MINUTES OF THE HEALTH POLICY COMMISSION

Meeting of November 1, 2017

MASSACHUSETTS HEALTH POLICY COMMISSION

Date of Meeting: Wednesday, November 1, 2017

Start Time: 12:03 PM

End Time: 2:38 PM

	Present?	**ITEM 1: Approval of Minutes**	**ITEM 2: Preliminary CMIR**
Carole Allen	X	X	M
Stuart Altman*	X	X	X
Don Berwick	X	X	X
Martin Cohen	X	X	X
David Cutler	X	X	2nd
Wendy Everett	A	A	A
Timothy Foley	X	X	X
Rick Lord	X	2nd	X
Ron Mastrogiovanni	X	X	X
Sec. Marylou Sudders	X	M	X
Sec. Michael Heffernan	A	A	A
Summary	**9 Members Attended**	**Approved with 9 votes in the affirmative**	**Approved with 9 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 Wednesday, November 1, 2017.

Commissioners present included Dr. Stuart Altman (Chair); Dr. Carole Allen; Dr. Don Berwick, Mr. Martin Cohen; Dr. David Cutler; Mr. Ron Mastrogiovanni; Mr. Rick Lord; Mr. Timothy Foley; and Secretary Marylou Sudders, Executive Office of Health and Human Services.

Dr. Altman called the meeting to order at 12;03 PM and welcomed those present. He noted that this meeting marked the fifth anniversary of the Health Policy Commission. He provided a brief overview of the HPC's work to date, noting key benchmarks over the past five years. He thanked the Board for their continued dedication.

Dr. Altman stated that this would be the last meeting for Dr. Allen. He thanked her for her commitment to improving health care across the Commonwealth.

Dr. Allen provided brief remarks (see attachment for full text).

ITEM 1: Approval of Minutes from September 13, 2017

Dr. Altman solicited comments on the minutes from September 13, 2017. Seeing none, he called for a motion to approve the minutes. **Secretary Sudders** made a motion to approve the minutes. **Mr. Lord** seconded. The minutes were unanimously approved.

ITEM 2: Chairman's Report

Dr. Altman provided an overview of the history of the HPC's subcommittees over the past five years. He noted that there have been 150 committee meetings since the inception of the HPC. He stated that the HPC should complete a review of the committee assignments and responsibilities. Dr. Altman stated that he would return in January with a proposed revision to the committee structure. He asked for feedback and input from the Board and members of the public.

Dr. Altman introduced Mr. David Seltz, Executive Director, to provide an overview of the day's meeting.

Mr. Seltz thanked Dr. Allen for her contributions. He noted that November 1 was the first day of open enrollment for the Massachusetts Connector.

Mr. Seltz provided an overview of the 2018 Board meeting schedule, noting that there was potential for some of these dates to shift. He encouraged members of the public to review the website for the most updated information.

ITEM 3: Market Performance Update

Dr. Altman introduced Ms. Kate Mills, Policy Director for Market Performance to provide a brief overview of the presentation.

ITEM 3A: Notices of Material Change

Ms. Megan Wulff, Deputy Director for Market Performance, provided a brief overview of the material change notices received to date. For more information, see slides 10-14.

Dr. Altman stated that, during his travels across the country, he had encountered a large interest in the HPC's work on cost and market impact reviews. He noted that the HPC is unique in the country with respect to analyzing the potential impact of affiliations and mergers.

Dr. Altman encouraged the HPC to continue to monitor transactions for which the agency has decided not to pursue a cost and market impact review.

ITEM 3B: Preliminary Cost and Market Impact Review (CMIR)

Ms. Mills provided a brief overview of the CMIR process. For more information, see slide 16.

Ms. Mills introduced Mr. Sasha Hayes-Rusnov, Senior Manager for Market Performance, to discuss the findings in the preliminary CMIR report relative to the proposed transaction between Partners HealthCare System and Mass Eye and Ear Infirmary (MEE).

