

MINUTES OF THE HEALTH POLICY COMMISSION

Meeting of September 27, 2016

MASSACHUSETTS HEALTH POLICY COMMISSION

Date of Meeting: Wednesday, September 27, 2016
Start Time: 10:04 AM
End Time: 11:42 AM

	Present?	ITEM 1: Minutes from September 7, 2016	ITEM 2: Committee Membership	ITEM 3: Determination of Need Submission
Carole Allen	X	2 nd	X	2 nd
Stuart Altman*	X	X	X	X
Don Berwick	A	A	A	A
Martin Cohen	X	X	M	X
David Cutler	X	X	X	X
Wendy Everett	X	M	X	M
Rick Lord	X	X	X	X
Ron Mastrogiovanni	X	X	2 nd	X
Marylou Sudders	X	X	X	ab
Kristen Lepore	X	X	X	ab
Veronica Turner	X	X	X	X
Summary	10 Members Attended	Approved with 10 votes in the affirmative	Approved with 10 votes in the affirmative	Approved with 8 votes in the affirmative

Presented below is a summary of the meeting, including time-keeping, attendance, and votes.

*Chairman

(M): Made motion; (2nd): Seconded motion; (ab): Abstained from Vote; (A): Absent from Meeting

Proceedings

A regular meeting of the Massachusetts Health Policy Commission was held on Tuesday, September 27, 2016 at 10:00 AM.

Commissioners present included Dr. Stuart Altman (Chair); Dr. Wendy Everett (Vice Chair); Ms. Veronica Turner; Dr. Carole Allen; Dr. David Cutler; Mr. Martin Cohen; Mr. Ron Mastrogiovanni; Ms. Lauren Peters, designee for Secretary Kristen Lepore, Executive Office of Administration and Finance; Secretary Marylou Sudders, Executive Office of Health and Human Services; and Mr. Rick Lord.

Dr. Altman called the meeting to order at 10:04 AM.

ITEM 1: Approval of Minutes from September 7, 2016

Dr. Altman solicited comments on the minutes from September 7, 2016. Seeing none, he called for a motion to approve the minutes, as presented. **Dr. Everett** made a motion to approve the minutes. **Dr. Allen** seconded. The minutes were unanimously approved.

Dr. Altman noted that this would be Ms. Turner's last meeting as a member of the HPC's Board. He thanked her for her service.

ITEM 2: Report from the Chair

Dr. Altman called for a motion to appoint Dr. Everett to the HPC's Committee on Administration and Finance. **Mr. Cohen** made a motion to approve the appointment. **Mr. Mastrogiovanni** seconded. Dr. Everett was unanimously appointed to the Committee on Administration and Finance.

Dr. Altman stated that Dr. Everett would be leading the performance review committee for Executive Director Seltz. He noted that the committee would report their findings to the Administration and Finance Committee and to the full Board.

Dr. Altman turned the presentation over to Dr. Cutler, Chair of the Cost Trends and Market Performance Committee.

ITEM 3: Cost Trends and Market Performance

Dr. Cutler provided a brief overview of the items to be covered in the Cost Trends and Market Performance section.

ITEM 3a: Update on Notices of Material Change

Dr. Cutler introduced Ms. Katherine Mills, Policy Director for Market Performance. Ms. Mills introduced Ms. Megan Wulff, Deputy Director for Market Performance, who provided an update on new Material Change Notices (MCN) received by the HPC since the last Board meeting. For more information, see slides 9-11.

Dr. Allen noted that the HPC should review institutional culture when examining mergers and acquisitions. She stated that the proposed Hallmark transactions appeared to be examples of instances in which the institutional cultures aligned well.

Dr. Altman asked if a vote was required on the material change notices (MCNs).

Ms. Mills said that a vote was not required. She stated that if there were no further questions, she would turn the discussion over to Ms. Kara Vidal, Senior Manager, Market Performance.

ITEM 3b: Recommendations on Performance Improvement Plans

Ms. Vidal provided a summary of the HPC's recommendations for performance improvement plans (PIPs). For more information, see slides 13-18.

Dr. Altman stated that, over time, the HPC's recommendations on PIPs may evolve into an integral method for encouraging providers and insurers to meet the health care cost growth benchmark. He said that the PIP process is a mechanism through which the HPC can monitor entities in the market. Dr. Altman added that the HPC is very conscious of the fact that preliminary data can change and that there may be legitimate reasons why an entity might exceed the benchmark for a period of time.

Dr. Cutler said that a hallmark of this process was the HPC's substitution of its own staff-time to reduce the administrative burden on payers and providers.

Dr. Cutler noted that, through a review of the preliminary data, the HPC identified an organization for which the data were not accurate. Once corrected, the entity in question no longer appeared to have particularly high growth. Dr. Cutler noted that this instance reinforced the importance of paying attention to the accuracy of the data.

