



**Thursday, June 15, 2023**

## **MINUTES**

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

**Commissioners present via telephone and in person:** Bhandari, Boyer, Boyle, Buczynski, Jensen, O’Grady, and Wood.

### **AGENDA ITEM 1.**

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

Commissioner Buczynski made a motion to approve the minutes of the May 18, 2023, public meeting of the Maryland Health Care Commission (Commission or MHCC), which was held by teleconference hybrid. The motion was seconded by Commissioner Jensen and unanimously approved.

### **AGENDA ITEM 2.**

#### **Update of Activities**

Ben Steffen, Executive Director, talked about Interim reports required under legislation passed in 2022 with Recommendations on: 1) Interstate Telehealth; 2) Primary Care Investment; 3) Small Assisted Living Facilities; and 4) Palliative Care.

Next, Mr. Steffen discussed the Interim Work from the 2023 legislative session. He spoke about the Commission to Study Trauma Center Funding in Maryland with nominees to be submitted to the Secretary for Appointment. The Commission is charged to study and report on the adequacy of trauma center funding across the State for operating, capital, and workforce costs. Mr. Steffen stated that MIEMSS and MHCC will co-chair and staff the Commission. The report will be submitted to the Legislature in December of this year. The MHCC is directed to distribute 9.5 million in general funds to Trauma Centers under financial stress.

Mr. Steffen talked about the Nursing Home Acquisition Workgroup, which MHCC was charged in establishing under SB509. The Commission will study the necessity of expanding the Certificate of Need (CON) program over acquisitions of nursing homes and to consider the following: 1) MHCC oversight of nursing home acquisitions; 2) eliminating patient rooms with more than two beds; and 3) other issues related to MHCC oversight of nursing homes.

Mr. Steffen then spoke about the status of the procedural regulations COMAR 10.24.01. They are scheduled to be posted in the Maryland Register on July 14<sup>th</sup>. The publishing date had been

pushed back due to its length; it requires more time for review although does not affect when it would be presented to the Commission as final.

Next, Mr. Steffen talked about COMAR 10.24.10 - Acute Care Hospital Services, which was discussed during the May meeting. MHCC extended the deadline for submitting informal written public comments to June 28, 2023 at 5:00 p.m.

Lastly, Mr. Steffen spoke about COMAR 10.25.18 – Health Information Exchanges: Privacy and Security of Protected Health Information. This Chapter addresses the privacy and security of protected health information maintained by a health information exchange (HIE) or obtained or released by any person through an HIE by adopting specific requirements.

Richard Proctor, Chief Operating Officer, introduced a new employee, Maxine Traynham, Program Manager in Executive Direction. Ms. Traynham joins us from the Maryland Board of Nursing, where she served as an Administrative Services Manager. Ms. Traynham will work under the supervision of Mr. Proctor to manage the Maryland Trauma Physician Services Fund and assist in managing other operational units as directed by Mr. Proctor.

Courtney Carta, Chief, Hospital Quality Performance, gave an update on the most recent Leapfrog Hospital Safety Grades. The Leapfrog Group assigns letter grades (A-F) to hospitals based on the performance of approximately 22 patient safety measures. Grades are assigned twice annually. The Spring 2023 grades were released last month. Nine hospitals received an A, 15 received a B, 15 received a C, two hospitals received a D, and no hospitals received an F. This performance was similar to the previous grading cycle (Fall of 2022). Maryland ranks 35 out of 51 based on the percentage of hospitals that received an A. The commissioners were provided with a summary document that supplied additional details and information.

### **AGENDA ITEM 3.**

#### **ACTION: Certificate of Need – Alpas Wellness - LaPlata, LLC, Docket No. 22-04-2462**

Alpas Wellness – LaPlata, LLC proposes to establish a 36-bed Track One intermediate care facility with ASAM level 3.7 and 3.7WM services for adults in an existing facility located at 1014 Washington Ave, La Plata, Maryland in Charles County. The total project cost is \$42,637,500, with the costs attributed to the ICF totaling \$8,703,802.

Moira Lawson, Program Manager and CON Analyst, presented the staff recommendation. The applicant states the project will serve patients who reside throughout the State of Maryland. The proposed project will improve the availability and access to ICF services for all patients and not have an appreciable impact on costs or charges for substance use disorder treatment services. The project will not adversely impact other existing ICFs in Southern Maryland.

Staff recommended approval of the project with the following conditions:

1. Alpas Wellness – La Plata shall document the provision of a minimum of 15 percent of patient days to indigent and gray area patients, as defined at

COMAR 10.24.14.08B(9) and (11), by submitting annual reports auditing its total days and the provision of days to indigent and gray area patients as a percentage of total days. Such audit reports shall be submitted to the Commission each July first following the issuance of first use approval and continuing for five years thereafter.

