



Thursday, July 20, 2023

MINUTES

Chairman Sergent called the meeting to order at 1:03 p.m.

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

AGENDA ITEM 1.

Approval of the Minutes

Commissioner Boyle 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

Chairman Sergent started the meeting off with an announcement that Janet Ennis, Chief of Special Projects in the Center for Analysis and Information Systems, will retire from MHCC at the end of July. Janet has worked at the Commission and its predecessor, the Health Care Access and Cost Commission since 1994. She was the fourth employee at HCACC when she was hired. Janet was instrumental in implementing Maryland’s small group market insurance reforms passed in 1994. That effort stabilized the small group market over the next 15 years. She directed the Maryland Partnership Program from 2008-2014, which provided subsidies to very small employers that had not previously offered health insurance coverage to their employees. For the last 10 years, Ms. Ennis has worked to further establish the Medical Care Data Base. In that role she served as the project manager for the federal grants that funded the expansion of the MCDB and now collaborates closely with Freedman Healthcare, MHCC’s program management consultant on the MCDB.

Ms. Ennis is the resident expert at MHCC on Maryland’s health insurance benefits and insurance mandates. In most years, she is directing one or more mandate studies requested by the General Assembly.

Chairman Sergent thanked Ms. Ennis for her many contributions to MHCC and wished her well as she transitions to the next phase of her life.

Ben Steffen, Executive Director, talked about the 2022 Workgroups and studies that are proceeding according to schedule.

- The HGO Chair tasked MHCC with convening a workgroup to address the ability of certain out-of-state providers to deliver care in Maryland. A Draft Interstate Telehealth Report is completed.
- Senate Bill 734, Primary Care Report and Workgroup, requires MHCC to annually make recommendations on the level of primary care spending relative to overall health care spending. By December 1, 2023, MHCC is required to submit a Primary Care Analysis and Reporting Plan (“Plan”) to the Governor and Maryland General Assembly.
- House Bill 378, passed in 2022, requires MHCC to convene a workgroup to “study palliative care services and make recommendations to improve palliative care services. MHCC is receiving a limited amount of technical assistance support from NASHP. The Palliative Care Interim Report will be sent to the Commissioners.
- Senate Bill 531/House Bill 636 requires MHCC in consultation with the Office of Health Care Quality (OHCQ), the Maryland Long-Term Care Ombudsman Program, the Medicaid Administration, the Governor’s Workforce Development Board, and interested stakeholders, to conduct a study regarding the quality of care by assisted living programs with nine or fewer beds. The law also requires the Commission to report its recommendations, including any draft legislation, to the Governor and certain committees of the General Assembly by October 1, 2023.

Mr. Steffen also spoke about the Office of Legislative Audits in which MHCC has submitted draft findings. MHCC will need to ensure the following:

1. Segregate certain duties related to payments among staff on the Trauma Fund Administration.
2. OLA identified two hospitals that were mistakenly not assessed user fees.
3. OLA questioned why Onpoint did not conduct a SOC 2 audit on their own IT infrastructure. AWS infrastructure, where all MHCC data is stored, conducts SOC2 audits. The Commission pointed out that Onpoint has a HITRUST certification, which most in the health care industry now judge as superior. Onpoint's data infrastructure is not used to store MHCC data.
4. OLA noted that some of MHCC’s contract awards were not posted timely to eMMA, the state contracting portal. They also chided MHCC for not requiring vendors to submit password-protected best and final offers.

Finally, Mr. Steffen briefly discussed Personnel. He is deferring filling the CON Chief position for six months because Jeanne Marie Gawel, program manager, has agreed to serve as Acting CON Director. Mr. Steffen also stated that Secretary Herrera Scott asked him to serve as Vice-Chair of the Maryland Health Benefit Exchange (MHBE).

Theresa Lee, Director for the Center for Quality Measurement and Reporting, introduced Teresa Brown, a new member of the MHCC staff who will serve as the Chief Methodologist for the Center. Prior to coming to the Commission, Ms. Brown served as a Data Scientist with the Centers for Medicare and Medicaid Services, where she played a leading role in supporting and restructuring their quality measures management system. She also served as Director of Emerging Initiatives at the National Quality Forum where she guided projects and initiatives designed to advance health equity, Patient-Reported Outcome Performance Measures and Digital Measurement. As Quality and Patient Safety Manager at Ascension Saint Agnes Hospital, Teresa managed clinical databases and played a significant role in supporting the hospital's compliance with federal and state reporting requirements. Ms. Brown holds a Master's in Management of Aging Services from UMBC and a Master's in Healthcare Administration from Walden University.

