, and one from an association. Grant funding is up to \$750K with a 1:1 match preferred. A stakeholder review panel will be convened to evaluate the applications, and an award is anticipated in the May/June time frame.

### AGENDA ITEM 3.

#### **ACTION: Certificate of Need - Johns Hopkins Bayview Medical Center, Inc. – Change in Bed Capacity of Special Rehabilitation Hospital (Docket No. 18-24-2430)**

Jeanne Marie Gawel, Program Manager and CON Analyst, presented the staff recommendation. She reported that Bayview’s two specialty hospitals have a combined total of 88 beds; 12 are licensed as rehabilitation beds and 76 as chronic beds. However, despite only 12 of the 88 beds being licensed as rehabilitation, Bayview has been operating 28 in that capacity. This CON application seeks to convert 16 of the chronic beds to rehabilitation, thus aligning its licensure with its current use. The reallocation of beds came in response to the move of Johns Hopkins University School of Medicine faculty shifting their practice to Bayview from MedStar Good Samaritan Hospital. There are no capital expenditures, construction, renovation or operational changes associated with this conversion, and no anticipated changes in the number or type of patients served or in revenues/expenses.

Ms. Gawel noted that three organizations submitted joint comments contesting the application and seeking interested party status in this review (United Workers, Charm City Land Trust and Sanctuary Streets). The comments focused on three areas: quality of care; charity care; and the impact of development projects on housing in areas close to the hospital. Commissioner Metz was appointed as Reviewer and ruled that the commenters did not qualify for interested party status because they failed to demonstrate that they would suffer potentially detrimental impact in an area over which the Commission has jurisdiction. Commissioner Metz, however, directed Commission staff to “consider the comments...as staff evaluates the...project’s compliance with applicable State Health Plan standards and CON criteria.”

Ms. Gawel reported that staff found several shortcomings in the hospital’s charity care policies and called a project status conference at which Commission staff recommended changes to the hospital’s charity care policy in the areas of probable determination of eligibility, notice of charity care, and citizenship requirements; the applicant successfully made the required changes. Ms. Gawel stated that staff concluded that the application met the CON criteria and recommended approval.

Commissioner Wang made a motion to approve the CON which was seconded by Commissioner Boyle and unanimously approved.

**ACTION: Certificate of Need - Johns Hopkins Bayview Medical Center, Inc. – Change in Bed Capacity of Special Rehabilitation Hospital is hereby APPROVED.**

### AGENDA ITEM 4.

**ACTION: Legislative Update**

Ms. Megan Renfrew, Chief of Government Affairs and Special Projects, presented an update on the 2020 session of the Maryland General Assembly. She stated that the legislative session is about 50 percent complete, with more than 1,780 bills introduced and close to 300 actively tracked by staff. Ms. Renfrew also stated that the Commission has submitted testimony on 10 bills and the Commission's budget hearing before the subcommittee of the Senate Budget and Tax committee went smoothly on Monday, February 17<sup>th</sup>. Ms. Renfrew provided updates on the bill hearings that were held over the past week. She also stated that Commissioner Doordan was also approved by the Executive Nominations Committee.

Ms. Renfrew presented on the following bills with hearings in the coming week:

**Senate Bill 661** prevents cost sharing for prostate cancer screening. Staff recommended a letter of information on the Commission's research on health benefit mandates. Commissioners agreed with this approach.

**Senate Bill 776** relates to balance billing. A 2010 Maryland statute sets limits on balance billing and cost sharing for non-preferred physicians in hospitals and sets the rates at which carriers are to reimburse those providers with assignment of benefits. This bill has worked to help reduce balance billing, but this issue persists. The current law applies only to hospitals. This bill expands the reach of the law to also apply to freestanding medical facilities and freestanding ambulatory care facilities. This bill also prevents use of prior authorization of emergency services, treats coverage and cost sharing for emergency services the same for preferred and non-preferred providers. The bill also prevents non-emergency ancillary services (such as diagnostic services) from having different cost sharing or rates. In-network rates also apply to post-emergency admissions, unless certain notice and consent has been given. Commissioners discussed the bill and decided to take no position on SB 776, and asked staff to monitor and inform Commissioners if the bill moved forward.

**Senate Bill 896** creates a commission on Student Behavioral Health and Mental Health Treatment. The purpose of the commission created by the bill is to study, evaluate, update, and revise guidelines for student behavioral health and mental health treatment, including in school-based health centers. Staff would like to recommend an amendment to this bill to include telehealth. Commissioners approved the approach staff recommended.

**Senate Bill 988** alters the existing mandate for IVF coverage to cover unmarried individuals. Staff recommend a letter of information focused on the Commissioner's studies on health insurance mandates. Commissioners discussed the bill, noting that mandates are burdensome, and given that this mandate exists, it should not discriminate.

