



## MARYLAND HEALTH CARE COMMISSION

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Thursday, May 20, 2021

### Minutes

Chairman Pollak called the meeting to order at 1:17 p.m.

**Commissioners present via telephone:** Bhandari, Boyer, Boyle, Brahmhatt, Doordan, Metz, O'Connor, O'Grady, Sergent, Thomas and Wang

### AGENDA ITEM 1.

#### Approval of the Minutes

Commissioner Boyle made a motion to approve the minutes of the April 15, 2021, public meeting by teleconference of the Commission. The motion was seconded by Commissioner Bhandari and unanimously approved.

### AGENDA ITEM 2.

#### Update of Activities

Ben Steffen, Executive Director, noted that earlier this week he sent out a notice that staff was delaying presenting the new proposed permanent data release regulations, COMAR 10.25.05, for Commission's consideration at this May meeting. However, Mr. Steffen noted that staff will proceed with asking the Commission to approve for release proposed amendments to the Maryland Medical Care Data Base and Data Collection regulations, COMAR 10.25.06 at the May meeting.

Next, Mr. Steffen reported that, on the Maryland Health Care (MHCC or Commission) website, staff posted a notice announcing the suspension of requirements for the recalculation of user fees as permitted by Governor Hogan's order of June 19, 2020, *Amending And Restating The Order Of March 12, 2020, Extending Certain Licenses, Permits, Registrations, And Other Governmental Authorizations, And Authorizing Suspension Of Legal Time Requirements*. Mr. Steffen further reported that the Commission believes that it is in the public interest to suspend

the process by which user fees are calculated and the effective date of new calculations. Under current regulations, a new calculation of user fees among hospitals, nursing homes, payors, and health care practitioners would become effective on July 1, 2021, and be effective for four years. The regulated health care practitioners (including registered nurses, physicians, nurse practitioners, and others), as well as hospitals and nursing homes have historically become quite involved in the recalculation process. Given the existing state of emergency and catastrophic health emergency, the Commission believes it is appropriate to avoid this distraction, which would take these health care providers, hospitals, and nursing homes away from their essential duties at this already stressful time. The appropriation for FY2021 was \$17.4 million and increased to \$17.9 million for 2022. For FY 2022, (1) payors will be assessed an amount not to exceed 26 percent of the total budget; (2) Hospitals for an amount not to exceed 39 percent of the total budget; (3) Health Occupational Boards for an amount not to exceed 16 percent of the total budget; and (4) Nursing Homes for an amount not to exceed 19 percent of the total budget.

Lastly, Mr. Steffen reported that on May 3, 2021, MHCC staff released a request for proposal (RFP) for **Data Management for the Maryland Medical Care Data Base (MCDB) RFP Number: MHCC 22-001**. The Commission will award a seven-year contract to a vendor. He further reported that a pre-bid conference will be held on Tuesday, May 25, 2021, at 2:00 pm. Proposals are due on June 30, 2021, no later than 4:00pm EDT and questions are accepted through June 4, 2021. The MBE contract requirement is 15 percent. MHCC anticipates a very competitive procurement as over 20 states have established All-Payer Claims Data Base (APCDs) and at least six vendors support these efforts.

Tracey DeShields, Director of Policy Development and External Affairs, in the Executive Office provided an update on the post legislative session activities underway. Ms. DeShields noted that the legislative session concluded on April 12<sup>th</sup> and since then the Governor held two bill signing sessions. The last bill signing was held on May 18<sup>th</sup>. Ms. Deshields also noted that bills not signed by the Governor will automatically become law and the Governor has until May 27<sup>th</sup> to veto bills.

