



Thursday, April 18, 2024

MINUTES

Chairman Sergent called the meeting to order at 1:11 p.m.

Commissioners present via telephone and in person: Bhandari, Blake, Boyle, Cheatham, Douglas, Gelrud, Gilmore, Jensen, Ojikutu, Spinner, Stroughton-Duncan, Wang and Wood.

AGENDA ITEM 1A

ACTION: CONSENT AGENDA

1A. Approval of Minutes for March 21, 2024 meeting. This item was adopted without objection.

AGENDA ITEM 2

Update of Activities

Ben Steffen, Executive Director of the Maryland Health Care Commission (MHCC or Commission), talked about the Advancing the All-Payer Health Equity Approaches and Development (AHEAD) Model which will start in 2026. Maryland is one of the states that could be selected for the model.

Mr. Steffen noted new contracts for MHCC, including the redesign of the MHCC Web Site with Breakthrough Technologies, APCD Value-Based Care with Expert Consulting, and PMO Services with Freedman Healthcare.

Mr. Steffen briefly discussed legislation. He noted that HB 1122 – Nursing Home Acquisitions has passed both the House and Senate and is expected to be signed by the Governor. The bill requires notice 60 days before the transfer of more than 25% of stock or ownership interest in a nursing home. The Executive Director or the Commission can approve, approve with conditions, or deny the acquisition. Should the applicant not be satisfied with the decision, the applicant may take judicial review. The Commission must promulgate regulations by the end of 2024.

Next, Mr. Steffen talked about three bills related to trauma funding—HB 1439 – Emergency Services – Funding, SB 1092 – Emergency Department Funding and the Budget Reconciliation and Financing Act (BRFA) of 2024, SB 362. Mr. Steffen noted that the three bills generally align but that there are some differences about the amount of funding. The Commission will have greater responsibility and more flexibility in distributing funds.

Mr. Steffen also discussed HB 1051 Maternal Health – Assessments, Referrals, and Reporting (Maryland Maternal Health Act of 2024). This bill codifies the current requirement that a provider who receives reimbursement from Medicaid for obstetric services complete a “prenatal risk assessment form” for a patient and submit the form to the local health department (LHD).MHCC must collaborate with the Secretary of Health to develop a Maryland Report Card for Birthing Facility Maternity Care for each birthing facility in the State.

Mr. Steffen also noted that uncodified language in a bill related to non-compete clauses requires the Commission to hire a private consultant to study private equity and consolidations of health care facilities and physician practices.

Lastly, Mr. Steffen noted that MHCC will be responsible for conducting a number of studies and reports. The staff will review the newly assigned work at the May Commission Meeting.

Wynee Hawk, Director of the Center for Health Care Facilities Planning and Development, introduced a new staff member, Ms. Deanna Dunn who started with the Commission on April 17, 2024. Ms. Dunn will be working in the Center for Health Care Facilities and Planning in Ruby Potter's role as the Health Facilities Coordinator and Special Assistant to the Director. Ms. Dunn has degrees in Computer Engineering and Health Sciences as well as a Masters in Human Resources.

AGENDA ITEM 3A

ACTIONS: Certificate of Ongoing Performance for Cardiac Surgery Services

A. ACTION: MedStar Southern Maryland COP for PCI (Docket No. 19-16-CP027)

Eliot Burkom, Program Manager, presented the staff report and recommendation for the Certificate of Ongoing Performance application submitted by Medstar Southern Maryland Hospital Center (MSMHC) for primary and elective percutaneous coronary intervention (PCI) services. He provided an overview of the staff's analysis of MSMHC's Ongoing Performance application to allow the hospital to continue providing primary and elective PCI services for four years, subject to two conditions. One condition stems from findings of a focused review conducted by MHCC staff that was triggered by the hospital's high mortality

rate in three reporting periods and pertains to documentation of PCI cases. The second condition pertains to including technicians in the facility's PCI case review meetings. There were no questions from Commissioners on the staff report.

Commissioner Jensen moved to APPROVE the MedStar Southern Maryland COP for PCI with staff's recommended conditions, which was seconded by Commissioner Douglas and, after discussion, unanimously approved.

ACTION: MedStar Southern Maryland COP for PCI (Docket No. 19-16-CP027) is hereby APPROVED.

