



**Thursday, January 19, 2023**

## **MINUTES**

Chairman Sergent called the meeting to order at 1:13 p.m.

**Commissioners present via telephone and in person:** Bhandari, Boyle, Brahmhatt, Buczynski, Cheatham, Jensen, O’Grady, Ojikutu, Wang, and Wood.

### **AGENDA ITEM 1.**

#### **Approval of the Minutes**

Commissioner Jensen made a motion to approve the minutes of the December 15, 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**

Chairman Sergent invited questions on the written updates provided by Ben Steffen, Executive Director. Commissioner Boyle noted that the written updates indicate that the assisted living page of the Commission’s quality website is very popular, but there is currently limited data on quality in assisted living facilities. Mr. Steffen noted that the Commission has a workgroup that is looking at additional oversight over small assisted living facilities, but could explore quality in assisted living facilities more generally. Mr. Steffen also noted that the Commission could conduct patient satisfaction surveys in assisted living facilities as the Commission currently does with nursing homes.

Commissioner Jensen asked staff to provide an update on the statuses of cases on the contested Certificate of Need (CON) docket. Caitlin Tepe, Assistant Attorney General, noted that Franklin Square Medical Center has submitted an updated CON application and requested an extension to respond to completeness questions. Paul Parker, Director, Center for Health Care Facilities, Planning and Development, noted that a draft recommended decision is being finalized for the Physicians Surgery Center of Frederick and was expected to come before the Commission in March 2023. Mr. Steffen noted that the Bayview project has been dormant for many years and requires a revised application and likely a rate review by the Health Services Cost Review Commission.

Chairman Sergent asked for an update on the Wear the Cost project. Mr. Steffen stated that a contract has been finalized with Change Healthcare.

Commissioner O'Grady asked for more information about the ProMedica acquisitions noted in the written updates. Mr. Parker stated that the current real property owner is a joint venture between ProMedica and Integra Health. ProMedica is transferring its interest in the joint venture to Integra.

### **AGENDA ITEM 3.**

#### **ACTION: Mandated Health Insurance Services Evaluation: Health Insurance - Home Test Kits for Sexually Transmitted Diseases – Required Coverage - Senate Bill 634 – Final Draft Report**

Greg Fann, consulting actuary for Axene Health Partners (Axene), presented the results of their analysis on requiring carriers to provide coverage of home test kits for sexually transmitted diseases (STDs), based on the specifications proposed under SB 634, a bill introduced during the 2022 legislation session that failed to pass. The Legislature also submitted a formal letter to MHCC staff requesting the fiscal, medical, and social impact analysis on that unsuccessful bill. Mr. Fann noted that, to date, only California has passed similar legislation, adding that the financial impact on premiums in Maryland would be a maximum of 0.5%, with the costs for kits and lab testing comprising about 0.2%, and treatment costs as the additional costs. He also stated that from a clinical perspective, early detection is key to preventing complications. Mr. Fann also noted that the Centers for Disease Control and Prevention provides clear testing guidelines; however, on-site testing is often inconvenient and can also be a barrier to testing due to travel inconveniences, disease stigma, and privacy issues. However, he noted that on-line home test kits, such as “I Want a Kit” available through Johns Hopkins is a promising alternative. Mr. Fann also indicated the quality concerns with some tests, including false negatives as well as over which tests are approved by the U.S. Food and Drug Administration (FDA).

Mr. Fann said that from an operational perspective, carriers should be given some discretion in setting up their delivery systems to carry out such a mandate, noting that utilization could be higher in year 1 of a mandate due to pent up demand, and would taper off in future years. Mr. Fann's presentation also provided considerations for carriers if this mandate were provided with in-network coverage only, or if out-of-network benefits were included. Next, Mr. Fann provided some clinical background on STDs, indicating that both nationally and in Maryland, HPV is the most prevalent STD, but 86% of costs are attributable to HIV. He stated that diagnosis rankings are relatively high in Maryland, especially for chlamydia and gonorrhea. He also said that 66% of all STDs are asymptomatic, stressing that importance of prevention guidelines.

Mr. Fann concluded by noting that, based on carrier surveys conducted by Axene as part of this mandate evaluation, carriers believe that STD home test kits are not considered an Essential Health Benefit under the ACA, nor are they considered to be preventative care without patient cost-sharing responsibilities. Some carriers also consider home test kits as experimental.

Commissioner Buczynski expressed concern with the responsibility of patients who use a home test kit to report the STD diagnosis if patients can obtain test kits without contacting a health care provider. Axene clarified that the test kits involved home collection of specimens, but that the specimen would still be sent to a lab. Axene staff noted the importance of a risk assessment so that the correct testing kit is used, adding that retail providers might not provide a risk assessment.

In response to a question, Axene staff stated that most tests have an independent physician associated with each test kit company to act as a navigation tool for treatment, after which a patient can then go to a community hospital, the emergency room, or schedule a telemedicine appointment, as directed by the independent physician. Axene then noted that this could be an added benefit in capturing some of the 66% of the population who are asymptomatic.

Commissioner Cheatham mentioned possible billing issues if yet another doctor retests after a patient is referred based on the results of a home test kit. Commissioner Wang expressed concern with requiring coverage for a behaviorally based mandate due to the cost impact across premiums for all covered individuals. Commissioner Jensen countered that, personal and societal issues notwithstanding, early detection could help offset more costly treatment. Chairman Sergent questioned the reliability of testing, noting that carriers should not be mandated to pay for unreliable, unproven coverage.

Commissioner O'Grady concluded the discussion by taking notice of the importance of pointing out to the Legislative Committees that the assumptions used by actuaries in their fiscal impact assessment on this proposed bill should be taken into consideration if new legislation is introduced, since the assumptions used for this report have a significant impact on cost estimates.

