MINUTES OF THE PUBLIC HEALTH COUNCIL

Meeting of December 14, 2022

MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH

**PUBLIC HEALTH COUNCIL MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH**

**Henry I. Bowditch Public Health Council Room, 2nd Floor 250 Washington Street, Boston MA**

**Docket: \*\*\*REMOTE MEETING\*\*\* Wednesday, December 14, 2022 – 9:00AM**

***Note: The December Public Health Council meeting will be held remotely as a video conference consistent with St. 2021, c. 20, s. 20, which provides for certain modifications to the Massachusetts Open Meeting Law due to COVID-19.***

Members of the public may listen to the meeting proceedings by using the information below:

Join by Web:

<https://eohhs.webex.com/eohhs/onstage/g.php?MTID=e5fbdc96cbdec60cbaeb5fd665dd84af8>

Dial in Telephone Number: 844-621-3956 Access code: 2536 816 3913

1. **ROUTINE ITEMS**
   1. Introductions.
   2. Updates from Commissioner Margret Cooke.
      * Review Data from the Biannual Opioid Report.
   3. Record of the Public Health Council Meeting held November 9, 2022 **(Vote)**.
2. **DETERMINATIONS OF NEED**
   1. Request by BMC Health System, Inc. for a substantial capital expenditure and substantial change in service **(Vote)**.
   2. Request by the Children’s Medical Center Corporation for a substantial capital expenditure and substantial change in service **(Vote)**.
3. **EMERGENCY REGULATIONS**
   1. Request to promulgate amendments to 105 CMR 130, *Hospital licensure* **(Vote)**.
4. **REGULATIONS**
   1. Request to promulgate amendments to 105 CMR 170, *Emergency Medical Services System.* **(Vote)**.

*The Commissioner and the Public Health Council are defined by law as constituting the Department of Public Health. The Council has one regular meeting per month. These meetings are open to public attendance except when the Council meets in Executive Session. The Council’s meetings are not hearings, nor do members of the public have a right to speak or address the Council. The docket will indicate whether or not floor discussions are anticipated. For purposes of fairness since the regular meeting is not a hearing and is not advertised as such, presentations from the floor may require delaying a decision until a subsequent meeting.*

Attendance and Summary of Votes:

Presented below is a summary of the meeting, including timekeeping, attendance and votes cast.

Date of Meeting: December 14, 2022

Start Time: 9:10 am Ending Time:11:00 am

| **Board Member** | **Attended** | **First Order: Approval of November 9, 2022 Meeting Minutes (Vote)** | **Second Order: DoN - Request by BMC Health System, Inc. for a substantial capital expenditure and substantial change in service (Vote)** | **Third Order:**  **DoN- Request by Children’s Medical Center Corporation for a substantial capital expenditure and substantial change in service (Vote)** | **Fourth Order:**  **Emergency Regulations -Request to Promulgate Amendments to 105 CMR 130, Hospital Licensure (Vote)** | **Fifth Order:**  **Regulations -**  **Request to Promulgate Amendments to 105 CMR 170, Emergency Medical Services System**  **(Vote)** |
| --- | --- | --- | --- | --- | --- | --- |
| **Commissioner Margret Cooke** | Yes | Yes | Yes | Yes | Yes | Yes |
| **Edward Bernstein** | Yes | Abstain | Recused | Yes | Yes | Yes |
| **Lissette Blondet** | Absent | Absent | Absent | Absent | Absent | Absent |
| **Kathleen Carey** | Absent | Absent | Absent | Absent | Absent | Absent |
| **Secretary Elizabeth Chen** | Yes | Yes | Yes | Yes | Yes | Yes |
| **Harold Cox** | Yes | Abstain | Yes | Yes | Yes | Yes |
| **Alba Cruz-Davis** | Yes | Yes | Yes | Yes | Yes | Yes |
| **Michele David** | Yes | Abstain | Yes | Yes | Yes | Yes |
| **Elizabeth Evans** | Yes | Yes | Yes | Yes | Yes | Yes |
| **Eduardo Haddad** | Yes | Yes | Yes | Yes | Yes | Yes |
| **Joanna Lambert** | Yes | Yes | Yes | Yes | Yes | Yes |
| **Stewart Landers** | Yes | Yes | Yes | Yes | Yes | Yes |
| **Mary Moscato** | Yes | Yes | Yes | Yes | Yes | Yes |
| **Secretary Cheryl Poppe** | Absent | Absent | Absent | Absent | Absent | Absent |
| **Gregory Volturo** | Yes | Abstain | Yes | Yes | Yes | Yes |
| **Summary** | 12 Members Present;  3 Absent | 8 Members Approved  4 Abstained  3 Absent | 11 Members Approved;  3 Absent  1 Recusal | 12 Members Approved;  3 Absent | 12 Members Approved;  3 Absent | 12 Members Approved  3 Absent |

