



Thursday, December 15, 2022

MINUTES

Chairman Sergent called the meeting to order at 1:08 p.m.

Commissioners present via telephone and in person: Bhandari, Boyer, Boyle, Buczynski, Cheatham, Doordan, Jensen, Metz, O'Connor, O'Grady, Ojikutu, Wang, and Wood.

AGENDA ITEM 1.

Approval of the Minutes

Commissioner Jensen made a motion to approve the minutes of the November 17, 2022, public meeting of the Maryland Health Care Commission (Commission or MHCC), which was held by teleconference hybrid. The motion was seconded by Commissioner Boyle and unanimously approved.

AGENDA ITEM 2.

Update of Activities

Commissioner Boyle noted that the majority of nursing home acquisitions involve entities that would not qualify for a certificate of need (CON).

Eileen Fleck, Chief, Acute Care Policy Planning, introduced a new program manager in her division, Katie Neral. Ms. Neral will be working on updating State Health Plan chapters and reviewing Certificates of Ongoing Performance for cardiac surgery and percutaneous coronary intervention services programs. She began working in Maryland state government in 2016.

Ben Steffen, Executive Director spoke briefly on the legislative reports that are in the process of being submitted: 1) Telehealth Recommendations 2) Financial Restrictions on Access to Organ Transplants 3) Annual Trauma Report and 4) three mandate studies.

AGENDA ITEM 3.

ACTION: Approval of COMAR 10.25.19 - State Recognition of an Electronic Advance Directives Service

Justine Springer, Program Manager, Health Information Technology presented final amendments to COMAR 10.25.19 and Criteria for State Recognition of an Electronic Advance Directives Service (vendor). Amendments remove a provision for vendors to implement a certain electronic authorization guideline published in the National Institute of Standards and Technology Special Publication 800-63-2. The final amendments also include several non-technical changes to the criteria for State Recognition. Ms. Springer mentioned that no comments were received during the public comment period.

Commissioner Jensen moved to adopt COMAR 10.25.19 - State Recognition of an Electronic Advance Directives Service as final regulations, which was seconded by Commissioner Buczynski and, after discussion, was unanimously approved.

ACTION: COMAR 10.25.19 - State Recognition of an Electronic Advance Directives Service is hereby ADOPTED as final regulations.

AGENDA ITEM 4.

ACTION: Certificate of Need - Board of Child Care of the United Methodist Church, Inc. (Baltimore County) – Establish a Residential Treatment Center (Docket No. 22-03-2460)

Jeanne Marie Gawel, CON Analyst, briefed the Commissioners on the recommendation to approve a Certificate of Need (CON) application filed by Board of Child Care of the United Methodist Church, Inc. (BCC), to establish a Residential Treatment Facility (RTC) to be licensed for four beds.

Ms. Gawel shared that the Maryland Children’s Cabinet and Maryland Department of Health (MDH) identified a need to support youth experiencing extended and repetitive psychiatric stays in hospitals. In 2021, MDH released a Notice of Funding Availability (NFA) to support the development of a program to meet these needs.

Ms. Gawel stated that BCC responded to the NFA with a program proposed to address the hospital overstay crisis entitled the Bridge Residential Treatment Program (Bridge Program). BCC states that the Bridge Program will provide stabilization services for youths upon discharge from the hospital. She stated that the applicant is proposing to obtain licensure as a four-bed RTC situated in an existing cottage on the BCC campus. She shared that approximately 2,967 square feet of interior space and 900 feet of exterior space will be renovated.

Ms. Gawel described how BCC indicates that the program will serve youth needing psychiatric care who have co-occurring, behavioral, emotional, educational, and medical needs. The BCC will provide services to male or female youth aged 14-20 years old. The Bridge Program will also provide placement support services. Ms. Gawel shared that the proposed project has a total estimated cost of \$922,238 and the proposed financing is a grant from MDH.

Lastly, Ms. Gawel stated that the BCC application meets the general CON criteria as well as the specific standards in the State Health Plan chapter governing RTCs. She stated that the project is needed, is viable and will not have an adverse impact on other providers and therefore, recommends that the Commission approve the project.

Commissioner Jensen moved to approve the Certificate of Need - Board of Child Care of the United Methodist Church, Inc. (Baltimore County) – Establish a Residential Treatment Center, which was seconded by Commissioner Boyle and after discussion, unanimously approved.

ACTION: Certificate of Need - Board of Child Care of the United Methodist Church, Inc. (Baltimore County) – Establish a Residential Treatment Center is hereby APPROVED.

AGENDA ITEM 5.