Mr. Hayes-Rusnov provided background on the proposed transaction and review process. For more information, see slides 17-20.

Ms. Wulff presented on the HPC's baseline research within the area of cost and market functioning. For more information, see slides 21-25.

Mr. Hayes-Rusnov presented on the HPC's baseline research relative to care delivery, quality, and access. For more information, see slides 26-30.

Mr. Wulff provided an overview of the HPC's findings relative to cost and market functioning. She noted that the proposed transaction would increase commercial health care spending by $20.8 million to $61 million per year. For more information, see slides 31-35.

Secretary Sudders clarified that this presentation is based on preliminary findings. Ms. Mills noted that the parties would have 30-days after the release of the preliminary report to respond.

Dr. Altman asked for clarification on the contracting for MEE affiliate physicians. Ms. Wulff stated that, for certain payers, MEE affiliate physicians contract through Massachusetts General Hospital. She said that MEE affiliate physicians directly negotiate with other smaller payers.

Referencing slide 34, Dr. Allen asked for clarification on the term "hospital spending." Ms. Wulff responded that this number was only the facility side of hospital spending.

Dr. Allen asked whether the upcoming Senate bill on facility fees would impact this analysis. Ms. Mills responded that the HPC could not speculate on such an impact. She added that most providers do not specify if a visit takes place at a main or satellite campus in the all-payer claims database (APCD).

Dr. Cutler stated that these are static calculations based on past rates. He noted that this does not have any dynamic projections on what would happen if rates were to rise.

Ms. Mastrogiovanni stated that, beyond combining the current market share of MEE and Partners, this transaction could grow market share for Partners across the state. He asked whether these organizations have made any commitments to make this deal more attractive to residents within the state.

Mr. Seltz responded that the preliminary report outlines the facts of the proposed transaction. He noted that Mr. Mastrogiovanni's question may be addressed in the parties' response to the preliminary report.

Secretary Sudders noted that there is overlap between the Determination of Need (DoN) and CMIR process. She noted that there needed to be role clarity. Mr. Seltz stated that the HPC's role is to lay out facts and clarify information for the public's consideration, not to make decisions on these transactions.

Dr. Berwick asked whether the original proposal explained why the transaction was needed by the parties. Mr. Seltz stated that this information would be covered later in the presentation. He stated that it was not clear to the HPC that a such a transaction was necessary to achieve the stated goals.

Mr. Hayes-Rusnov reviewed the HPC's findings relative to operational efficiency, quality, and access. For more information, see slide 36-38.

Dr. Cutler asked whether the parties provided a total estimate of savings from the proposed transaction. Mr. Hayes-Rusnov responded that he believed such information was provided as part of the DoN application.

Dr. Altman noted that there are two parts to this transaction: (1) corporate realignment and (2) potential increases in rates. He noted that MEE could stay independent, but have Partners negotiate on their behalf for all payers through a contracting affiliation. This would result in increased rates without a corporate realignment. He stated his main concern is what happens to the prices with or without the transaction.

Dr. Berwick added that access should also be of concern when considering the transaction, given that increased price could reduce the access to care.

Dr. Cutler stated that this proposed transaction seems to result in both cost savings and higher prices. Overall, however, there will be a net impact of $20 million in cost savings and $20-$60 million in price increases. He noted that the parties claim that this excess money will be reinvested into key services areas. Dr. Cutler asked: (1) why the parties need to merge to get the savings and (2) if there are efficiency savings, why would the parties need to raise prices. He noted that he hopes to hear more details in these areas from the parties prior to the final report.

D. Berwick asked to receive further clarification on the issue of access from the parties prior to the report.

Ms. Mills asked for any additional questions from Board members.

Mr. Cohen noted that this is the second specialty care hospital that has been the topic of a MCN and CMIR during his time on the Board. He asked for clarification on the hypothesized future of specialty care hospitals, especially related to their independence. Mr. Seltz noted that this was an important question for the HPC to review moving forward.

