

**MINUTES OF THE QUALITY IMPROVEMENT AND
PATIENT PROTECTION COMMITTEE**

Meeting of June 10, 2013

MASSACHUSETTS HEALTH POLICY COMMISSION

**THE QUALITY IMPROVEMENT AND PATIENT PROTECTION COMMITTEE OF
MASSACHUSETTS HEALTH POLICY COMMISSION**
Center for Health Information and Analysis, Daley Conference Room
Boston, MA 02116

Docket: Monday, June 10, 2013, 9:00 AM – 11:00 AM

PROCEEDINGS

The fifth meeting of the Massachusetts Health Policy Commission's Quality Improvement and Patient Protection Committee was held on Monday, June 10, 2013 at the Center for Health Information and Analysis's Daley Conference Room, Two Boylston Street, Boston, MA 02116.

Members present were Ms. Marylou Sudders (Chair) and Dr. Carole Allen via phone.

Dr. Wendy Everett, Ms. Veronica Turner, and Mr. John Polanowicz were absent from this meeting.

Executive Director David Seltz and General Counsel Lois Johnson also participated in the meeting.

Chair Sudders called the meeting to order at 9:00 AM.

ITEM 1: Approval of Minutes from April 26, 2013 Meeting

Since there was not a quorum of Committee members, Chair Sudders postponed the approval of the minutes from the April 26, 2013 Committee meeting to the next meeting of the Quality Improvement and Patient Protection Committee.

ITEM 2: Hearing on Emergency Regulations Relative to the Office of Patient Protection

Chair Sudders opened the hearing on the proposed regulations.

The hearing concerned the adoption of the following Health Policy Commission regulations: 958 CMR 3.00, Health Insurance Consumer Protection, and 958 CMR 4.00, Health Insurance Open Enrollment Waivers. In adopting these regulations, the Committee would be repealing the following Department of Public Health regulations: 105 CMR 128.00, Health Insurance Consumer Protection, and 105 CMR 129.00, Health Insurance Open Enrollment Waivers.

Jen Bosco, Director of the Office of Patient Protection, provided an overview of the emergency regulations, noting that these regulations effectuated the transfer of OPP from

the Department of Public Health (DPH) to the Health Policy Commission. Ms. Bosco noted that the Health Policy Commission will make more substantive changes to these regulations in the future, including changes to conform with Affordable Care Act (ACA).

Carol Balulescu, Deputy General Counsel, Department of Public Health, explained that DPH was rescinding its regulations for the Office of Patient Protection, 105 CMR 128 and 105 CMR 129. The emergency rescission of these regulations took effect on April 22, 2013.

Alyssa Vangeli of Health Care For All testified. She said that there still are issues with open enrollment even with the waiver process. She recommended amending the definition of eligible individual to be consistent with ACA. In 4.03, she recommended striking the exclusion in (2)(c) to allow individuals to purchase the most comprehensive and affordable coverage. She recommended adding a provision to 4.030(2)(D) which would allow a waiver to be issued when a consumer could not pay insurance premiums due to financial hardship. Health Care For All submitted written testimony as well.

There were no further comments, and the Chair adjourned the hearing portion of the meeting.

ITEM 3: Discussion of the Issue of Mandatory Nurse Overtime Guidelines

Lois Johnson, General Counsel, Health Policy Commission, presented on the mandatory nurse overtime guidelines.

Ms. Johnson explained that the goal of these guidelines is to prohibit the use of mandatory overtime for nurses as a hospital staffing strategy, to ensure that mandatory overtime is only used in exceptional circumstances as a last resort, and to protect patient safety. She noted that in creating these guidelines, the HPC is required to consult with employees and employers who would be affected by the policy and glean comments through a public hearing.

Ms. Johnson reviewed the timeline of the guidelines on Mandatory Nurse Overtime, citing their inception during a listening session on February 22, 2013 and projected their final debate and ratification at the Health Policy Commission Meeting on June 19, 2013. She affirmed that the meeting today was the final discussion for members of the Quality Improvement and Patient Protection Committee before the regulation was sent to the full Commission.

After discussing the history of the proposed regulation, Ms. Johnson clarified some of the key points of the guidelines. She noted that an emergency situation for the purposes of allowing mandatory overtime under Section 226 means an unforeseen event that could not be prudently planned for or anticipated by a hospital and affects patient safety in the hospital and where there is a:

- Government declaration of emergency
- Catastrophic event
- Hospital emergency

She then clarified that mandatory overtime shall not be ordered in the case of an emergency situation where there is a reasonable alternative to such overtime, and that, where an unexpected vacancy occurs despite a hospital's implementation of a reasonable alternative, the hospital is required to exercise a good faith effort to fill the shift on a voluntary basis. She verified that the determination that an emergency situation exists shall be made by a hospital's chief executive officer or a specific senior management designee and must be reasonable under the circumstances.

After providing a detailed overview of the stipulations presented in these guidelines, Ms. Johnson discussed the Health Policy Commission's role in continually monitoring their implementation.

Chair Sudders thanked Ms. Johnson for her presentation and opened the meeting for public comment on the mandatory nurse overtime guidelines.

An audience member asked the Committee to consider saying "expected levels of absenteeism" rather than "typical levels," noting that during flu season, for example, a certain level of absenteeism is expected; some absenteeism may be atypical.

ITEM 4: Closing

Chair Sudders thanked everyone for coming and adjourned the meeting at 11:00 AM.