2. Alpas Wellness – La Plata shall document that it has posted a statement of charges and information regarding the range and types of its services online and affirm that this statement of charges and information will be posted in a prominent place in the registration areas of its ICF and that it will also provide the statement of charges and the information of services to the public upon request.
3. Alpas Wellness – La Plata must receive preliminary accreditation for the Level 3.7 services it will provide, including withdrawal management and post-withdrawal treatment programming, by The Joint Commission (TJC) or another accrediting body approved by the Maryland Department of Health prior to First Use approval by the Commission, and must timely receive final accreditation by TJC or another approved accrediting body. [COMAR 10.24.14.05H]
4. Alpas Wellness – La Plata shall notify the Commission and the Behavioral Health Administration (BHA), in writing, within 15 days after it receives notice that its accreditation has been revoked or suspended or should it lose its State license. If its accreditation has been revoked or suspended for reasons related to health or safety or it loses its State license, Alpas Wellness – La Plata shall cease operation until the BHA notifies the Commission that the deficiencies have been corrected. [COMAR 10.24.14.05H]
5. Prior to first use, Alpas Wellness – La Plata shall provide documentation of its transfer and referral agreements, in the form of letters of agreement or acknowledgment from acute care hospitals; halfway houses, therapeutic communities, long-term care facilities, and local alcohol and drug abuse intensive and other outpatient programs; local community mental health center(s); the jurisdiction’s mental health and alcohol and drug abuse authorities; the BHA; and the jurisdiction’s agencies that provide prevention, education, driving-while-intoxicated programs, family counseling, and other services. [COMAR 10.24.14.05L]

Commissioner Boyle moved to approve the CON to establish a 36-bed IFC for Alpas Wellness-La Plata , which was seconded by Commissioner Buczynski and after discussion, unanimously approved.

**ACTION: Motion to APPROVE the Certificate of Need – Alpas Wellness - LaPlata, LLC is hereby APPROVED.**

#### **AGENDA ITEM 4.**

##### **PRESENTATION: Current Status of Palliative Care in Maryland**

Linda Cole, Chief of Long-Term Care Policy and Planning, presented a status report on the State of Palliative Care in Maryland. Ms. Cole explained that work was undertaken in response to HB378 (2022 legislative session), which requires MHCC to convene a group of interested stakeholders to study palliative care services and make recommendations about the provision of such services. The presentation included: legislative requirements; implementation approaches through the workgroup; statewide survey initial findings; and an outline of the Interim Report. Ms. Cole noted that the Interim Report is due to the legislature on July 1<sup>st</sup> and the final report is due by November 1<sup>st</sup>.

Questions were raised about how palliative care coordinates with primary care. It was explained that palliative care works as a supplement to, not a replacement for, primary care. It is an extra layer to assist patients with serious illnesses to navigate the healthcare system. Questions were also raised as to how palliative care is defined. Ms. Cole explained that the workgroup adopted the nationally recognized definition developed by the Center to Advance Palliative Care (CAPC). This definition is widely used by both the federal government, as well as other states.

**ACTION: NONE**

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

##### **PRESENTATION: Health Care Practitioner Report**

Shankar Mesta, Chief of Cost and Quality in the Center for Analysis and Information Systems, presented the results of the professional services annual report on payments for in-network professional services for Maryland's privately insured from 2019 through 2021 using data from the Maryland Medical Care Data Base (MCDB). Mr. Mesta noted that the analysis was performed on new datasets created by Onpoint by using Datagrip instead of SAS software.

Mr. Mesta stated that this report was limited to in-network professional services, comprising about 99 percent of the total population. Large payors, Carefirst and United Healthcare are about 80 percent of total spending in the analysis. He also mentioned that this report study included the age population under 65. The research used RVUs from 2021, 2020, and 2019 Medicare physician fee schedules (PFS), which contained information for more than 10,000 physician services.

Mr. Mesta discussed the impact of payment rates for professional services in Maryland by market share, geographical region, and specialty and compared these rates to Medicare and

Medicaid. Mr. Mesta noted that payments per RVU for all payers decreased by about 5.4 percent in 2021, which was comparable to the previous year, with a 0.8 percent decrease from the year 2019 through 2020. Larger payers pay lower. Larger payers pay about 90 percent of other payers, consistent with the previous report. Larger payors can negotiate better prices.

Mr. Mesta talked about the providers in the DC Metro area who received a higher average payment rate than other providers in Maryland regardless of payer market share, where payment rates were highest in the DC Metro area in 2019. In comparison, providers in the Baltimore metro region received marginally higher rates during 2020 and 2021, which contrasts with the observation in 2019. To explain the opposite trend, Mr. Mesta mentioned that the HSCRC report indicated the unit cost is 4 percent higher in Baltimore, which probably explains the cost shift in our study.

Mr. Mesta said that private payment rates in Maryland were 101 percent of that of Medicare, and private rates were consistently above the Medicaid rates. He noted that a similar analysis performed by the health care cost institute using 2017 employer-sponsored insurance claims showed that the average private rates varied dramatically across the states, from below Medicare rates in Alabama (98 percent) to nearly twice the Medicare rates in Wisconsin (188 percent). Maryland showed an average private rate of 104 percent. Mr. Steffen noted that Wisconsin providers are consolidated into only three groups, which is the reason for higher private payment rates compared to Medicare rates.

The Commissioners suggested more studies are needed to compare Maryland with the rest of the country. Mr. Steffen explained that the best comparison would be to compare the hospital rates.

**ACTION: NONE**

## **AGENDA ITEM 6.**

### **OVERVIEW OF UPCOMING ACTIVITIES**

Mr. Steffen briefly spoke about next month's Commission meeting. For July's Commission meeting, MHCC plans to have two action items, CON Priorities for FY2024 and Health Care Equity, and a few presentations one of which is the Maryland Healthcare Expenditure Report.

## **AGENDA ITEM 7.**

### **ADJOURNMENT**

Commissioner Jensen asked for a motion to adjourn the meeting and after there being no further business, the meeting was adjourned at 3:24 p.m. upon the motion of Commissioner Buczynski, which was seconded by Commissioner Buczynski.

**ACTION: NONE**