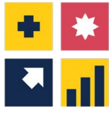

Andrew N. Pollak, MD, Chairman
Ben Steffen, Executive Director

Thursday, October 21, 2021

Minutes

Chairman Pollak called the meeting to order at 12:02 p.m.

Commissioners present via telephone: Akintade, Bhandari, Boyer, Boyle, Brahmbhatt, Cheatham, Doordan, Jensen, Metz, O'Connor, O'Grady, Rymer, Sergent, and Wang

AGENDA ITEM 1.

Approval of the Minutes

Commissioner Akintade made a motion to approve the minutes of the September 23, 2021, public meeting by teleconference of the Commission. The motion was seconded by Commissioner Boyle and unanimously approved.

AGENDA ITEM 2.

Update of Activities

Ben Steffen, Executive Director, recognized and welcomed the new Commissioner, Mark Jensen, a partner with the law firm of Bowie & Jensen.

Kenneth Yeates-Trotman, Director of the Center for Analysis and Information Systems, reported that on October 8, 2021, the Commission had updated the Wear The Cost website. The Commission released new privately insured data using the MCDB for 2018/2019 to update 10 existing episodes and added three new ones for a total of 13 episodes at hospitals across the state. The three new episodes are Coronary Angioplasty, Knee Arthroscopy, and Tonsillectomy. Also, the Maryland Episode Quality Improvement Program (EQIP), which is part of the Care Transformation Initiative for the Maryland TCOC Model, uses the Prometheus grouper to create episodes of care. This episode grouper is very similar to the one used to create episodes of care for the Wear The Cost transparency initiative. As these two groupers are updated separately over time, there can be potential differences in the results from each of them for a given episode of care.

Courtney Carta, Chief, Hospital Quality Performance, provide an update on Maryland hospital performance on health care associated infections in 2020. In a time of crisis and unprecedented challenges, Maryland hospital performance on health care associated infections was relatively steady for most infection types. Compared to 2019, infections significantly increased for central line associated bloodstream infections and catheter associated urinary tract infections, though overall performance was still in the "expected" range. National data also showed significant increases for these types of infections.

AGENDA ITEM 3.

ACTION: Certificate of Need - Avenues Recovery Center of Chesapeake Bay – Establish an Alcoholism and Drug Abuse Treatment Intermediate Care Facility (Docket No. 21-09-2449)

William Chan, Program Manager and Certificate of Need (CON) Analyst, presented the staff recommendation. He stated that Avenues Recovery Center of Chesapeake Bay LLC (Avenues) proposes to establish a 20-bed alcoholism and drug abuse intermediate care facility (ICF) with American Society of Addiction Medicine (ASAM) levels 3.7 and 3.7 withdrawal management services for adults at 821 Fieldcrest Road in Cambridge, Dorchester County. He noted that the applicant currently operates a 104-bed ASAM level 3.5 alcoholism and drug abuse treatment program and that the total cost for the proposed project was $55,000, which will be funded with cash.

Mr. Chan said that, based on Avenues' experience in Maryland, the proposed ICF is expected to serve a large proportion of low-income persons, including Medicaid patients. He pointed out that it projects serving patients who reside throughout the State of Maryland and beyond its borders. Staff concluded that the proposed project meets all applicable standards and criteria, will improve the availability and access to ICF services for all patients, and will not adversely impact existing ICFs on the Eastern Shore.

Staff recommended approval of the project with the following conditions:

1. Avenues Recovery Center of Chesapeake Bay 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 following each fiscal year, from the project's inception and continuing for five years thereafter;

2. Avenues Recovery Center of Chesapeake Bay must receive preliminary accreditation for the Level 3.7 services it will provide, including withdrawal

management and post-withdrawal treatment programming, by the Commission on the Accreditation of Rehabilitation Facilities (CARF) prior to First Use Approval by the Commission and must timely receive final accreditation by CARF;

3. Avenues Recovery Center of Chesapeake Bay shall provide documentation of transfer and referral agreements prior to First Use approval by the Commission with: acute care hospitals; halfway houses; therapeutic communities; long-term care facilities; local alcohol and drug abuse intensive and other outpatient programs; local community mental health center(s); the Eastern Shore's mental health and alcohol and drug abuse authorities; the Behavioral Health Administration; and the Eastern Shore agencies that provide prevention, education, driving-while-intoxicated programs, family counseling, and other services. Documentation may include letters of agreement or acknowledgement from the facilities; [COMAR 10.24.14.05J(2)];

4. Avenues Recovery Center of Chesapeake Bay shall document referral agreements, prior to First Use approval by the Commission, demonstrating that at least 15 percent of its annual patient days, required by COMAR 10.24.14.08, will be incurred by the indigent or gray area populations, including days paid under a contract with the Behavioral Health Administration or a jurisdictional alcohol or drug abuse authority, or the Medical Assistance program; [COMAR 10.24.14.05K(2)], and;

5. To demonstrate that outpatient programs are available to its proposed patient population, Avenues Recovery Center of Chesapeake Bay shall provide written referral agreements or arrangements with outpatient programs that meet the requirements of COMAR 10.24.14.05O(1) through (4), prior to First Use approval by the Commission.

