STATE OF MARYLAND

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CHAIR

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MARYLAND HEALTH CARE COMMISSION

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Thursday, April 15, 2021

Minutes

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

Commissioners present via telephone: Akintade, Bhandari, Boyer, Boyle, Brahmbhatt, Doordan, Metz, O'Connor, O'Grady, Rymer, Sergent, Thomas and Wang

AGENDA ITEM 1.

Approval of the Minutes

Commissioner Metz made a motion to approve the minutes of the March 18, 2021 public meeting by teleconference of the Commission. The motion was seconded by Commissioner Sergent and unanimously approved.

AGENDA ITEM 2.

Update of Activities

Ben Steffen, Executive Director, stated that the State of Maryland pandemic response is going through a mini surge and that the population that has been affected is younger than in previous surges. Mr. Steffen noted that 80% of the over 65 population is largely vaccinated, which shows the strength of the vaccine efforts, but he noted that more needs to be done. He reported that about a third of the adult population has received at least one vaccine shot in Maryland and two-thirds of the population have received either the one-dose Johnson & Johnson vaccine or the two-dose Moderna and Pfizer vaccines.

Mr. Steffen reported Commissioners have asked what the Maryland Health Care Commission (MHCC or Commission) can do for the pandemic response, and he responded that the Commission will continue to fulfill our mission. He detailed that recent tabulation indicates that upwards of 11,000 State of Maryland employees are working in one area or another of the pandemic response of screening, contact tracing, vaccine delivery and administration, which is a significant contribution on the part of Maryland State government.

Mr. Steffen further reported that on March 25th, the Center for Medicare and Medicaid Innovation (CMMI) approved the State Integrated Health Improvement Plan, which focuses on a three-pronged approach to improve hospital quality (e.g. to avoid or reduce hospital readmissions), to promote care transformation (e.g., the Maryland Primary Care Initiative), and establish a population health framework that focuses on diabetes, a reduction of opioid-related deaths, and maternal and child health. Currently, work groups are forming. Mr. Steffen reported that he will ask colleagues in the Maryland Department of Health (MDH) to present an overview of the program to the Commissioners in a future meeting.

Next, Mr. Steffen reported that the 2021 legislative session went surprisingly well except for the non-existent Sine Die celebrations. Mr. Steffen noted that there were broad reforms passed for initiatives, such as medical debt and police education, and other important initiatives that involve the Commission, which Tracey DeShields, Director of Policy Development in the Executive Office, will discuss later during this meeting. Mr. Steffen thanked the Commissioners for their participation during the legislative session, noted that their input was very valuable, and their continuing support and guidance will be key in the success of the Commission. Mr. Steffen also thanked the Commission staff legislative team for their contributions, which was led by Tracey DeShields and included Shadae Paul, Dee Stephens, as well the Center Directors.

Next, Commissioner Thomas thanked the Commission for the Letter of Support for the Shirley Nathan- Pulliam Health Equity Act that passed with funding and stated that he felt added value and contributed to passage of the Act with funding. Mr. Steffen offered that the Commission staff worked with the sponsors of the Act and commented that this legislative session focused more on health disparities.

Chairman Pollak reported that today's numbers show that nearly 1,200 hospitalized patients had a Covid-19 positivity rate of 5.78%. He further reported that the hospitalization rate is not going down and the statistics show that much of the younger population is now being affected. Chairman Pollak commented that if the elderly over-65 population were not vaccinated, the situation would be much worse. He also commented that the hospitalization level is becoming much more burdensome, especially over the last two days, and stressed the importance of continuing the practice of social distancing along with ongoing vaccination efforts.

Theressa Lee, Director for the Center for Quality Measurement and Reporting, announced that the redesigned Healthcare Quality Reporting website is available to the public for review. The new modernized site integrates the Commission's quality reporting mandates into one comprehensive, consumer friendly resource for information on the quality and performance of Maryland hospitals, ambulatory surgery facilities, commercial health plans and long-term care facilities.

AGENDA ITEM 3.

PRESENTATION: Legislative Update

Tracey DeShields provided an update on the 2021 legislative session. The 442nd legislative session of the General Assembly ended on Monday April 12 at midnight. Ms. DeShields noted that the legislature was able to make it through the 90-day session with no COVID-19 related delays. Ms. DeShields commented that a total of 3,366 bills were introduced and, out of those bills, 817 bills were passed. She noted that the Commission tracked approximately 160 bills and took positions on 20 of those bills.