Eileen Fleck, Chief, Acute Care Policy and Planning, introduced Eliot Burkom, a new program manager. Ms. Fleck noted that Mr. Burkom will primarily be working on the annual hospital survey and review of the Certificates of Ongoing Performance.

AGENDA ITEM 3.

ACTION: CON Priorities for FY 2024

Wynee Hawk, Director of the Center for Health Care Facilities Planning and Development, presented the recommended CON Priorities for State Health Plan updates for FY 2024, and she also provided status updates for two sets of regulations in process: the Procedural Regulations COMAR 10.24.01 and Acute Care Hospital Services COMAR 10.24.10.

Commissioner O'Grady moved to approve the CON Priorities for FY 2024, which was seconded by Commissioner Jensen and after discussion, unanimously approved.

ACTION: Motion for CON Priorities for FY 2024 is hereby APPROVED.

AGENDA ITEM 4.

PRESENTATION: Maryland Healthcare Expenditure Report

Kenneth Yeates-Trotman, Director of the Center of Analysis and Information Systems, presented the results of the Maryland Healthcare Expenditure Report on expenditures incurred by all Maryland residents for 2017 through 2020. Mr. Yeates-Trotman noted that this report is the first of its kind in several years as the Commission is resuming this type of reporting. Mr. Yeates-Trotman noted that some of the past data sources were discontinued and other data sources are less valuable than they once were. The Commission is trying to conduct this study on a considerably reduced budget. MHCC spent approximately \$300,000 to \$400,000 previously to create this report.

Mr. Yeates-Trotman stated that the report provides information about total and per capita personal healthcare expenditures by Maryland residents in 2020 and the distribution of these expenditures by type of service and source of payer. It compares expenditures in 2020 with those over the period of 2017 through 2019. It also compares spending in Maryland with spending nationally. He also noted that the populations used in the study include all insured members and the uninsured. The data used in the report came from various credible data sources, including the National Health Expenditures Accounts prepared by the Office of the Actuaries from CMS, the Maryland Hospital Casemix data, and the Medical Care Data Base (MCDB), to name a few. The data excluded Government Administration (State and Federal), Net Cost of Private Insurance, Public Health Activities (except for COVID-19 related data), and Investments.

Mr. Yeates-Trotman discussed the findings of the study, stating that in 2020, Maryland spent an estimated \$69.5 billion on personal health care, including COVID-19, and that the rate of growth in personal health care expenditures between 2019 and 2020 accelerated faster (3.4 percent to 5.8 percent) than the Nation (5.1 percent to 5.8 percent) during the same period (excluding COVID-19). Mr. Yeates-Trotman also pointed out that on a per capita basis, Maryland's healthcare spending was mainly below the national per capita, except for 2020, where Maryland's per capita trended slightly above the national results (5.8 percent vs. 5.4 percent). Mr. Yeates-Trotman added that although Marylanders earned more, they spend a lower proportion of income on healthcare on average. In 2020, residents spent an average of about 16.2 percent of their income on healthcare, compared with 17.1 percent nationally (excluding COVID-19).

ACTION: NONE

AGENDA ITEM 5.

PRESENTATION: Overview of Work Assigned in 2023 by the Legislature

Tracey DeShields, Director of Policy Development and External Affairs, gave an update on the status of the legislative interim initiatives MHCC is responsible for leading. Ms. DeShields provided a status report for each initiative by topic:

Trauma Funding:

- ❑ Requires MHCC to submit a report on the criteria for allocating \$9,500,000 in trauma facility funding 45 days prior to the transfer of funds from the DPA to MHCC for allocation to trauma centers.

Update:

- MHCC reached out to the various trauma centers for a representative to participate in meetings to discuss and identify the criteria.
- ❑ [SB0493/HB0675](#) - Commission to Study Trauma Center Funding in Maryland - *MIEMSS and MHCC shall jointly chair and staff the Commission, Study the Adequacy of Trauma Center Funding. On or before December 1, 2023, the Commission shall report its findings and recommendations to the Governor and General Assembly.*

Update:

- The Commission was appointed by the Maryland Department of Health Secretary;
- An email was sent to the Commission members with the date of the first meeting and an agenda idea for the first meeting and following meetings.

