MHCC Nursing Home Work Group Meeting

March 1, 2018

Meeting Summary

Members Present: Les Goldschmidt; Annette Hodges; Mark Leeds; Brian Lenehan; Amy Maxwell; Steve Miller; Steve Pazulski; Henry Schwartz; Bret Stine.

Staff Present: Linda Cole; Paul Parker; Hui Su; Cathy Weiss; Suellen Wideman

Others Present: Diana Boeliner (phone); Jack Eller; Theressa Lee; Kevin McDonald; Paul Miller (phone); Susan Panek; Sarah Pendley; Catherine Victorine.

Welcome and Review of Last Meeting:

Linda Cole welcomed back work group members and thanked them for their participation. She reviewed the following highlights from the January 30th meeting:

- Reviewed trends in nursing home utilization and occupancy in Maryland and nationally;
- Agreed that AHCA goals for quality improvement were reasonable and achievable;
- Discussed some perceived flaws in the 5-Star Nursing Home Compare rating system;
- Had some discussion of docketing rules and standards, which will continue today; and
- Noted that a low star rating should not be a disincentive for a new owner to take over a poor performing facility; it takes 3 years to bring up their performance level.

Ms. Cole noted that this is intended to be the last meeting of the Nursing Home Work Group, unless there are unresolved issues, which would require further discussion. She encouraged members to provide input during the meeting, so that staff can get a sense of the group's perspective in moving forward to draft revisions to the Nursing Home Chapter of the State Health Plan.

Review of Matrix for Nursing Home Chapter Update:

Ms. Cole reviewed the matrix which highlights the major issues in the current Nursing Home Chapter and proposed changes to address those issues in the update to the Nursing Home Chapter.

Waiver Beds:

The first area was waiver beds, which are 10 beds, or 10% (whichever is less) that can be obtained every two years, provided that the provider has the physical space and meets other requirements. The suggestion was that beds become licensed and operational within one year, or be eliminated from the inventory.

Mark Leeds asked why waiver beds are needed at all. Ms. Cole replied that they offer some flexibility. Les Goldschmidt said such beds are useful for making semi-private rooms private and for other uses. Mr. Leeds thought that there should be a trade-off; eliminate beds for beds added. Bret Stine asked how many waiver beds currently exist; Ms. Cole responded that there are 336.

Steve Pazulski mentioned that in the past Medicaid did pay for bed hold days. Since this is no longer done, there needs to be some flexibility. Based on a question raised by Amy Maxwell, Ms. Cole explained that this discussion is about waiver beds, not temporarily delicensed beds.

There was general agreement with the recommendation that any waiver beds not licensed within one year are to expire one year after approval of the beds.

Docketing Rules and Docketing Exceptions:

Ms. Cole explained that docketing rules are used prior to project review. They provide guidance to both applicants and staff to assure high quality projects. If a project cannot be accepted, there is no point in having the applicant invest time and resources for a project that is not approvable.

Henry Schwartz said that he thought that staff should have discretion and not set a bar to applications. Mr. Stine said that he did not think that the overall Nursing Home Compare Star rating system should be used in a docketing rule. Ms. Cole said that the Star rating system is used nationally for insurer-provider networks, ACOs, bundled payment, and other CMS projects. Mr. Stine recommended using the quality rating alone, rather than the overall rating.

Mr. Schwartz asked what would be done for an applicant who had facilities both in Maryland and in other states. Ms. Cole said that the Maryland star ratings would be used.

The compromise recommended by some workgroup members would be to use the quality rating for a docketing rule, rather than the overall composite rating.

There was also a discussion of docketing exceptions, that is, in the absence of identified bed need, under what circumstances should the Commission consider applications for projects? Mr. Leeds was concerned with overbedding and asked for identification of the goal of such exceptions.

Paul Parker said that the goals of the two types of exceptions outlined in the matrix would be to allow nursing home development to go forward that might improve system efficiency, by reducing length of stay and readmissions to hospitals. The other type of exception would have the objective of increasing consumers' ability to have a high-performing provider in their area. Approving new projects is a way of exerting more competitive pressure on low performing facilities. Mr. Goldschmidt replied that there is already competitive pressure in the marketplace, noting that nursing homes currently are operating specialty units and collaborating with hospitals.

Integration into Continuum of Care:

Ms. Cole explained that collaboration includes both higher levels of care (hospital) as well as lower levels of care (home health agency and hospice). Mr. Leeds commented that he thought that collaboration with home health agencies and hospices was insufficient, and that a whole range of community-based services should be included (e.g. Medicaid home and community-based waiver services and medical day care).

Quality Measures:

Ms. Cole said that the intent is to incorporate quality metrics from CMS' Nursing Home Compare for review of applications. An applicant should also have an effective program of quality assurance.

Innovative Design:

For this component, the intent is to make the standards more simple and measurable by incorporating the Facility Guidelines Institute (FGI) Guidelines for both general and specialty units. The Office of Health Care Quality also has licensing requirements for specialty units such as respiratory and dementia.