Ms. DeShields noted that for such an unusual legislative session, it was a very ambitious. The General Assembly passed a $54 billion budget and legislation addressing major issues such as police reform, voting rights, criminal justice reform, and expanding broadband. Ms. DeShields further noted that for the Commission, there were three main legislative areas of focus that were also of major importance for the legislature:

- Health Information Exchanges
- Telehealth
- Health Disparities

Ms. DeShields then provided an update on the passed bills that impacted the Commission. She discussed the bill introduced as a Commission agency bill regarding the health information exchanges, which allows consumers to opt-out of having their health information shared. Ms. DeShields reviewed pertinent details of the following bills:

HB 1375 - Health Information Exchanges - Electronic Health Information - Sharing and Disclosure

- HB 1373 is the Commission agency bill. The bill passed in the legislature and *takes effect October 1, 2021.*
- Requires MHCC to adopt regulations for the privacy and security of protected health information obtained or released through a health information exchange (HIE).
- Requires the State-Designated HIE, to develop and maintain a consent management utility (CMU), which allows a person to opt-out of having their electronic health information shared or disclosed by an HIE.
- Requires the State-Designated HIE to provide an HIE with the opt-out status of a person, before sharing or disclosing the person's electronic health information.
- Over the interim, a stakeholder workgroup will be convened to make recommendations related to the definition of HIE and conforming the definition to the federal definition.

HB 1022 – Public Health - State Designated Exchange - Clinical Information

- Requires a nursing home, on request of the Maryland Department of Health, to electronically submit clinical information to the State-designated exchange. This bill passed the legislature and *takes effect July 1, 2021*.

- Authorizes the Commission to adopt regulations that provide for a uniform, gradual implementation of the exchange of clinical information.
- By January 1, 2022, the Commission must report to the Governor and the General Assembly on the availability of funding and the sustainability of the technical infrastructure required to implement the bill.

Ms. DeShields commented that telehealth turned out to be a major healthcare issue for the 2021 session. There were five major telehealth bills introduced. The Senate and House worked the bills into the following one House/Senate bill.

HB 123 and SB 3 – Preserve Telehealth Access Act of 2021

- Expands the definitions of "telehealth" and the coverage and reimbursement requirements for health care services provided through telehealth for both Medicaid and private insurance and *takes effect July 1, 2021.*
- By December 1, 2022, the Commission must conduct an extensive study and submit a report on the impact of providing telehealth services in accordance with the bill's requirements.

Ms. DeShields also noted another major area that the legislature focused on was health disparities and health equity. There were multiple bills introduced and passed addressing health disparities and required the collection and analysis of race and ethnicity data for the purposes of improving and reducing health disparities and inequities.

HB 28/SB 5 - Public Health - Implicit Bias Training and the Office of Minority Health and Health Disparities

- Requires applicants for the renewal of a license or certificate issued by a health occupations board to attest to completion of an approved implicit bias training program the first time they renew their license or certificate after April 1, 2022.
- Requires that the Health Care Disparities Policy Report Card, published by the Maryland Office of Minority Health and Health Disparities (OMHHD) in collaboration with the Commission, include the racial and ethnic disparities in morbidity and mortality rates for dementia.

HB 78/SB 52 - Public Health – Maryland Commission on Health Equity (The Shirley Nathan–Pulliam Health Equity Act of 2021)

- Establishes the Maryland Commission on Health Equity (MCHE) to employ a "health equity framework."
- The MCHE will provide advice on issues of racial, ethnic, cultural, or socioeconomic health disparities; facilitate coordination of expertise and experience in developing a comprehensive health equity plan addressing the social determinants of health; and set goals for health equity and prepare a plan for the State to achieve health equity in alignment with other statewide planning activities.

- CRISP is a member of the MCHE and will work with the MCHE to collect and analyze the data related to health equity. They will also work with the MCHE to set up an advisory committee on data. (The Maryland Health Care Commission should be a member of the Advisory Committee).

HB309/SB565 - Public Health - Data - Race and Ethnicity Information

- The bill also alters the Health Care Disparities Policy Report Card published by OMHHD and requires each health occupations board to include on application and renewal forms an option for the applicant to provide their race and ethnicity information and encourage provision of such information.
- This bill requires the Director of the Office of Minority Health and Health Disparities (OMHHD) to meet with representatives from the Commission and MDH at least annually to examine the collection of health data that includes race and ethnicity information in Maryland and identify any changes for improving the data that is accessible by OMHHD.

Ms. DeShields spoke about the budget and that the legislature passed a $54 billion budget by the 83rd day of session. She noted that while this year has been a smooth year with respect to the budget process for the Commission, a budget narrative was included requiring the Commission along with the Health Services Cost Review Commission (HSCRC) to conduct a study on the hospital home model. Conducting this study will require the Commission and HSCRC to consult with MDH, Medicaid and the Office of Health Care Quality.