**House Bill 1420** requires hospital financial assistance policies to cover patients with family incomes up to 200% of the federal poverty level (current law is 150%) and provide payment plans to patients with incomes between 200% and 500% of the federal poverty level. The bill also provides for presumptive eligibility for patients who received other types of public benefits, such as free or reduced meals, energy assistance, or WIC. This bill requires hospitals to inform patients that they can request an estimate of the cost of non-emergency services. This bill requires annual reporting to HSCRC on the financial assistance program, as well as the number of patients who applied and were granted or denied free or reduced care. Staff recommend a letter of information. The Commissioners discussed the bill, with some expressing concern about the burden this bill puts on hospitals while others expressing concerns about patients. Commissioners agreed with the staff recommendation to submit a Letter of Information on this bill regarding the connection between charity care and certificate of need.

**House Bill 998** expands a loan repayment assistance program for physicians. Staff recommended a letter of support, similar to the letter submitted on Senate Bill 501, the cross-filed bill. Commissioners agreed with this recommendation.

**Senate Bill 600** provides bonus payments to primary care providers who provide services outside of normal business hours in non-hospital settings. Staff recommended a Letter of Information for this bill. Based on feedback from the February 14<sup>th</sup> conference call, staff submitted a letter of information on HB 970, the cross-filed bill for this Senate bill. Commissioners supported this staff recommendation.

Finally, Ms. Renfrew provided updates on a few of MHCC's high priority bills, which are not scheduled for bill hearings in the next week. **House Bill 1486** and **Senate Bill 752** are bills that came from last year's workgroup on an electronic prescription record system program. The hearings on these bill are in the first week of March. **House Bill 1572** seeks to deregulate intermediate care facilities for substance use disorder treatment. This bill is sponsored by the Opioid Command Center. The hearing is now scheduled. **Senate Bill 106** is another MHCC sponsored bill, which sought to deregulate state-owned facilities. This bill was reported unfavorably by the Senate Finance committee. Staff will reevaluate the bill over the summer. Staff are also monitoring the Budget Reconciliation and Financing Act, which has a hearing next week.

**ACTION: NO ACTION REQUIRED**

## **AGENDA ITEM 5.**

### **ACTION: Annual Assessment of the State Health Plan – Priorities and Timeline for Review and Revision of State Health Plan Chapters**

Paul Parker, Director of Health Care Facilities Planning and Development, reviewed the status of current State Health Plan (SHP) regulations, using the SHP "Chapter" format, with respect to their age, frequency of use in project review activity, and level of obsolescence. Based on this review, he recommended a priority ranking for updating existing SHP regulations and developing new regulations and also reviewed a desirable timeline for accomplishing this work. He noted that adhering to the proposed timeline would require expanding personnel resources beyond those currently budgeted for the Division of Acute Care Policy and Planning, which would probably require contract consultants.

In the discussion of the proposed priorities and timeline, Chairman Pollack stressed the urgency of moving expeditiously to update the SHP regulations for psychiatric hospital services and, in general, modernizing the approach to SHP regulation development endorsed by the Commission in its 2018 report on the modernization of Certificate of Need regulation.

Commissioner O'Grady made a motion to approve the Annual Assessment of the State Health Plan – Priorities and Timeline for Review and Revision of State Health Plan Chapters which was seconded by Commissioner Rymer and unanimously approved.

**ACTION:** The Annual Assessment of the State Health Plan – Priorities and Timeline for Review and Revision of State Health Plan Chapters is hereby **APPROVED**.

#### **AGENDA ITEM 6.**

##### **PRESENTATION: The Maryland Patient Safety Center Initiative: Next Steps**

Barbara Epke, Interim President and CEO of the Maryland Patient Safety Center (MPSC), Inc. summarized their past activities, current programs and priorities for the future. Ms. Epke noted that 40% of the Center's \$1.7 million budget was funded by hospital member fees and approximately 30% funded by HSCRC through hospital rates. She reported that MPSC, Inc. was actively seeking additional grant funding to support future programs. Ms. Epke also noted that the Annual Patient Safety Center Conference is scheduled for March 27, 2020 and has over 1200 enrollees to date and that over 1,500 participants attended last year. Also in attendance representing the MPSC, Inc. were the incoming President, Dr. Blair Eig, and Bonnie DiPietro, Director of Operations.

Theresa Lee, Director for Quality Measurement and Reporting, noted that the Commission issued a Request for Expressions of Interest (RFI) to identify organizations that were interested in exploring a five (5) year designation as the Patient Safety Center for the State of Maryland. The MPSC, Inc. was the only respondent to the RFI. The MPSC, Inc.'s current designation expires on April 29, 2020. Ms. Lee added that the staff plans to work with the MPSC, Inc., HSCRC, OHCQ, and the Maryland Department of Health, to align priorities and programs going forward. A staff recommendation on the re-designation of MPSC, Inc. will be presented during the April 16<sup>th</sup> public meeting, prior to expiration of the current term.

**ACTION: NO ACTION REQUIRED**

#### **AGENDA ITEM 7.**

##### **Overview of Upcoming Activities**

Mr. Steffen stated that the end of March will bring the 2020 legislative session to a close and there will be a legislative report on final bills. He also noted that at the March Commission meeting there will be a presentation on Spending for the Privately Insured and several CON applications.

#### **AGENDA ITEM 8.**

##### **ADJOURNMENT**

There being no further business, the meeting was adjourned at 3:32 p.m. upon motion of Commissioner O'Grady, which was seconded by Commissioner Boyer and unanimously approved.