**PROCEEDINGS**

A regular meeting of the Massachusetts Department of Public Health’s Public Health Council (M.G.L. c. 17, §§ 1, 3) was held on Wednesday, December 14, 2022, by the Massachusetts Department of Public Health, 250 Washington Street, Boston, Massachusetts 02108.

Members present were: Margret Cooke; Edward Bernstein, MD; Secretary Elizabeth Chen, PhD; Dean Harold Cox; Alba Cruz-Davis PhD; Michelle David, MD; Elizabeth Evans, PhD; Eduardo Haddad, MD; Joanna Lambert; Stewart Landers; Mary Moscato; and Gregory Volturo, MD.

Also in attendance was Rebecca Rodman, General Counsel at the Massachusetts Department of Public Health.

Commissioner Cooke called the meeting to order at 9:10 am and made opening remarks before reviewing the docket.

Dr. Bernstein arrived by phone at 9:13 am and arrived via video at 9:19 am.

Dr. David arrived at 9:15 am.

**1. ROUTINE ITEMS**

*b. Updates from Commissioner Margret Cooke*

Commissioner Cooke proceeded to update the council on the following:

**New Member – Dr. Gregory Volturo**

Commissioner Cooke introduced Dr. Gregory Volturo to the Public Health Council. She offered a brief background of his over 30 years’ experience managing emergency departments, emergency physicians, and other physician groups and welcomed him to the council.

**Loan Repayment**

Commissioner Cooke reported last month the Baker/Polito Administration announced a 130-billion-dollar loan repayment program to retain workers in the behavioral health and primary care fields. This program is designed to help retain these essential workers by providing real financial support for this high-demand work. Funding for this program comes from the American Rescue Plan Act and the Opioid Recovery and Remediation Trust Fund. Information for applicants will be made available by the Massachusetts League of Community Health Centers, which will be implementing this program.

**Mass Men Campaign**

Commissioner Cooke announced a new media campaign rolled out from the Suicide Prevention Program designed to promote wellness for working men and encourage them to speak up for their own health and emotional well-being, in partnership with the Riverside Trauma Center.

**MPOX Update**

Commissioner Cooke stated that DPH will follow the lead of the World Health Organization’s change of terminology from Monkey Pox to the preferred term MPOX. This will avoid stigma and help to promote access to quality care.

**Triple-Demic / Holidays**

Commissioner Cooke encouraged everyone to get an updated COVID-19 booster, and a flu shot as we face a triple-demic of COVID, flu, and RSV during the Holiday Season and encouraged COVID-19 at-home testing when appropriate.

**Healthcare Capacity**

Commissioner Cooke shared some new measures that the Executive Office of Health and Human Services, under Secretary Sudders, has put in place to ease and maintain hospital capacity, including:

* For 90 days beginning on December 6th, health plans have agreed to waive prior authorization for admissions from acute care hospitals to sub-acute care and rehabilitation facilities. This waiver does not apply to long-term or custodial admissions.
* Nursing facilities have agreed to extend their admissions hours and will continue capacity-building efforts.
* Lastly, hospitals have agreed to start their discharge planning as early in the day as possible, and the Massachusetts Hospital Association has agreed to renegotiate their contract with a staffing agency to bring additional inpatient psychiatric capacity online.