Ms. DeShields also addressed several other bills that the Commission has a strong interest in and is required to play a role or provide information back to the legislature:

HB 565 - Health Facilities – Hospitals – Medical Debt Protection

- A bill previously introduced that did not pass.
- This year the bill had great momentum and puts in place protections for consumers related to medical debt as well as establishes a process for determining eligibility for financial assistance to pay medical debt. A major component of the processes are the consumer advisory committees that are required by hospitals.
- The Commission is required to look at the feasibility of utilizing CRISP to determine financial eligibility of consumers to get financial assistance.

SB0837 - Health - Advance Care Planning and Advance Directives

- Requires the Commission and MDH to coordinate implementation of advance care planning programs in the State. Each carrier must offer electronic advance directives to its members or enrollees as specified.
- Requires the Commission to convene a stakeholder workgroup to make recommendations on legislation for the next session.

SB0299 - Human Services - Trauma-Informed Care - Commission and Training (Healing Maryland's Trauma Act)

- Established the Commission on Trauma-Informed Care as an independent commission in the Department of Human Services (DHS) to coordinate a statewide initiative to prioritize the trauma-responsive and trauma-informed delivery of State services that affect children, youth, families, and older adults.
- In consultation with MDH, DHS, and the Maryland Health Care Commission, the Commission must (1) study developing a process and framework for implementing an Adverse Childhood Experience (ACEs) Aware program in the State; and (2) implement the program.

HB 936 - Hospitals and Freestanding Medical Facilities - Closing or Partial Closing - Public Notice

- The Commission must publish notice of the proposed closing or partial closing of a hospital or freestanding medical facility within 15 days after receiving notice of the proposed closing.
- Any required notice must be published at least once a week for two consecutive weeks in a daily or weekly newspaper of general circulation in the geographical area in which the hospital or freestanding medical facility is located.
- The Commission must require that notice of any informational meeting or a public hearing be given by mail to each person requesting the meeting or hearing, or to the person's authorized representatives, and to elected officials of the district in which the hospital or freestanding medical facility is located.
- The Commission must also post the notice, including specified information, on its website and must provide a method for interested persons to request any additional notices related to the closure or partial closure of a hospital or freestanding medical facility.

HB 599/SB 652 – Public Health - Long-Term Care Planning

- Requires MDH to develop and publish materials to assist Maryland residents with long-term care family planning by April 1, 2022.
- Materials developed must be consistent with recommendations made in the final report of the Task Force on Long-Term Care Education and Planning. Uncodified language requires the Commission, the Department of Disabilities (MDOD), and the Maryland Department of Aging (MDOA) to update their websites in accordance with recommendations of the task force by April 1, 2022.
- The bill *takes effect January 1, 2022*.

HB 674/SB 708 - Nursing Homes - Transfer of Ownership – Surveys

- Requires MDH to make site visits and conduct a full survey of a licensed nursing home if ownership of the nursing home is transferred to a person that does not own or operate another nursing home in the State at the time of the transfer.

- MDH must conduct a full survey within three months of the date of transfer and an unannounced follow up 120 days after the full survey was completed.

Ms. DeShields noted that there will be follow up on the health care bills that passed including bills in which the Commission did not have a role but that may impact or inform the work of the Commission.

ACTION: NO ACTION REQUIRED

AGENDA ITEM 4.

ACTION: Certificate of Need – Adventist HealthCare Shady Grove Medical Center – Capital Expenditure ($180,014,186) Exceeding the Capital Expenditure Threshold and a Change in Bed Capacity (Docket No. 20-15-2443)

William Chan, Program Manager and Certificate of Need Analyst, presented the staff recommendation. Adventist HealthCare Shady Grove Medical Center (SGMC) proposes to add a six-floor patient care tower with 150,352 square-feet (SF) of inpatient service space, and to renovate 25,696 SF of the existing 40-year-old hospital. The proposed project will not add to the number of beds in operation or introduce new facilities or services at SGMC. The patient tower is designed to modernize the existing facilities and services. The new addition also includes an upgrade to the Central Utility Plant (CUP). The applicant expects to complete the project in two phases scheduled over 66 months with the projected completion in August 2026. The total project cost is estimated at just over $180 million. The SGMC plans to fund the proposed project with a $154 million tax-exempt municipal bond issue, approximately $10 million in cash, and $16.0 million in philanthropic donations.