AGENDA ITEM 3B

B. ACTION: Frederick Health Hospital COP for PCI (Docket No. 19-10-CP025)

Katie Neral, Program Manager, presented the staff report and recommendation for the Certificate of Ongoing Performance application submitted by Frederick Health Hospital (FHH) for primary and elective PCI services. She provided an overview of the standards in COMAR 10.24.17 for Certificate of Ongoing Performance reviews for primary and elective PCI services and staff's analysis of the hospital's application. Staff recommended that the Commission approve the Certificate of Ongoing Performance application to continue providing primary and elective PCI services at FHH for four years. The Chairman of the Commission requested that the Commission go into a closed session to discuss confidential details of MHCC's focused review, which was triggered by a high mortality rate during the 12-month period ending June 2020.

Chair Sergent made a motion to go into closed session, which was seconded by Commissioner Jensen and, after discussion, unanimously approved at 2:10 PM. Chair Sergent read the written closing statement. The meeting was closed under §3-305(b)(13) of the General Provisions Article, "to comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter." When conducting a focused review, the Commission functions as a medical review committee. Under Health Occupations § 1-401, the proceedings, records and files of a medical review committee are confidential.

The meeting was also closed because the Commission engages in a quasi-judicial function when it decides on an application for a COP. Under General Provisions § 3-103, the Open Meetings Act does not apply when a public body carries out a quasi-judicial function.

Lastly, the meeting was closed under General Provisions § 3-305(b)(7) to consult with counsel to obtain legal advice.

Representatives for the hospital were initially included in the closed session to answer questions and then were asked to leave so the Commission could have further discussion. The following individuals were included in the closed session: Commissioners Sergent, Bhandari, Blake, Boyle, Cheatham, Douglas, Gelrud, Gilmore, Jensen, Ojikutu, Spinner, Stroughton-Duncan, and Wood. MHCC Staff: Ben Steffen, Wynnee Hawk, Theresa Lee, Eileen Fleck, Katie Neral, AAGs: Caitlin Tepe and Alexa Bertinelli and representatives from Frederick: Dr. Kathy Weishaar, Elizabeth Keenan, Kristin Deely, Cheryl Cioffi, and Chao-Wei Hwang.

The Commission discussed with the FHH representatives the specific findings of the focused review of FHH's mortality cases, including recommended policy and procedure changes and subsequent actions taken by FHH. After FHH representatives left the session, the Commission engaged in further discussion on the results of the focused review and FHH's subsequent actions.

After the Commission returned to an open session, the Commission voted unanimously to approve the application of FHH.

The Commissioners came out of Closed Session at 2:52 PM. Commissioner Gelrud moved to approve the COP for Frederick Health Hospital, which was seconded by Commissioner Douglas, and unanimously approved.

ACTION: The Frederick Health Hospital COP for PCI (Docket No. 19-10-CP025) is hereby APPROVED.

AGENDA ITEM 3C

C. ACTION: Sinai Hospital COP for cardiac surgery (Docket No. 22-24-CP037)

Eileen Fleck, Chief for Acute Care Policy and Planning, presented the staff report and recommendation for the Certificate of Ongoing Performance application for Sinai Hospital of Baltimore to provide cardiac surgery services. She described key standards for cardiac surgery programs and presented staff's analysis of the hospital's compliance with these standards. Staff recommended that the Commission approve Sinai Hospital of Baltimore's Certificate of Ongoing Performance application to continue cardiac surgery services for four years.

Following staff's presentation, a Commissioner requested that the Commission go into a closed session to discuss confidential details of MHCC's focused review which was triggered by a high mortality rate during CY 2019 for isolated coronary artery bypass graft cases. Commissioner Jensen made a motion to go into Closed Session, which was seconded by Commissioner Gelrud and, after discussion, unanimously approved at 3:03 PM.

In accordance with the written closing statement, the meeting was closed under §3-305(b)(13) of the General Provisions Article, “to comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter.” When conducting a focused review, the Commission functions as a medical review committee. Under Health Occupations § 1-401, the proceedings, records and files of a medical review committee are confidential.

The meeting was also closed because the Commission engages in a quasi-judicial function when it decides on an application for a COP. Under General Provisions § 3-103, the Open Meetings Act does not apply when a public body carries out a quasi-judicial function.

Lastly, the meeting was closed under General Provisions § 3-305(b)(7) to consult with counsel to obtain legal advice.