Commissioner Bhandari made a motion to approve the Certificate of Need - Avenues Recovery Center of Chesapeake Bay – Establish Alcohol and Drug Abuse Treatment Intermediate Care Facility, which was seconded by Commissioner O'Grady, and unanimously approved.

ACTION: Certificate of Need - Avenues Recovery Center of Chesapeake Bay – Establish Alcohol and Drug Abuse Treatment Intermediate Care Facility (Docket No. 21-09-2449) is hereby APPROVED.

AGENDA ITEM 4.

ACTION: Exemption from Certificate of Need Review - Conversion of Grace Medical Center to a Freestanding Medical Facility (Docket No. 21-24-EX013)

Eric Baker, Program Manager and CON Analyst, presented the staff recommendation.
Sinai Hospital of Baltimore, Inc. (Sinai) and Grace Medical Center, Inc. (Grace) requested an exemption from CON for their plan to reconfigure the Grace campus, which includes renovation of an existing 1990s building, to create space for a Freestanding Medical Facility (FMF) operation, and to then demolish the existing building space and construct a new building space for outpatient behavioral health services. The FMF will have 27 total examination spaces for the emergency treatment services. The approved cost of the project is $61.648 million dollars. This will be financed with borrowing and cash, with $50.0 million dollars raised in bonds, and the remainder of $11.648 million dollars funded in cash.

On behalf of staff, Mr. Baker recommended approval of the project.

Commissioner Doordan made a motion to approve the Exemption from Certificate of Need Review - Conversion of Grace Medical Center to a Freestanding Medical Facility, which was seconded by Commissioner Boyle and approved. Commissioners Boyer and O'Conner opposed.

ACTION: Exemption from Certificate of Need Review - Conversion of Grace Medical Center to a Freestanding Medical Facility is hereby APPROVED.

AGENDA ITEM 5.

ACTIONS: Certificates of Ongoing Performance

Agenda Item 5A. Percutaneous Coronary Intervention Services- Suburban Hospital (Docket# 19-15-CP031)

Mary-Ann Dogo-Isonagie, Program Manager, Acute Care Policy and Planning, presented the staff report for Suburban Hospital's Certificate of Ongoing Performance for Percutaneous Coronary Intervention (PCI) services. Ms. Dogo-Isonagie reviewed Suburban's compliance with key standards included on two slides. She noted that multiple care area group meetings with physician and nursing leadership occurred infrequently, and attendance was not being consistently tracked during the review period. Ms. Dogo-Isonagie recommended that a condition be included on the Certificate of Ongoing Performance for the hospital with formal follow-up by the Commission.

Ms. Dogo-Isonagie recommended that the Commission find that all standards have been met by Suburban and grant Suburban Hospital a Certificate of Ongoing Performance to continue providing primary and elective PCI services for four years with the condition mentioned above.

Suburban Hospital representatives who attended the Commission meeting were: Becky Kane, Director of the Cardiac Cath Lab; Eileen Pummer, Senior Director of Quality, Patient Safety, and Improvement; Mary Maloney, Cardiovascular Data Manager; and Diane Hollenbeck, Cardiovascular Data Abstractor.

Commissioner O'Connor made a motion to approve the Certificate of Ongoing Performance - Percutaneous Coronary Intervention Services for Suburban Hospital, which was seconded by Commissioner Cheatham and unanimously approved.

ACTION: Certificate of Ongoing Performance - Percutaneous Coronary Intervention Services- Suburban Hospital is hereby APPROVED.

Agenda Item 5B. Cardiac Surgery Services- Suburban Hospital (Docket #17-15-CP0001)

Jessica Raisanen, Program Manager, Acute Care Policy and Planning, presented the staff report for the Certificate of Ongoing Performance application for cardiac surgery services by Suburban Hospital. Ms. Raisanen reviewed Suburban's compliance with key standards. Ms. Raisanen recommended that the Commission find all standards have been met and approve the Certificate of Ongoing Performance for Suburban Hospital to continue providing cardiac surgery services for four years. Suburban Hospital must continue to comply with Condition 3 of its Certificate of Need and submit an annual report that includes an evaluation of the effectiveness of the hospital's proposed regional outreach efforts related to cardiovascular disease prevention and early diagnosis.

Suburban Hospital representatives in attendance were Eileen Pummer, Senior Director of Quality, Patient Safety, and Improvement; Mary Maloney, Cardiovascular Data Manager; and Diane Hollenbeck, Cardiovascular Data Abstractor.

Commissioner Akintade made a motion to approve the Certificate of Ongoing Performance - Cardiac Surgery Services - Suburban Hospital, which was seconded by Commissioner Boyle and unanimously approved.

ACTION: Certificate of Ongoing Performance - Cardiac Surgery Services - Suburban Hospital is hereby APPROVED.

AGENDA ITEM 6.