In reviewing the application against the State Health Plan chapter's standards and review criteria, Mr. Chan stated that the proposed project will address the objectives to create more private patient rooms, modernize and expand its emergency department, intensive care unit, and observation units, and add space to improve both clinical workflow and operational efficiency at SGMC. The applicant has demonstrated the cost effectiveness and viability of the project, which will improve access for patients and create opportunities for more efficient operation of the hospital as well as not have a material impact on existing health care providers in the health care system.

Staff recommended approval of the project with the following two conditions:

1. Prior to its request for first use approval, SGMC shall identify the physical bed capacity it will retain in operational status, the physical bed capacity it will repurpose but retain as physical bed capacity, and the physical bed capacity it will eliminate. This plan shall specifically address the hospital's assessment of the need for surge bed capacity and its plan to maintain and deploy adequate surge capacity when needed.

2. Any future change to the financing of this project involving adjustments in rates set by HSCRC must exclude $21,226,090, which includes the estimated new

construction costs that exceed the Marshall Valuation Service guideline cost and portions of the contingency allowance and inflation allowance that are based on the excess construction cost.

Commissioner Doordan made a motion to approve the Certificate of Need for SGMC with two conditions, which was seconded by Commissioner Boyle and unanimously approved.

ACTION: Certificate of Need Application - Adventist HealthCare Shady Grove Medical Center – Capital Expenditure ($180,014,186) Exceeding the Capital Expenditure Threshold and a Change in Bed Capacity (Docket No. 20-15-2443) is hereby APPROVED, with two conditions.

AGENDA ITEM 5.

Annual Assessment of the State Health Plan – Priorities and Timeline for Review and Revision of State Health Plan Regulations

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. He referenced relevant recommendations from the 2018 CON Modernization Report. Based on this review, he recommended a priority ranking for updating existing SHP regulations and included a timeline for accomplishing this work.

Four chapters were identified as high priority regulations for updating: COMAR 10.24.10, General Hospital Services; COMAR 10.24.14, Alcohol and Drug Abuse Intermediate Care Facility Services; COMAR 10.24.13, General Hospice Services; and COMAR 10.24.16, Home Health Agency Services. These chapters are proposed for updating in FY 2022, excepting COMAR 10.24.14, targeted for completion in FY 2023.

Four chapters were identified as medium priority regulations for updating: COMAR 10.24.11, General Surgical Services; COMAR 10.24.19, Freestanding Medical Facility Services; COMAR 10.24.07, Residential Treatment Center Services; and COMAR 10.24.09, Acute Inpatient Rehabilitation Services. These chapters are proposed for updating in FY 2023, excepting COMAR 10.24.11, which is expected to be completed in FY 2022.

Mr. Parker noted that two additional staff had been added to the Acute Care Policy and Planning Division in the past year, improving the feasibility of accomplishing the updating work within the timeline presented.

Commissioner Bhandari made a motion to approve the Annual Assessment of the SHP – Priorities and Timeline for Review and Revision of SHP Regulations, which was seconded by Commissioner Metz and unanimously approved.

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

AGENDA ITEM 6.

PRESENTATION: Expanding Telehealth Adoption in Ambulatory Practices - Grant Highlights

Melanie Cavaliere, Chief, Innovative Care Delivery, presented on the telehealth grant program aimed at diffusing telehealth in small primary care practices. The grant was awarded to three Management Service Organizations (MSOs) in April 2020. The MSOs provide telehealth technical guidance to practices with emphasis on technology selection and implementation, learning how to use the technology to conduct patient consults virtually, and remapping workflows. Staff noted that the grant concludes at the end of April and MSOs successfully implemented telehealth in 112 practices.

ACTION: NO ACTION REQUIRED

AGENDA ITEM 7

Announcement for Grant Applications - Advancing Practice Transformation in Ambulatory Practices

Melanie Cavaliere, Chief, Innovative Care Delivery, presented on a Care Transformation Organization (CTO) Grant Announcement. The grant is aimed at using CTOs to help select primary care and specialty practices prepare to move from episodic care delivery to coordinated, high-value, patient-centered services. CTOs earn practice level financial incentives based on their completion of specified practice transformation milestones. Staff noted that the grant is for 24-months with funding up to $500,000.

ACTION: NO ACTION REQUIRED

AGENDA ITEM 8.