Behavioral Health:

- ❑ [SB0283/HB0418](#) - Mental Health - Workforce Development - Fund Established - *Requires MHCC to conduct a comprehensive behavioral health workforce needs assessment in coordination with the Behavioral Health Administration (BHA), the Maryland Higher Education Commission, the Maryland Department of Labor, the Career and Technical Education Committee, and other interested stakeholders. A Needs Assessment is due on or before October 15, 2024.*

Update:

- MHCC is communicating with representatives from the Mental Health Association (MHA) on the assessment study and planning work; and is developing a workplan and drafting an RFP for the assessment study.
- MHCC is identifying stakeholder workgroup members (e.g., organizations and advocates).
- ❑ [HB1148/SB0582](#) - ***Behavioral Health Care - Treatment and Access (Behavioral Health Model for Maryland)*** - *Requires MHCC to study and make recommendations regarding the delivery of health care services through telehealth, including payment parity for the delivery of health care services through audiovisual and audio-only telehealth technologies on or before December 1, 2024.*

Update:

- Study design planning activities underway (along with SB 534) and that staff plans to release one or possibly two RFPs in late summer/early fall.

- ❑ [SB0154 \(CH0297\)](#) - **Public Health - Mental Health Advance Directives - Awareness and Statewide Database:**

Requires the BHA and MHCC to jointly study how first responders and behavioral health crisis providers can access a certain advance directive database when responding to a behavioral health crisis and to report to certain committees of the General Assembly on their findings on or before December 1, 2023

Update:

- MHCC staff is working with MDH/BHA to develop a strategy for the Department to implement a public awareness campaign and to develop an approach to enable behavioral health crisis providers access to advance directives accessible through CRISP.

Protected Health Information:

- ❑ [SB0786/HB0812](#) - Health - Reproductive Health Services - Protected Information and Insurance Requirements - *MHCC must: (1) adopt emergency regulations within nine months of the bill's effective date to restrict data of patients related to legally protected health care, and (2) submit quarterly reports on the bill's implementation in fiscal 2024 and 2025. Regulations must be developed by December 2023.*

Update:

- Emergency regulations are being drafted.

Dental Health Services:

- ❑ [HB1146](#) – MDH and MHCC – Dental Services – Survey and Regional Needs Assessment – *By December 1, 2023, MDH and MHCC, jointly and in consultation with MHA, must submit a report to specified committees of the General Assembly that includes the results of the survey and the regional needs assessment, as well as the regional plans.*

Update:

- MHCC is coordinating with MDH. MHCC distributed a survey to ambulatory surgical centers and disseminated the results to MDH.
- MDH will administer a survey of dentists to determine regional needs assessment and will work to develop regional plans.

Mandate Studies:

- ❑ [SB0075](#) – Insurance and Maryland Medical Assistance Program – Treatment of Alopecia Areata – Coverage Requirements (Bill Failed) – *Study report due December 2023.*

Update:

- Bid Board proposal released July 12th and due July 26th.

- ❑ [SB0108](#) – HI – Annual Behavioral Health Wellness Visits – Coverage and Reimbursement

(Bill Failed) – *Study report due December 2023.*

Update:

Bid Board proposal released July 12th and due July 28th.

- ❑ [SB0184/HB0376](#) – HI – Diagnostic and Supplemental Exams and Biopsies for Breast Cancer – Cost-Sharing – *MHCC to study and report on the financial impact of eliminating cost-sharing for diagnostic image-guided biopsies for breast cancer. Report due on or before October 1, 2023.*

Update:

- Bid Board draft completed but has not been posted to date.

- ❑ [HB1217/SB0805](#)-Maryland Medical Assistance Program and Health Insurance - Required Coverage for Biomarker Testing - *Report on the impact of providing biomarker testing by December 1, 2025.*

Update:

- Bid Board draft completed but has not been posted to date.

- ❑ [HB0937 \(Chapter 56\)](#) -**Abortion Access Act** (Bill Passed 2022 Session) (*Request made in January 2023*)
Requiring MHCC to assess the social, medical, and financial impact of requiring coverage for labor and delivery services. *Report on findings and any recommendations to the Committee on or before December 31, 2023.*

Update:

- Bid Board draft completed but has not been posted to date.