ACTION: Maryland Trauma Physician Services Fund FY2022

Richard Proctor, Chief Operating Officer, presented the highlights of the 2022 Maryland Trauma Physician Services Fund (Trauma Fund) Report for approval by the Commission for submission to the General Assembly, in accordance with Section 2-1257 of the State Government Article. The law requires the Commission and Health Services Cost Resources Commission to submit an annual report to the General Assembly on the Trauma Fund. The report must include the amount of money in the Trauma Fund on the last day of the previous year, amount applied for by the trauma physician and trauma centers, and the amount of reimbursements distributed. The report must also include any recommendations for altering the manner in which trauma physicians and trauma centers are reimbursed from the Trauma Fund and the costs incurred in administering it. Commissioner Buczynski noted that according to the report, it appears that one doctor is receiving a disproportionate amount of uncompensated care payments. Mr. Steffen stated that staff would need to review and report back.

Commissioner Jensen moved to approve the Maryland Trauma Physician Services Fund FY2022 Report for submission to the General Assembly, which was seconded by Commissioner Buczynski and after discussion, unanimously approved.

ACTION: Maryland Trauma Physician Services Fund FY2022 Report is hereby APPROVED.

AGENDA ITEM 6.

ACTION: Appointment of the Chairperson for the Data Release Advisory Committee (DRAC)

As required by COMAR 10.25.05, MHCC staff formed a Data Release Advisory Committee (DRAC) made up of a diverse group of industry stakeholders and other related interested parties including but not limited to academic research organizations, consumer advocacy groups, payers, providers, employers, and other state agencies.

Mahlet Konjit-Solomon, Chief, APCD Public Reporting and Data Release, presented the nomination of Dr. Elizabeth Sammis as DRAC chairperson.

Commissioner Boyle moved to approve the appointment of Dr. Sammis as the Chairperson for the DRAC, which was seconded by Commissioner Wood and after discussion, unanimously approved.

ACTION: Appointment of Dr. Elizabeth Sammis as the Chairperson for the Data Release Advisory Committee (DRAC) is hereby APPROVED.

AGENDA ITEM 7.

ACTION: Financial Restrictions on Access to Organ Transplants, a report requested through the Maryland General Assembly's 2022 Budget Resolution

Ms. Fleck presented the study requested by the legislature that examined financial restrictions on access to organ transplants. She explained that staff reviewed existing policies governing eligibility for receiving an organ transplant at the Johns Hopkins Hospital (JHH), the University of Maryland Medical Center (UMMC), and MedStar Georgetown Transplant Institute. Staff also requested information on the reasons organ transplant candidates were denied access to each hospital's waiting lists and reasons for removal of patients from organ transplant waiting lists. Staff concluded that the policies of hospitals do not appear to excessively hinder access to organ transplant waitlists. Staff also concluded that organ transplant candidates do not appear to be removed from organ transplant waitlists for financial reasons. Staff recommended additional research be conducted because complete information on the reasons for denial of access to organ transplant waitlists was not available for all three hospitals reviewed. Staff recommended surveying patients to better assess the impact of financial barriers or other social determinants on whether a patient completes the process to be added to a waitlist.

Commissioner O'Grady moved to approve the report on Financial Restrictions on Access to Organ Transplants, a report requested through the Maryland General Assembly's 2022 Budget

Resolution, which was seconded by Commissioner O'Connor and, after discussion, was unanimously approved.

ACTION: Financial Restrictions on Access to Organ Transplants, a report requested through the Maryland General Assembly's 2022 Budget Resolution, is hereby APPROVED.

AGENDA ITEM 8.

ACTION: Mandated Health Insurance Services Evaluation: Health Insurance - Coverage of In Vitro Fertilization - Revisions - House Bill 142

Traci Hughes, consulting actuary for Lewis & Ellis, presented the results of their analysis on proposed changes to Maryland's current mandated coverage for in vitro fertilization (IVF), based on the revisions proposed under HB 142, a bill introduced during the 2022 legislation session but failed to pass. The Legislature also submitted a formal letter to MHCC staff requesting the fiscal, medical, and social impact analysis on the proposed bill. Ms. Hughes noted that part of her evaluation process included literature reviews, interviews with a provider group and industry stakeholders, carrier survey data, and data from Maryland's medical care database.

From a social and financial perspective, Ms. Hughes stated that under current IVF coverage, such as that provided in the large group market, cost is a major barrier, with one cycle of IVF costing up to \$20,000. Ms. Hughes provided an estimated range on the cost impact analysis of the IVF revisions in the bill, noting a low range of 0.1%, a mid range cost of 0.2%, and a high range cost impact of 0.3% on total premium costs.