Over the legislative interim, MHCC will work on developing studies resulting from bills passed, planning, and writing reports, collecting data, and developing regulations, either as the lead agency or in collaboration with the Maryland Department of Health (MDH) or another agency. The topic areas of work to be covered are telehealth, health disparities, medical debt, health information exchange, advance directives, and behavioral health (i.e., trauma care). Ms. DeShields discussed an internal review that will be conducted over the next few weeks to assess interim work, which includes delegating responsibilities to Centers within MHCC, and communicating required deliverables and predetermined deadlines. Additionally, it was noted that MHCC has begun reaching out to other agencies like the Health Services Cost Review Commission (HSCRC) and MDH to begin initial steps for interim work.

Ms. DeShields further stated that the biggest lift during the interim will be with telehealth. David Sharp, Director, Center for Health Information technology and Innovative Care Delivery (Center), provided an overview of the study of telehealth that will be led by his Center. He also described the RFP that is being drafted to identify a contractor to assist with the study.

### **AGENDA ITEM 3.**

#### **ACTION: COMAR 10.24.11 – State Health Plan for Facilities and Services: General Surgical Services – Proposed Permanent Regulations**

Eileen Fleck, Chief of Acute Care Policy and Planning, explained the purpose of updating COMAR 10.24.11, the Surgical Services Chapter. She reviewed the comments received in response to the draft Surgical Services Chapter posted for informal comment in February and explained staff's recommendations. One Commissioner asked if the requirement for ambulatory surgery facilities (ASFs) to provide information on participation in a health insurance plan included participation information for anesthesiologists. Ms. Fleck confirmed that anesthesiologists are included because all health care practitioners at an ASF are included. There were no other questions. The Commission voted to adopt COMAR 10.24.11, the Surgical Services Chapter, as proposed permanent regulations.

Commissioner Bhandari made a motion to adopt COMAR 10.24.11- State Health Plan for Facilities and Services: General Surgical Services as proposed permanent regulations, which was seconded by Commissioner O'Grady and unanimously approved.

#### **ACTION: COMAR 10.24.11 – State Health Plan for Facilities and Services: General Surgical Services – Proposed Permanent Regulations is hereby ADOPTED as Proposed Permanent Regulations.**

### **AGENDA ITEM 4.**

#### **ACTION: COMAR 10.25.06: Maryland Medical Care Data Base and Data Collection – Proposed Permanent Amendments to Regulations**

Mr. Kenneth Yeates-Trotman, Director of the Center for Analysis and Information Systems, presented to Commissioners on the proposed changes to COMAR 10.25.06. These regulations govern the data collection process for the Maryland Medical Care Data Base. Mr. Yeates-Trotman explained that the primary reasons for the changes were to align COMAR 10.25.06 with other Commission regulations and to make possible a timelier availability for healthcare data for projects, such as the Maryland Total Cost of Care (TCOC) Model and other public health studies on the prevalence of diabetes, opioids use, and the outbreak of the COVID-19 pandemic. He added that with the demand for more precise prescription drug costs calculations, the Commission needs to collect pharmacy rebates, a key data element used by the prescription drug affordability board (PDAB) to reduce drug costs for all Marylanders. Lastly, Mr. Yeates-Trotman said that it was essential for MHCC to increase the incentives for receiving "clean data" (data without errors) from payers and other reporting entities.

Mr. Yeates-Trotman spoke about the specific amendments to COMAR 10.25.06. He reported that the definitions of terms used throughout were updated for consistency with the new draft data release regulations, COMAR 10.25.05, currently in the process of development by staff.