Commissioner Buczynski moved to approve the submission of the Mandated Health Insurance Services Evaluation: Health Insurance - Home Test Kits for Sexually Transmitted Diseases – Required Coverage - Senate Bill 634 – Final Draft Report to the General Assembly, which was seconded by Commissioner Wood and, after discussion, was unanimously approved.

**ACTION: Mandated Health Insurance Services Evaluation: Health Insurance - Home Test Kits for Sexually Transmitted Diseases – Required Coverage - Senate Bill 634 – Final Draft Report is hereby APPROVED for submission to the General Assembly.**

## **AGENDA ITEM 4.**

### **ACTIONS: Certificate of Ongoing Performance for Cardiac Surgery Services**

Olubukola (Buki) Alonge, Program Manager, presented the staff reports and recommendations for the Certificate of Ongoing Performance applications for cardiac surgery of three hospitals: TidalHealth Peninsula Regional; Adventist Healthcare White Oak Medical Center; and The Johns Hopkins Hospital. She provided an overview of the standards in COMAR 10.24.17 for Certificate of Ongoing Performance reviews for cardiac surgery services in Maryland. She recommended that the Commission find that each hospital is in compliance with the required standards. Dr. Alonge also introduced representatives from each of the three hospitals who attended the meeting. A few Commissioners asked questions regarding the external review of cases and the risk adjusted mortality rates for cardiac surgeries following Dr. Alonge's presentations. The Commission voted unanimously to approve the applications for TidalHealth Peninsula Regional, Adventist Healthcare White Oak Medical Center, and The Johns Hopkins Hospital to continue providing cardiac surgery services for the next four years.

#### **4A. ACTION: TidalHealth Peninsula Regional Medical Center (Docket No. 22-22-CP040)**

Commissioner Boyle moved to approve the Certificate of Ongoing Performance for TidalHealth Peninsula Regional Medical Center, which was seconded by Commissioner Buczynski and after discussion, unanimously approved.

**ACTION: Certificate of Ongoing Performance- TidalHealth Peninsula Regional Medical Center is hereby APPROVED.**

#### **4B. ACTION: Adventist HealthCare White Oak Medical Center (Docket No. 22-15-CP041)**

Commissioner Jensen moved to approve the Certificate of Ongoing Performance for Adventist HealthCare White Oak Medical Center, which was seconded by Commissioner Buczynski and after discussion, unanimously approved.

**ACTION: Certificate of Ongoing Performance- Adventist HealthCare White Oak Medical Center is hereby APPROVED.**

**4C. ACTION: The Johns Hopkins Hospital (Docket No. 22-24-CP039)**

Commissioner Wang moved to approve the Certificate of Ongoing Performance for The Johns Hopkins Hospital, which was seconded by Commissioner Boyle and after discussion, unanimously approved.

**Certificate of Ongoing Performance - The Johns Hopkins Hospital is hereby APPROVED.**

**AGENDA ITEM 5.**

**PRESENTATION: Legislative Update**

Tracey DeShields, Director of Policy Development and External Affairs, gave a general overview of the legislative process for the upcoming legislative session. She explained that the legislative session runs for 90 days beginning on January 11. She went over important dates that the Commission and staff need to be aware of as the session proceeds.

Ms. DeShields discussed the legislative process and the role of the Commission during the legislative session. She explained that there are weekly legislative policy meeting calls with the Commissioners and that during those calls bills (legislation) is reviewed along with position recommendations from staff. Ms. DeShields noted that the first legislative policy call with Commissioners will be on Thursday, January 26 at 8:00 am.

Ms. DeShields also mentioned that the House of Delegates issued guidelines that bill hearings will be hybrid this session—virtual and in-person testimony. The Senate also issued guidelines and will also have hybrid bill hearings—virtual and in-person testimony. Both the Senate and the House are encouraging in-person testimony. They have not issued guidelines on proceedings for committee hearings and floor actions in the Senate.

**ACTION: NONE**

**AGENDA ITEM 6.**

**PRESENTATION: Workplace Violence Prevention and Public Awareness**

Courtney Carta, Chief, Hospital Quality Performance, presented an overview of the final recommendations from the workgroup established from Senate Bill 700 (2022). The bill required the Secretary of Health to establish a workgroup to develop a public awareness campaign on preventing workplace violence in health care settings and to create a plan to implement the campaign. MHCC assisted with this effort and hosted three workgroup meetings in the Fall of 2022. The Workgroup recommended that the campaign must: 1. explain the

seriousness of violence in healthcare settings; 2. humanize healthcare employees; and 3. be inclusive of all personnel, not just clinical providers. The Workgroup recommended targeting all Marylanders using a variety of advertising mediums (e.g., tv commercials, radio ads, social media, etc.). Ideally, the campaign would last for one year with a recommended budget of two million dollars. The final report was submitted to the Maryland Department of Health in December. Commissioners engaged in a healthy discussion and noted that this subject matter was an important issue that required additional attention beyond a marketing campaign.

**ACTION: NONE**

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

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

Mr. Steffen briefly talked about the upcoming events, including the Primary Care Workgroup which will meet on January 23. The Health Services Cost Review Commission (HSCRC) is overseeing the Post-Acute Care workgroup and the Physician workgroup; HSCRC have asked MHCC's staff to participate in the workgroups. Mr. Steffen also noted that there is a Consumer Engagement workgroup that has not yet begun. During the February Commission meeting an update will be provided after Governor Moore introduces his priorities and his appointment of Health Secretary, Laura Herrera Scott, M.D.

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

##### **ADJOURNMENT**

There being no further business, the meeting was adjourned at 3:50 p.m. upon motion of Commissioner Jensen, which was seconded by Commissioner Buczynski.