- ❑ **Four Year Mandate Study:**

(Required Under Section 15-1502 of the Insurance Article)

Report re-evaluates the costs of existing mandated health insurance services in Maryland and its surrounding states. *Every four years the Commission shall submit a report of its findings to the General Assembly, subject to § 2–1257 of the State Government Article. Due January 1, 2024.*

Update:

- Bid Board was posted, proposals received and are currently under review.

Nursing Homes:

- ❑ [SB0509/HB0702](#) -HCF - Nursing Homes - Acquisitions and Licensure - *MHCC in consultation with certain stakeholders, to study and make recommendations regarding the expansion of the certificate of need program over acquisitions of nursing homes. Submit a report with recommendations from stakeholders to the General Assembly on or before December 1, 2023.*

Update:

- The Nursing Home Acquisition Workgroup has been established. The first meeting was on July 14th.

Telehealth:

- ❑ [SB0534](#) - Preserve Telehealth Access Act of 2023 - *MHCC must study and make recommendations regarding the delivery of health care services through telehealth, as specified, and report to the General Assembly by December 1, 2024.*
- ❑ [HB1148/SB0582](#) - ***Behavioral Health Care - Treatment and Access (Behavioral Health Model for Maryland)*** - *Requires MHCC to study and make recommendations regarding the delivery of health care services through telehealth, including payment parity for the delivery of health care services through audiovisual and audio-only telehealth technologies on or before December 1, 2024.*

Update on SB 534 and HB1148/SB582:

- Study design planning activities underway and that staff plans to release one or possibly two RFPs in late summer/early fall.

ACTION: NONE

AGENDA ITEM 6.

PRESENTATION: Update on Maryland Patient Safety Center

Dr. Blair Eig, President and CEO of the Maryland Patient Safety Center, provided a brief update on their programs and activities. Maryland State law authorizes MHCC to designate an organization to serve as the patient safety center for the State and to develop, coordinate and implement patient safety initiatives across the state. The MHCC has designated the Maryland Patient Safety Center, Inc. (MPSC) to serve that important role through 2025. During the 2022 legislative session, Senate Bill 591 established a special, non-lapsing fund to support the MPSC in the amount of \$1 million annually. The funding is to be administered by MHCC. The law also requires that MHCC monitor the performance of the patient safety center based on standards and requirements set by the Commission. Dr. Eig provided an update on FY2023 achievements, activities, and expenditures. The Commissioners expressed appreciation for Dr. Eig's effective leadership and commitment to the work.

ACTION: NONE

AGENDA ITEM 7.

PRESENTATION: Update on Regulations to Implement HB 812

David Sharp, Director of the Center for Health Information Technology and Innovative Care Delivery, and Caitlin Tepe, Assistant Attorney General, presented on State activities required to support House Bill 812/Chapter 249, Health – Reproductive Health Services – Protected Health Information and Insurance Requirements. David reported that MHCC is required to adopt emergency regulations by March 2024 that restrict data sharing of patients who have received legally protected health care. He mentioned that COMAR 10.25.18, Health Information Exchanges: Privacy and Security of Protected Health Information and COMAR 10.25.07, Certification of Electronic Health Networks and Medical Care Electronic Claims Clearinghouses will be amended to support the law. Ms. Tepe gave an overview of the law and activities that the Department must complete. She also noted areas of alignment with the federal proposed HIPAA Privacy Rule to Support Reproductive Health Care Privacy. Staff reviewed the regulation development timeline.

ACTION: NONE

AGENDA ITEM 8.

OVERVIEW OF UPCOMING ACTIVITIES

Mr. Steffen briefly spoke about September’s Commission meeting, and that MHCC plans to have the Doctor’s Community Health CON, the Interstate Telehealth Report, and Comments on 10.24.01 Regulations. The Commission will hold an Orientation for all new Commissioners who are set to come onboard in October.

AGENDA ITEM 9.

ADJOURNMENT

Commissioner Jensen asked for a motion to adjourn the meeting, and after there being no further business, the meeting was adjourned at 4:29 p.m. upon the motion of Commissioner Buczynski, which was seconded by Commissioner Bhandari.

ACTION: NONE