Commissioner Wang commented that it was a pleasure to participate in the provider group interviewed for the report. He noted that given the broad language in the proposed bill, there is little room for denial of coverage, which might raise costs for all insureds, especially low-income individuals, while providing a relatively expensive benefit for a very small portion of the population.

Several Commissioners concurred that removal of the religious exemption from the current mandate could create a social concern that might compromise the success of future legislation.

Mr. Steffen noted the Commission's common practice of submitting the report with a cover letter stating the Commission's concerns and noting that the adoption of any low-cost mandate might be insignificant, but the cumulative cost of mandated coverages and services can be impactful.

Commissioner O'Grady moved to approve the submission of the Mandated Health Insurance Services Evaluation: Health Insurance - Coverage of In Vitro Fertilization - Revisions - House

Bill 142 to the General Assembly, which was seconded by Commissioner Boyle and after discussion, unanimously approved.

ACTION: Submission of the Mandated Health Insurance Services Evaluation: Health Insurance - Coverage of In Vitro Fertilization - Revisions - House Bill 142 to the General Assembly is hereby APPROVED.

AGENDA ITEM 9.

ACTION: Approval of Staff's Recommendations to accept the changes in the Telehealth Recommendations Report

David Sharp, Director of the Center for Health Information Technology and Innovative Care Delivery, overviewed changes to the final Telehealth Recommendations Report. Changes were made to select recommendations following a request for public comment on November 21; a total of 11 organizations submitted a comment letter. The recommendations were developed as required by the Preserve Telehealth Access Act of 2021 and will be submitted to the Senate Finance Committee and the House Health and Government Operations Committee.

Commissioner Wood moved to accept staff's recommended changes to the Telehealth Recommendations Report, which was seconded by Commissioner Jensen, and approved by a majority of Commissioners.

Commissioner Bhandari introduced a motion to amend the Commission's recommendation #2 in the final report, Preserve Telehealth Access Act of 2021 – Telehealth Recommendations, to add language to explicitly forgo a documentary requirement for clinicians. The motion was seconded by Commissioner Buczynski and after discussion, the motion was approved by a majority of Commissioners.

ACTION: Motions to Accept Staff's Recommended Changes in the Preserve Telehealth Access Act of 2021 report and to Amend the Commission's recommendation #2 to explicitly forgo a documentary requirement for clinicians are hereby APPROVED.

AGENDA ITEM 10.

PRESENTATION: Overview of Residential Treatment Center Services Prefatory to State Health Plan Update (COMAR 10.24.07)

LaWanda Edwards, Program Manager, and Paul Parker, Director, Center for Health Care Facilities Planning and Development, provided a presentation on the state of the RTCs in

Maryland. The MHCC staff is finalizing a White Paper on residential treatment center services in Maryland as a first step in updating the State Health Plan regulations governing the review of RTC projects requiring MHCC approval. CON approval is required to establish, relocate, or add beds to RTCs.

The presentation provided an overview of how RTCs function, who they serve, and services and programs offered. The six facilities are based mainly in the Baltimore region with one located in Montgomery County serving youth between seven to 21. The biggest concerns include bottlenecks at hospitals, reducing length of stay, increased Medicaid reimbursement, and lack of specialized programming.

ACTION: NONE

AGENDA ITEM 11.

Overview of Upcoming Activities

Mr. Steffen briefly discussed the workgroups in which MHCC was involved. The MHCC completed a Workplace Violence Report at the request of the Secretary and Mr. Steffen thanked Blair Eig, M.D. and Theresa Lee, Director, Center for Quality Measurement and Reporting. The Health Care Workforce Crises Commission Workgroup, on which Dr. Bhandari serves as a chair of one of the data advisory groups, is continuing to meet. Mr. Steffen noted that the Palliative Care workgroup is working on a survey. Mr. Steffen also commented that MHCC has a workgroup on small-assisted living facilities, on which Commissioner Boyle serves, is considering whether there should be additional regulatory oversight over small-assisted living facilities. Lastly, MHCC has convened a workgroup to define the technical infrastructure for dispensers to provide non-controlled dangerous substance prescription information to CRISP, the State-Designated health information exchange.

Mr. Steffen noted that the Commission would be holding a retreat on January 20 focusing on strategic priorities and that the January's Commission meeting agenda will include information on the upcoming legislative session.

AGENDA ITEM 12.

ADJOURNMENT

There being no further business, the meeting was adjourned at 4:00 p.m. upon motion of Commissioner Jensen, which was seconded by Commissioner Buczynski.