ACTION: Position on Regulatory Oversight of "Hospital at Home" Programs by the Maryland Health Care Commission

Paul Parker, Director of the Center for Health Care Facilities Planning and Development, briefed the Commission on a report under development by the Health Services Cost Review Commission (HSCRC) and the Maryland Health Care Commission (Commission or MHCC) for the General Assembly's health committees. The report, being prepared by HSCRC staff, concerns the implementation of a "hospital care at home" model of acute hospital care in Maryland. Among other things, the legislative request asks HSCRC and MHCC to identify "barriers in existing State law and regulations that currently exist to prevent the broadening" of the hospital care at home model.

Mr. Parker outlined the two elements of the current scope of CON regulation by MHCC with possible relevance to a hospital care at home model. The regulation of changes in hospital bed capacity is not applicable because the model under review would not change the physical, built capacity for beds, which the law is aimed at regulating. The hospital at home model only involves an "effective" change in bed capacity, occurring on an episodic basis, without the necessity for a "capital project," with the obvious potential for reducing the need for the expensive institutional bed capacity at which the CON law is aimed. Mr. Parker stated that, in his view, this element of CON regulation is not a barrier to development of hospital care at home programs.

Mr. Parker noted that there is one element of hospital facility CON regulation, capital expenditure thresholds, that is very broad, and applicable to any hospital capital project developed for any reason. However, because of 2019 changes in this part of the law, this element cannot be viewed as a practical barrier to development of hospital care at home projects, because the threshold requiring review is the lesser of $50 million or 25 percent of the subject hospital's current annual budget expenditure. It is not conceivable that implementation of a hospital care at home program would require an expenditure at this level.

Mr. Parker recommended that the Commission advise HSCRC that its regulatory oversight authority with respect to hospitals does not include barriers, through currently existing State law or regulations, that prevent the broadening of the hospital care at home model, as the features of that model are understood by MHCC.

Commissioner Boyer made a motion to adopt Mr. Parker's recommendation and take a position that the Commission's oversight authority under currently existing Maryland State law and regulations does not include barriers to the broadening of the hospital care at home model, which was seconded by Commissioner Cheatham and unanimously approved.

ACTION: Position on Regulatory Oversight of "Hospital at Home" Programs by the Maryland Health Care Commission is hereby ADOPTED.

AGENDA ITEM 7.

PRESENTATION: Advance Care Planning - A Multi-Lens Analysis

Shadae Paul, Program Manager for Government and Public Affairs and Legislative Initiatives, in the Executive Office, presented findings from an analysis on advance care planning in Maryland.

The foundation of this project was obtained from two publications that assessed advance care planning (ACP): (1) *Despite Big Buildup, Few Benefit from Medicare's Advance Care Planning Coverage* (JAMA, June 2021); and (2) *Advance Care Planning for Medicare Beneficiaries Increased Substantially, But Prevalence Remained Low* (Health Affairs, April 2021). The second publication was used as the methodological model for staff's analysis. Ms. Paul said that Medicare data from 2016-2020 was used to determine ACP use in Maryland across four demographic categories: race, gender, age, and geographic location.

Ms. Paul noted that overall, beneficiaries with advance care planning claims increased from 2016-2019, with the biggest increase from 2016-2017. By race, White patients accounted for 67 percent of the claims; Black patients followed with 26 percent of claims; Asian patients, Native American/Other patients, and Hispanic patients combined accounted for less than 7 percent of claims. Ms. Paul said that, as expected, women had more claims than men, but White women had twice the number of ACP claims as Black women, and the same pattern existed for males. By age, beneficiaries with ACP claims per 1,000 declined by 10 percent during the pandemic among patients aged 65 and over. Lastly, by county, ACP use per 1,000 was higher in 2020 than in 2019 in eight counties: Caroline, Carroll, Cecil, Garrett, Howard, Kent, Queen Annes, and Somerset counties. Ms. Paul noted the limitations of the analysis, however there is opportunity to examine these variables in a future analysis.

Ms. Paul provided recommendations and a conclusion based on findings from the analysis. There is a need to develop targeted campaigns to increase knowledge and awareness among underutilized groups. Ms. Paul noted that pilot programs can be designed and launched not only to promote patient-provider communication, but also to increase use of advance care planning. Finally, there is a need to identify factors that explain differences in advance care planning among select, low use, populations. Ms. Paul said that results from this analysis provided confirmatory evidence that advance care planning, even though available, is underused; and medical and public policy interventions may expand use of advance care planning. Ms. Paul outlined the next steps, which included that the Commission could perform

additional analyses, work with the MDPCP Program to determine possible impact, and align this work with other end-of-life initiatives.

ACTION: NO ACTION REQUIRED

AGENDA ITEM 8.

Overview of Upcoming Activities

Mr. Steffen stated that November's Commission meeting may include: a couple of CON applications, several certificates of ongoing performance for percutaneous coronary intervention services (PCI), a proposed regulation regarding the Maryland All Payer Claims Database, an update on MDPCP Track 3, and several more updates.

AGENDA ITEM 9.

ADJOURNMENT

There being no further business, the meeting was adjourned at 1:38 p.m. upon motion of Commissioner Sergent, which was seconded by Commissioner Boyer and unanimously approved.