Dr. Cutler cited another instance in which an organization stated that it had plans to move patients into a lower-cost setting but had yet to fully implement these plans. He noted that this is a recurring trend in past cost to market impact reviews (CMIRs). He asked whether the HPC should require more regular reporting within systems of care to determine whether organizations are actually realizing their commitments to move patients to less-expensive settings.

Dr. Cutler said that for some metrics this might be difficult to do, and that the HPC would have to wait on CHIA's annual reporting, but for others it might be possible to get quarterly updates such as where discharges are going within systems of providers. He said that if the HPC could easily obtain this data, it would be a welcome addition to its data gathering and asked for other Commissioners' thoughts on the issue.

Secretary Sudders asked how such systems of providers would be defined. Dr. Cutler responded that the systems would define themselves through the Registration of Provider Organizations (RPO) program. He noted that the HPC would have to further refine this data, noting that this is an issue that would have to be addressed.

Mr. Seltz said that tracking performance on stated commitments is something that the HPC has done in the past. For example, at the 2015 Cost Trends Hearing, Lahey Health was asked to provide an update on how its proposed changes in patient-flow patterns were progressing.

Mr. Seltz cautioned against adding additional reporting requirements on providers. He said that any increase in tracking should be weighed against the administrative burden that comes with it.

Dr. Cutler suggested that the Board could discuss this issue at the next CTMP meeting.

Dr. Allen mentioned that the HPC could also track commitments from entities to improve their internal operations.

Mr. Cohen asked Ms. Vidal whether the key themes listed on slide 17 were ordered by weight of importance. Ms. Vidal responded that the preliminary data and rising pharmacy costs were the most consistently identified themes, followed by highlighting existing cost control efforts.

Ms. Vidal said that several of the provider entities had mentioned the need to have contract performance data from payers, not only for their downside risk contracts but for any contract on whose performance they will be evaluated. Some of the entities contacted HPC for cuts of the data so they could respond to HPC's questions in advance, since in some cases they are not regularly given such data from payers and had not seen it until the PIPs process.

Dr. Cutler asked if the next Board meeting would include an update on the final two entities under review in the PIP process. Ms. Mills responded in the affirmative and one of the ways that HPC would engage in monitoring would be through the annual PIPs process. She stated that CHIA would likely be providing a new list of named entities within the coming month, at which point HPC will set a high bar for entities that have been previously identified and appear on the new list.

Ms. Mills turned the discussion back over to Ms. Vidal who concluded the PIP presentation. For more information, see slides 19-20.

Dr. Cutler asked if there were further questions about the PIP process. Hearing none, he moved on to the determination of need (DoN) submission.

ITEM 3c: Determination of Need Submission

Dr. Altman stated that, under law, the HPC has a variety of mechanisms to monitor health care activities in the Commonwealth to help meet the health care cost growth benchmark. He noted that the HPC may examine the cost implications of major expansions, but that the decision of whether a Determination of Need (DoN) should be issued is not within the HPC's purview and instead falls to the Public Health Council.

Dr. Altman stated that an HPC comment provides an overview of where the agency sees potential cost implications. He added that a cost implication does not necessarily mean that the project should not go forward. Dr. Altman turned the discussion over to Mr. Seltz.

Mr. Seltz stated that the HPC's process for commenting on a DoN is intended to be complementary to that of the Department of Public Health (DPH)'s DoN process. He noted that, under law, the HPC has the discretionary authority to comment into the DoN process about the potential cost implications of a proposed DoN. This is the first time that the HPC is exercising its authority to comment because of the potential risks for increased spending as a result of this DoN application.

Mr. Seltz provided an overview of the HPC's findings regarding Children's Hospital's proposed expansion. For more information, see slides 22-25.

Dr. Altman asked for clarification on Children's Medicaid numbers. Ms. Mills confirmed that 29 percent of discharges in 2015 were Medicaid, and that although 29 percent is lower than the proportion of Medicaid discharges for some other providers, it represents a large number of Medicaid patients due to Children's high total volume.

Dr. Altman asked for questions from the Board.

Dr. Allen stated that she believed that approximately 40 percent of all children are on Medicaid. She also noted that there are other pediatric hospitals in Boston, and that they have training programs for pediatric residencies and are affiliated with medical schools.

Dr. Allen said that, from her personal experience with Children's, the hospital requires a renovation and upgrade and that moving to single-bed rooms and increasing the number of psychiatric beds were both important goals. Dr. Allen questioned whether Children's needs so many additional intensive care unit (ICU) beds.

Secretary Sudders confirmed that 40 percent of children in Massachusetts do indeed have Medicaid, and stated that for Medicaid patients, Children's is primarily used as a tertiary care facility.

Secretary Sudders cautioned the Board, saying that there is a difference between the DoN process and the HPC's role. She emphasized that the determination regarding Children's need for an expansion of beds was solely that of DPH.