Representatives for the hospital were initially included in the closed session to answer questions and then were asked to leave so the Commission could have further discussion. The following people attended the closed session: Commissioners: Sergent, Bhandari, Blake, Boyle, Cheatham, Douglas, Gelrud, Gilmore, Jensen, Ojikutu, Spinner, Stroughton-Duncan, and Wood. MHCC Staff: Ben Steffen, Wynee Hawk, Theresa Lee, Eileen Fleck, AAGs: Caitlin Tepe and Alexa Bertinelli, and Sinai representatives: Dr. Peter Cho, Dr. Henry Sun, Dr. Charles Albrecht, Ashley Yousefian, Nitza Santiago, Jill Love.

The Commission discussed with the Sinai representatives the specific findings of the focused review of Sinai’s mortality cases, including recommended policy and procedure changes and subsequent actions taken by Sinai. After Sinai representatives left the session, the Commission engaged in further discussion on the results of the focused review and Sinai’s actions in response.

The Commissioners came out of Closed Session at 3:35 PM.

Commissioner Gelrud moved to APPROVE the Sinai Hospital COP for cardiac surgery, which was seconded by Commissioner Spinner and, after discussion, unanimously approved.

ACTION: the Sinai Hospital COP for cardiac surgery (Docket No. 22-24-CP037) is hereby APPROVED.

AGENDA ITEM 4

ACTION: Final Regulations, 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

Anna Gribble, Assistant Chief, Health Information Technology, presented a summary of formal comments received on proposed amendments to COMAR 10.25.18 and COMAR

10.25.07. The regulations support requirements established in Chapter 249, *Health – Reproductive Health Services – Protected Information and Insurance Requirements* (2023), which prohibits the disclosure of legally protected health information by electronic health network and health information exchange entities operating in the State. No additional amendments were recommended.

Commissioner Jensen made a motion to ADOPT the Final Regulations, COMAR 10.25.18, Health Information Exchanges: Privacy and Security of Protected Health Information, which was seconded by Commissioner Douglas and after discussion, unanimously approved.

ACTION: Final Regulations, COMAR 10.25.18, Health Information Exchanges: Privacy and Security of Protected Health Information are hereby ADOPTED.

Commissioner Jensen made a motion to ADOPT the final regulations, COMAR 10.25.07, Certification of Electronic Health Networks and Medical Care Electronic Claims Clearinghouses, which was seconded by Commissioner Douglas and after discussion, unanimously approved.

ACTION: Final Regulations, COMAR 10.25.07, Certification of Electronic Health Networks and Medical Care Electronic Claims Clearinghouses are hereby ADOPTED.

AGENDA ITEM 5

PRESENTATION: Update on Implementing HB 812, Health-Reproductive Health Services-Protected Information and Insurance Requirements

Nikki Majewski, Chief, Health Information Technology, presented an update on progress made by electronic health networks and health information exchanges to comply with statutory and regulatory requirements for the management, disclosure, and protection of legally protected health information. Stakeholder collaboration to develop supporting regulations (COMAR 10.25.07 and COMAR 10.25.18) was noted. Ms. Majewski highlighted activities underway and planned to continue providing guidance to support implementation of technical and policy solutions through the end of 2024.

ACTION REQUESTED: NONE

AGENDA ITEM 6

PRESENTATION: The Maryland Quality Reporting Consumer Website

Courtney Carta, Chief, Hospital Quality Initiatives, and Sametria McCammon, Program Manager, Hospital Quality Initiatives, presented an overview of the Maryland Quality

Reporting consumer website. Ms. Carta provided a demonstration of the site on how to find and compare quality and performance information for healthcare facilities. Ms. McCammon provided an update about current and planned promotional activities and upcoming enhancements to the website. Staff and Commissioners engaged in a healthy discussion about the importance of increasing consumer awareness of the website and discussed potential marketing opportunities.

ACTION REQUESTED: NONE

AGENDA ITEM 7

OVERVIEW OF UPCOMING ACTIVITIES

Mr. Steffen briefly spoke about May's Commission meeting. He stated that there will be one certificate of need (CON) action, a presentation on price transparency, an update on the Center for Medicare and Medicaid Innovation's (CMMI) response to Maryland's application on the AHEAD Model, and a complete update on legislation.

ACTION REQUESTED: NONE

AGENDA ITEM 8

ADJOURNMENT

Chairman Sergent asked for a motion to adjourn the meeting. There being no further business, the meeting was adjourned at 4:41 p.m. upon the motion of Commissioner Gelrud and second by Commissioner Douglas.