Second, an amendment establishes MHCC's authority to increase the frequency of Maryland Medical Care Data Base (MCDB) data collection from reporting entities from quarterly to monthly. Mr. Yeates-Trotman said that the added benefit of monthly collections is that there is a dramatic increase in the accuracy of the data collected. He further explained that reporting entities submitting data twelve times per year instead of four times is not penalizing data submitters and increases the accuracy of the data. Mr. Yeates-Trotman noted that other APCD states collect data monthly from submitters. Mr. Yeates-Trotman added that MHCC staff would solicit reporting entities' input before implementing a requirement increasing the frequency of data collection from quarterly to monthly, and consult with a multi-stakeholder workgroup, including all reporting entities, State agencies, and others, to discuss the benefits and cost implications of a reporting schedule change. Mr. Yeates-Trotman noted that members of the stakeholder workgroup convened to review the draft regulations did not express much concern about a change in reporting frequency if MHCC gives enough time to become acclimated with the new reporting schedule. Some reporting entities also asked if there will be a testing phase as well. Mr. Yeates-Trotman confirmed that the proposed amendments to COMAR 10.25.06 require MHCC to establish a transition period for reporting entities to comply with a more frequent reporting schedule.

Third, the proposed amendments to COMAR 10.25.06 expand the Non-Fee-For-Service (NFFS) data collection to include medical and other services, including pharmacy and allows the collection of prescription drug rebates and value-based payments made to specific providers and payors.

Lastly, the amendments to COMAR 10.25.06 include a cross-reference to and restatement of the Commission's existing authority in COMAR 10.25.12 to impose monetary penalties on a reporting entity for the submission of data to the MCDB that is not timely filed, substantially incomplete or inaccurate. This restatement is necessary to emphasize that all reporting entities accountable for timely and high-quality data submitted to the MCDB.

Mr. Yeates-Trotman requested the Commission's approval of the proposed permanent regulations and noted the regulations will be posted for public comment in the Maryland Register after the Governor's approval. Mr. Yeates-Trotman stated that he anticipates that COMAR 10.25.06 will be before the Commission for final action at its September meeting.

Commissioner O'Grady made a motion to adopt the proposed amendments to COMAR 10.25.06, Maryland Medical Care Data Base and Data Collection, as proposed permanent regulations, which was seconded by Commissioner O'Connor and unanimously approved.

**ACTION: COMAR 10.25.06: Maryland Medical Care Data Base and Data Collection – Proposed Amendments are hereby ADOPTED as Proposed Permanent Regulations.**

#### **AGENDA ITEM 5.**

**PRESENTATION: Nursing Home Family Experience of Care Survey Results for 2020**

Stacy Howes, Chief, Long Term Care and Health Plan Quality Initiatives, summarized the results of the 2020 Nursing Home Family Experience of Care Survey. She reported that the annual survey was launched last year with two new options for completing the survey in addition to the traditional paper survey; respondents could choose to complete the survey over the phone or online. The overall response rate was 40 percent, and 34 percent of respondents completed the survey online while 2 percent completed it over the phone. In past years, scores had been steadily decreasing, but overall, the scores this year stabilized. The state average percentage of respondents who would recommend the nursing home was 80 percent. Respondents were asked to provide a rating on a scale of (1 to 10 with 10 being the highest) indicating how satisfied they were with the care provided by the nursing home, and the state average was 7.8. In addition, three questions about the nursing home's response to the COVID-19 outbreak were included. She noted that 81 percent of respondents felt that they received timely information about how COVID-19 affected loved ones, and 79 percent felt that staff kept them involved in their loved one's care decisions during COVID-19. Finally, 81 percent rated the nursing home a 7 or higher on the general COVID-19 response (on a scale of 1 to 10 with 10 being the highest). Overall, results indicate a "good" level of satisfaction in all categories statewide as well as with the COVID-19 response. Dr. Howes also noted that preliminary analysis shows family experience scores in all categories were lower for respondents reporting Medicaid as the primary source of payment.

**ACTION: NO ACTION REQUIRED**

#### **AGENDA ITEM 7**

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

Mr. Steffen stated that the June Commission meeting may include applications for Certificates of Ongoing Performances, at least one Certificate of Need (CON), and a presentation on Innovative Initiatives.

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

##### **ADJOURNMENT**

There being no further business, the meeting was adjourned at 2:49 p.m. upon motion of Commissioner Sergent, which was seconded by Commissioner O'Grady and unanimously approved.