Dr. Altman noted that behavioral health is another specialty service that is constantly evolving. He noted that consolidation is a trend across industries, not just health care.

Secretary Sudders asked for clarification on the $20 million in savings from this transaction. Ms. Mills responded that the savings were reported as a percent of annual expenditures. She

said that the HPC modeled the provided percent and found that the savings were approximately $20M over the course of a few years. Secretary Sudders clarified for the audience that this was not an annual saving.

Secretary Sudders said that the preliminary projections of additional cost from the transaction from slide 25 are gross annual numbers that do not include any savings. Ms. Mills confirmed this was the case.

Secretary Sudders expressed concern over the fact that information from this report was in *State House News Service* prior to the day's discussion. She asked that, in the future, media releases are more appropriately timed to include Board discussion.

Dr. Allen asked for clarification on the proposed capital investments that Partners would make into MEE to meet its expanding need. Mr. Hayes-Rusnov stated that the parties have provided information on why the additional space is necessary. He stated that the HPC does not have information on the physical location of this need.

Mr. Mastrogiovanni asked for clarification on the total acquisition cost in this transaction. Ms. Mills responded that this information is confidential under statute.

Mr. Lord asked for clarification on how the parties would deploy the proposed savings from the transaction. Mr. Hayes-Rusnov stated that the determination of need (DoN) application stated that efficiencies would be used to support MEE clinical and research activities.

Ms. Mills provided an overview of next steps. For more information, see slide 39.

Mr. Foley asked how the question from the day's discussion would be communicated to the parties. Mr. Seltz responded that the HPC would follow up with the parties following the issuance of the report.

Dr. Berwick reiterated the need for answers on questions related to access and why the transaction is necessary for the parties to meet their two aims.

Dr. Altman asked for a motion to issue the preliminary cost and market impact review report relative to the proposed transaction between Partners HealthCare System and Mass Eye and Ear Infirmary. **Dr. Allen** made a motion to issue the preliminary report. **Dr. Cutler** seconded. The Board voted unanimously to issue the report.

ITEM 4: Research Presentation

Mr. Seltz introduced Dr. David Auerbach, Director for Research and Cost Trends, and Ms. Rose Kerber, Research Associate. He noted that the day's research presentation would review the HPC's research on out-of-network (OON) billing and its impact on consumers. He stated that this work has taken place over the past 18 months through the Cost Trends and Market Performance Committee. For more information, see slide 43.

Dr. Auerbach presented on the background of OON billing, its implications, and the foundations of the HPC's study. For more information, see slides 44-48.

Dr. Cutler noted that the Cooper analysis examines a single insurer for the Commonwealth, meaning that it may not be a good proxy for the state. Dr. Altman agreed with this observation.

Mr. Seltz stated that the national health plans account for 25% of enrollees in MA, meaning that there is a portion of members subject to more frequent use of services.

Ms. Kerber reviewed the results from the HPC's study on OON billing. For more information, see slides 49-54.

Referring to slide 49, Dr. Altman asked for clarification on the HPC's information related to balance bills. Ms. Kerber clarified that the All Payers Claims Database (APCD) contains information on the negotiated rate as well as patient cost-sharing. She noted that the APCD does not include information on whether charges exceeded the amount paid on the claim (e.g. if the provider tried to charge more than was paid).

Dr. Altman asked whether the OON bills were more than what an insurer would typically pay. Ms. Kerber responded in the affirmative.

Dr. Altman clarified that the APCD contains part of the patient payment, but not all of the total charges invoiced by the hospital.

Mr. Seltz noted that for two-thirds of these patients, the HPC found that the insurer is paying the full amount. These charges, which are in excess of inpatient rates, lead to higher premiums across the board. He stated that this problem is more than just a few patients paying outrageous bills; it is the insurance companies habitually paying such bills.

Dr. Allen asked what incentives providers have to accept network fees if they know they can issue a balance bill. Dr. Auerbach responded that providers enter into these arrangements to get additional volume.