PRESENTATION: Spending and Use Among Maryland's Privately Insured, 2019

Shankar Mesta, Chief of the Cost and Quality, Center for Analysis and Information Systems, presented the results of the annual report on health care spending and utilization patterns for Maryland's privately insured from 2017 through 2019, using data from the Maryland Medical Care Data Base (MCDB). Mr. Mesta noted the 2019 Privately Insured (PI) report excludes Federal Employees Health Benefit Program (FEHBP) and self-insured ERISA plans, which resulted in an estimated loss of approximately 44%, or 1.68 million enrollees. In 2019, the annual per capita spending for all markets was $5,603, a growth rate of 2.6% among Maryland's privately insured population, compared to a 1.4% increase from 2017 to 2018. He noted that due to exclusion of FEHBP members, the re-calculated growth rate for 2018 was markedly less than the previously reported value of 2.9%. Nationally, annual per capita spending in the privately insured population grew by 5.2% based on the 2019 National Health Expenditures (excluding the net cost of health

insurance). The 2019 PI report continues to include primary care spending and spending on the most expensive prescription drugs among Maryland's privately insured residents.

Commissioner Chip Doordan inquired if Commission could identify key takeaways in the PI report. Chairman Pollak noted that the PI report is legislatively mandated and emphasized the purpose of the report was to levels and rates of change in spending and utilization. He emphasized that the report was not mandated to issue recommendations, but rather to provide a set of facts from which policymakers, including Commissioners, could advocate for health policy changes.

Mr. Yeates-Trotman, Director for the Center for Analysis and Information Systems, reaffirmed Dr. Pollak's statement by confirming that the PI Report provides the facts that allow HSCRC to benchmark per capita spending among the privately insured to TCOC targets. The Maryland Health Benefit Exchange (MHBE) uses the PI report to track enrollment in the individual market, the Maryland Insurance Administration (MIA) uses the PI report and other data from the MCDB in its rate review processes.

Commissioner O'Grady noted that the PI report's findings when compared to the annual Gross Domestic Product growth and per capita health care spending growth in the US are indicators of the Maryland success in slowing the rate of growth in health care spending. He noted that the results showed that for 2019 Maryland had kept spending growth for the privately insured below the rate of growth in GDP, a finding that suggested Maryland is not spending more than it can afford.

Chairman Pollak inquired if the national 5.2% per capita growth rate reported by the CMS National Health Expenditures (NHE) is an apples-to-apples comparison to the MCDB data. Mr. Steffen responded that the construct of the NHE is different from the MCDB, nonetheless the approach is consistent with Maryland's approach to extent possible. Mr. Steffen noted that there was good news in the pace of spending slowed. Another the takeaway message was that the disease burden continues to grow, and the Centers for Medicare and Medicaid Services (CMS) is putting pressure on states to address chronic conditions such as diabetes, heart disease, and depression. He further noted that the report findings show that State of Maryland employees are sicker, with a median risk score of 1.50, and use more health services including prescription drugs. Efforts to better manage chronic disease among Marylanders could potentially reduce morbidity and slow the rate of growth in spending.

Mr. Steffen asked the Commission to recall that the original legislation passed in 1994 gave the Commission authority to set health spending limits, if Maryland exceeded rates of growth targets. That authority was removed in 1999. Currently, spending targets are embedded in the TCOC model. Mr. Steffen suggested that Commissioners can advocate for the reestablishment of the original authority. He observed that even absent the authority to set spending limits, the PI report results serve as warning signals about the pace of health care spending in Maryland's privately insured market.

Chairman Pollak commented that it will be interesting to see how the 2019 PI report will compare to next year's 2020 report, due to the impact of the pandemic. Mr. Yeates-Trotman mentioned that

there was an increase in telehealth use at the start of the pandemic and that there was a decrease in outpatient services in 2020 compared to 2019 since elective procedures were deferred.

Commissioner O'Grady emphasized the value of the reports. He noted that the 2020 PI report may reveal the price tag for the pandemic and the 2021 PI report will reveal the strength of a spending rebound or alternately signal that health utilization has been more permanently changed. Commissioner Thomas questioned if future PI report findings can reveal if the health disparities gap is closed. Mr. Steffen expressed interest in improvement in population health such as obesity, depression, diabetes. He added that a February 2021 survey by the American Psychological Association1 reported 46% of the United States adults gained weight during the pandemic.

ACTION: NO ACTION REQUIRED

AGENDA ITEM 9.

Overview of Upcoming Activities

Mr. Steffen stated that the May's Commission meeting may include applications for Certificates of Ongoing Performances, and regulations governing Data Collection and Data Release.

AGENDA ITEM 10.

ADJOURNMENT

There being no further business, the meeting was adjourned at 4:06 p.m. upon motion of Commissioner Boyer, which was seconded by Commissioner Boyle and unanimously approved.