Dr. Allen said that she recently visited the Children's Hospital of Alabama, which had constructed a new addition for \$400 million. She also noted that in ACO work, we are trying to encourage moving more care to the community, and questioned whether we want to be bringing more patients into Boston as opposed to having more community-based care.

Mr. Mastrogiovanni asked for clarification on the HPC's role in providing DPH this letter. Mr. Seltz responded that the staff had identified a potential risk for an increase in spending with the expansion. He said that the purpose of the letter is to provide to DPH and the public with information on the potential cost impact of the expansion.

Dr. Everett expressed a concern about some of the language in the proposed letter. She noted that, based on the HPC's models, the potential cost growth from the inpatient expansion was \$8.5 to \$18 million, and that she did not believe this constituted a "significant" growth in total spending.

Board members discussed the potential cost impact of the transaction.

Dr. Allen asked if there could be a cost implication even if the new beds were filled by out-of-state patients. Mr. Seltz responded that the staff focused on the potential impact on health care spending by Massachusetts residents.

Dr. Altman stated that his greatest concern is that Massachusetts depends heavily on the ability of the health care market to work, and that in order for the market to work, health plans need to be able to provide low-cost alternatives.

Dr. Altman noted that the comment suggests that there is a significant possibility that if a disproportionate amount of new admissions at Children's were to come out of other Massachusetts institutions, it could lead to lower cost providers going out of business. He said that the Board could not discount the implications this would have on costs across the system. Dr. Altman said that he did not believe the comment was too strong. He said that the Board has an obligation and legal responsibility to make this information available to the public. He reiterated that the ultimate decision lay with the Public Health Council, but he urged the Commission to approve sending the comment to the Council.

Secretary Sudders suggested that, going forward, the staff devise a specific protocol for submitting comments on determinations of need.

Secretary Sudders concurred with Dr. Everett that the Board should reconsider the use of the word "significant" with regard to potential spending impacts. Mr. Seltz clarified that, in the letter, the word "significant" is used to describe the potential for increased spending, and not the degree of impact on spending.

Board members discussed potential wording for the letter. Mr. Seltz suggested that the Board table the vote while the staff crafts alternative language for the letter.

Dr. Altman agreed and said the Board would table the final vote on the letter until revised language was presented.

ITEM 3d: 2016 Cost Trends Hearing

Dr. Cutler introduced the 2016 Cost Trends Hearing. Mr. Seltz provided an update on the agenda and proposed speakers for the Hearing. For more information, see slides 28-30.

Dr. Altman asked staff to update the title of Ms. Lauren Taylor's presentation to reflect her research on social determinants of health. Mr. Seltz thanked Dr. Altman for his comments and said that the staff would make appropriate edits.

Dr. Altman said that he looked forward to the event.

Dr. Allen noted the importance of the Hearing's focus on social determinants of health.

Mr. Mastrogiovanni stated that the Hearing should focus on the cost of medical devices in addition to pharmaceutical drugs. Mr. Seltz responded that this could be an appropriate area of discussion in multiple panels at the Hearing.

Dr. Altman asked if there were further questions. Seeing none, he turned the discussion over to Dr. Cutler.

ITEM 3e: Gobeille Update from the Center for Health Information and Analysis

Mr. Seltz introduced Ms. Diane McCarthy, General Counsel for CHIA, to provide an update on the *Gobeille* decision. For more information, see slides 31-34.

Dr. Cutler asked whether it was possible for the HPC to submit a comment to the Department of Labor on the *Gobeille* case. Ms. Johnson responded that HPC has this authority. She noted that the staff would ask Board members to approve a letter endorsing the comments of the National Academy for State Health Policy (NASHP).

Dr. Altman suggested that the Board vote on including its endorsement in the letter. Mr. Lord replied that, while he was sympathetic to the position in the presentation, he had not had a chance to consult with his members to get their feedback and would not feel comfortable voting before doing so.

Dr. Altman proposed that the staff write the letter and the Board hold off on approving it until the next meeting. Ms. Johnson noted that the deadline for comments had been extended.

Dr. Altman thanked Ms. McCarthy for her presentation.

Dr. Altman dismissed the Board for a five minute break.

ITEM 3c: Determination of Need Submission

Dr. Altman reconvened the meeting at 11:37 AM.

Dr. Cutler read the revised language for the HPC's proposed Determination of Need Submission to the Board.

Dr. Altman called for a motion to approve the issuance of the HPC's comments on Children's Determination of Need, as amended. **Dr. Everett** made a motion to approve the issuance. **Dr. Allen** seconded. Secretary Sudders and Ms. Peters abstained from voting. The HPC's comments were approved with eight votes.

ITEM 4: Schedule of Next Meeting

Secretary Sudders thanked Ms. Turner once again for her service to the HPC.

Dr. Altman adjourned the meeting at 11:50 am.