Referencing slide 52, Dr. Altman asked how ambulances are disbursed to individuals in emergency situations. Ms. Kerber responded that 75% of ambulances are in-network in MA.

Dr. Allen asked whether the information on this slide was for all ambulance visits or a subset. Mr. Seltz noted that this data only include emergency transports with advanced life support.

Mr. Seltz reviewed potential state policies to address OON billing. For more information, see slide 55.

Dr. Berwick asked whether any of the state's providers were acting to resolve this problem. Mr. Seltz responded that the HPC is not the only body examining OON billing. He stated that health plans and in-network providers are raising concerns in this area. Dr. Allen added that the Massachusetts Medical Society examining this, as well.

Mr. Seltz noted that there was unanimous support during the HPC's listening sessions on this topic to remove consumers from the middle of the conversation.

Dr. Altman asked whether other states provide a definitive number for reasonable reimbursement. Mr. Seltz noted that this is done differently in each of the states mentioned on the slide. He stated that more information on these policies can be found in the HPC's OON billing brief, which can be found on the HPC's website.

Dr. Cutler noted that one way to address this issue would be through the implementation of bundled payments. Commissioners discussed this potentiality.

Dr. Berwick noted the high variation in costs for ambulance use. He asked whether the HPC has ever conducted analyses in this area. Mr. Seltz responded that this has not been an area of focus to date.

Dr. Altman reiterated the HPC's concerned about these balance bills and thanked staff for their work in this area.

ITEM 5: Investment and Certification Programs

Dr. Allen provided an overview of the presentation and introduced Ms. Katie Barrett, Policy Director for Accountable Care.

ITEM 5A: Care Delivery Certification

Ms. Barrett provided an update on the HPC's Certification Programs. For more information, see slides 58-59.

Dr. Altman asked for an update on the HPC's partnership with NCQA. Ms. Barrett responded that the NCQA2017 program has been updated and includes many of the HPC's criteria from PCMH PRIME. She noted that the agency is working productively with NCQA and engaging in productive dialogue.

ITEM 5B: Strategic Investment Programs

Ms. Kathleen Connelly, Director for Strategic Investments, provided an update on the HPC's investment programs. For more information, see slides 61-70.

ITEM 5C: Future Care Delivery Initiatives

Ms. Barrett introduced the HPC's proposal for the next round of investments. For more information, see slide 72.

Ms. Connolly presented on the proposed funding and design for these new investments. For more information, see slides 73-77.

Dr. Altman noted that, at the Cost Trends Hearings, testifiers expressed concerns over the readmissions rates calculated by CMS. He asked whether the HPC was looking into this potential issue. Ms. Barrett responded that the HPC proposed using this metric because it is standard. She noted that the staff welcomes feedback from the Board on these metrics.

Dr. Berwick asked whether the learning collaboratives would continue. Ms. Connelly said yes and that staff would return to the Committee with update on learning and dissemination.

Ms. Katherine Record, Deputy Director for Accountable Care, reviewed details of the proposed design of the new investment program. For more information, see slides 78-84.

Dr. Allen asked for clarification on the restrictions around the funding. Ms. Barrett responded that funding from the Distressed Hospital Trust Fund must go to eligible community hospitals.

Ms. Barrett added that the HPC wants to invest in evidence-based care delivery models through this program. She noted that, by tying the program to the HPC's ACO Certification, the agency hopes to ensure sustainability for these new investment projects.

Mr. Mastrogiovanni asked for clarification on why staff proposed a cap of $750,000 per project. Ms. Barrett responded that this amount was selected because it was similar to the cap of the HPC's other investment programs. She asked for additional feedback from the Board on this number. Dr. Cutler added that the HPC's previous investment programs showed no difference in performance for small and large projects.

Mr. Cohen asked whether community partners would be allowed to participate in these programs. Ms. Barrett responded that this was still a topic of discussion.

Dr. Berwick encouraged the staff to be more flexible on the evidenced-based requirement to help test new promising ideas.