Ms. Maxwell asked if this applies to existing units or new construction. Mr. Parker responded that if a project exceeds the capital threshold and requires certificate of need (CON) review, these standards would apply. An applicant would have an opportunity to justify why a project needed to deviate from the FGI Guidelines. This is a feature of other SHP chapters that incorporate the guidelines by reference.

<u>Nursing Home-Hospital Collaboration:</u>

Ms. Cole pointed out that an Issue Brief that outlines this issue is in the packet of materials. With Maryland's move to an all-payer model that moves costs out of hospitals and considers total cost of care, as well as the CMS reporting (and penalties) of hospital readmissions from nursing homes, there is incentive on both sides for collaboration. The federal government has also passed initiatives, including the IMPACT Act, Next Generation ACOs, and bundled payment.

Mr. Stine discussed initiatives in Montgomery County (Nexus Montgomery) where they use quality data (Point Right), and not just hospital readmissions. The quality data is risk-adjusted. There are also Lifebridge collaborations with a preferred panel of nursing homes. Mr. Goldschmidt said that there are nursing homes working with hospital ERs via telemedicine. His concern is that rates are set for hospitals by HSCRC but nursing homes have no rate setting and cannot afford some very high cost patients.

Ms. Cole asked which types of patients were the most difficult to accept from hospitals. Many work group members said patients with mental health and addiction issues. Blood transfusions can also become too expensive for nursing homes.

Mr. Stine pointed out that there are some patients who are ready for discharge, but who linger in the nursing homes since they no longer have a home. There are issues with both the Medicaid waiver waiting list, as well as a lack of affordable housing.

Discussion indicated that nursing home-hospital collaboration includes a few pilot programs, but is in the early stages of development.

Updating Nursing Home Bed Need Methodology:

Hui Su presented the updates to the current nursing home bed need methodology. She first described the assumptions of the current methodology. Limitations of the current methodology include:

- Some data elements are based on MDS 2.0 data, which is now obsolete;
- Parts of the methodology are complex and difficult to replicate;
- Some assumptions are not fully explained;
- The migration matrix is very complex to use;
- The projection horizon (seven years) may be too long; and
- Total population data, rather than household population should be used.

Suggested changes include:

- Take into account patterns of use by modeling demand using observed rates of change in use rates;
- Simplify the migration adjustment by means of net in- and out-migration;
- Factor in the use of Maryland nursing homes by non-Maryland residents;
- Shorten the projection horizon to five years from the base year;
- Use total estimated and projected population; and
- Add a jurisdictional occupancy standard as a final step in determining bed need.

Mr. Goldschmidt asked if staff had compared the results of the old methodology projections to the new one. Ms. Cole explained that the old methodology can no longer be used. Mr. Leeds asked why there is no longer a community-based services adjustment. Ms. Su responded that the long decline in nursing home use rates indicates that inappropriate use of nursing homes has probably declined. This trend is now incorporated into the bed need projection model as a dynamic feature, replacing the static assumptions of the existing model.

Mr. Parker stated that we have seen long term declines in use rates for all age groups except the under 65 population. He noted that bed need should be recalculated annually. Mr. Goldschmidt asked if length of stay was used. Mr. Parker responded that the proposed model uses an age-adjusted patient days per population use rate that would reflect changes in length of stay. Mr. Parker also indicated that the last step (an occupancy rate check on the need projection model) is a new concept. Something like it is found as a review standard in the current Chapter but its use would now be standardized in the need projection methodology itself.

An additional issue raised was the Medicaid Memorandum of Understanding (MOU). Mark Leeds asked if staff expects this to continue to be used. Ms. Cole stated that staff assumes that this would continue to be included in the nursing home chapter.

A question was raised as to the rationale for the Medicaid MOU. Ms. Cole replied that access is an important focus of the Commission, and the MOU has helped to assure financial access to nursing homes. In addition, she pointed out that while nursing homes in other states have "Medicaid facilities" and "private facilities," Maryland provides excellent care to all residents.

Some questioned whether the Medicaid proportion could be lowered. Ms. Cole explained that this was lowered in the last Nursing Home Chapter update. Mr. Parker questioned whether providers want the Medicaid MOU. They responded that it should remain in place, as long as it is applied equally to all providers. Susan Panek stated that not all nursing homes meet their MOU commitments. She said that long term care ombudsmen are kept busy with facilities not willing to accept Medicaid patients. There seemed to be consensus to maintain the Medicaid MOU.

Other Comments:

Mr. Goldschmidt said that HFAM had other comments, concerning the CON process, conditions of participation, cost of construction, and capital threshold. Ms. Cole responded that these issues will be addressed by the CON Modernization Task Force. Mr. Parker added that the CON Task Force will be discussing the need for more flexibility in the requirements for approval of post-CON changes in projects and performance requirements.

Next Steps:

Work Group members expressed appreciation of the opportunity to convey their perspective. Ms. Cole thanked all members for their participation and discussion. She stated that staff will prepare a meeting summary and distribute it to the members. Staff will then start on a draft update to the Nursing Home Chapter of the State Health Plan. This Chapter will be released for informal public comment prior to the official promulgation process. Members are invited to comment. They may also contact staff with questions or follow-up information.