Dr. Altman emphasized the importance of the HPC's investment programs.

Mr. Foley stated that the HPC should consider adding a factor around engaging the workforce in the project. Ms. Barrett responded that stronger project submissions would be ones that have the workforce and patients as members of the discussion.

ITEM 6: Adjournment and Schedule of Next Meeting

Dr. Altman adjourned the meeting at 2:38 PM and announced that the next Board meeting is scheduled for December 12, 2017.

ATTACHMENT

Departing comments
Carole E. Allen, MD, MBA
November 1, 2017

I hope you will indulge me for a few moments of reflection.

Serving on HPC has been a great honor and privilege, an opportunity to learn and to form amazing connections. The commission has become an important part of my life and, indeed, my identity. I may have to teach my husband to call me Commissioner, just to avoid entering into withdrawal.

The caliber of the HPC staff and the work they do is extraordinary. David Seltz has shown us that advanced age is not a requisite for wisdom and knowledge. I will miss the insights and the camaraderie of my fellow commissioners enormously. And Stuart, you always manage to get to the heart of the matter – I've learned so much from you.

It has been exciting to watch primary care practices achieve PRIME PCMH status by incorporating behavioral health screening and services, and it is gratifying that the patient voice will be part of ACO governance going forward. I am particularly thrilled that attention is being paid to social determinants of health. Yet in some ways we are just scratching the surface. Long term, the only way to reduce the rise in health care costs is to create a healthier population. I hope that HPC will partner with the DPH to look at root causes of illness and disparities and focus on public health solutions that are in plain sight. For example, we should encourage the legislature to waste no more time passing the omnibus tobacco bill that would classify electronic nicotine delivery devices as tobacco, raise the sales age for tobacco products to 21, and forbid sales of tobacco products through pharmacies. And federal dollars for maternal and child home visiting programs should be put to use, particularly in high risk communities, because lifelong health begins in infancy (or more accurately prenatally). We have supported care for the homeless, but not called for an end to homelessness. Last week at a public health symposium, Commissioner Bharel described a population health information tool that will help us identify areas of greatest need.

Sometimes I fear our work resembles that of the man who loses his keys in a dark alley, but looks for them under the lamppost on the road - because that is where the light is. We focus extensively on inpatient hospital costs and readmissions, yet our data shows that outpatient prices are among the main drivers of rising costs. I believe we could focus more on training and utilizing community health workers and engaging local boards of health. We know that the multiplicity of quality metrics and other regulatory requirements are putting a strain on providers and insurers alike, yet we have largely ignored the provider community, and especially physician burnout, as needing support and remedies. I hope moving forward that HPC will focus on reducing administrative practice burdens and, by emphasizing the physician-patient relationship, return the joy of medicine to practices. Perhaps the HPC can exert influence to focus more on using real time data from EHR's and patient reported outcomes, not just claims data, which is

incomplete, often not timely, and heavily influenced by coding – or teaching to the test. Tracking digital health data, electronic standardized patient questionnaires, and functional outcomes would give a truer picture of population health, and has the potential to improve provider experience as well by freeing up providers to fully engage with their patients.

Finally, let's not waste a public health emergency – the opioid crisis. As resources become available, let's use them to develop and improve systems of care encompassing opioid treatments and prevention. Addressing neonatal abstinence syndrome is an opportunity to develop baby friendly hospitals across the Commonwealth, where breastfeeding and rooming in are the norm. Mounting a public health media campaign can help prevent youth initiation of tobacco, alcohol, and marijuana in addition to opioids. Revving up our behavioral health system should be a permanent solution, not just a temporary fix to address this particular crisis.

The future of medicine will include areas we have not explored – genomics, epigenetics, the impact of climate change, societal changes, new technologies and new pharmaceutical products. Medical education and research need to be supported – but I fail to see the logic in paying for them through an insurance mechanism. Perhaps it is too heavy a lift for the commission to take on a revamping of how health care – and health – are paid for. But I can dream.