**Reminder: COVID-19 Vaccine**

Commissioner Cooke reminded the Council that the “Get Boosted” Vaccine Campaign is partnering with communities to host free clinics and provide an $75 gift card incentive. The response to this campaign has been successful with nearly 24,000 doses administered since the effort began in October, and most of these shots have been booster doses.

**Shattuck Visit**

Commissioner Cooke reported that she had the opportunity to visit the Lemuel Shattuck public health hospital, along with the Department of Mental Health Commissioner, Brooke Doyle, to meet with CEO Justin Douglas.

**Opioid Roundtable**

Commissioner Cooke stated that last month she met with Governor Baker, Lt. Governor Polito, Health and Human Services Secretary Sudders and Governor-elect Healey to discuss with the 2015 opioid task force, the collaborative progress in confronting the opioid epidemic over the past eight years.

**BSAS Dashboard Go-Live**

Commissioner Cooke announced that today DPH’s Bureau of Substance Addiction Services is releasing a new services dashboard providing a tremendous amount of data about available services and how they are being accessed.

**Opioid Report**

Commissioner Cooke presented data from the newly released opioid report.

Upon conclusion of the updates and presentation, Commissioner Cooke asked if the members had any questions.

Stewart Landers asked if the opioid overdose and death rates in Berkshire County mirror the rates of substance exposed newborns.

Dana Bernson, Director Special Analytics Projects, Office of Population Health answered that the full 2021 report is being released on the website currently and the data for 2022 will be released in June.

Dr. Haddad asked if xylazine was used as a recreational drug or was it being added into the drug supply with the intent to harm drug users.

Diedre Calvert, Director Bureau of Substance Addiction Services said it would be both. It is used as an alternative in the drug supply, which is harming users, but its properties make it attractive for recreation.

Dr. Evans asked how this data can help to set policy or practices to reduce the numbers of overdoses and usage.

Commissioner Cooke said they would be happy to capture the information showing where this data was useful in shaping future practice and or policy.

With no more questions, Commissioner Cooke turned to the docket.

**1. ROUTINE ITEMS**

*c. November 9, 2022 Minutes* ***(Vote)***

Commissioner Cooke asked if there were any changes to the November 9, 2022 minutes. There were none.

Commissioner Cooke asked if there was a motion to approve the November 9, 2022 minutes.

Dr. Haddad made the motion, which was seconded by Secretary Chen. Dr. Volturo, Dr. Bernstein, Dean Cox, and Dr. David abstained. All other present members approved.

Dr. Bernstein recused himself at 9:33 am.

**2. DETERMINATIONS OF NEED**

1. *Request by BMC Health Services, Inc. for a substantial capital expenditure and substantial change in service (****Vote****)*

Commissioner Cooke invited Dennis Renaud, Director of the Determination of Need Program to review the staff recommendation for BMC Health System, Inc.’s request for a substantial capital expenditure. He was joined by Elizabeth Kelley, Director of the Bureau of Health Care Safety and Quality and Rebecca Rodman, General Counsel.

At the conclusion of the presentation, Commissioner Cooke asked if the members had any questions.

Ms. Moscato asked about access to beds and post-acute discharge to patients. Are there any solutions in the post-acute environment that would assist with bed capacity?

Kate Walsh, President, BMC Health System, said first, they are preventing deferred care in the communities to not overburden the acute care hospital system. Second, as an organization they must connect people to access points for care that do not require an inpatient bed.

Nancy Gaden, Chief Nursing Officer, added that even if the post-acute settings were able to expand capacity, there are patients with complicated social determinants making post discharge services very difficult to secure.

Secretary Chen was concerned about staffing needs for the additional beds.

Ms. Walsh said they have always been able to staff their beds due to paying competitive wages and benefits. They have pipeline programs that reach into the community that they serve and have hired over 600 people from the local communities.

Ms. Gaden said they are always thinking about recruiting and retention. They have lost employees to early retirement, and they are actively hiring again. For retention they have strategies to support new nurse like tuition repayment, investment in employee wellness, and professional development. She said they have over 500 nursing students from schools across Massachusetts.

Dr. Haddad asked how the new beds are going to distributed between patient needs.

Ms. Gaden said that the medical surgical beds are at the highest occupancy and 60 of the 70 new beds will be for that purpose. She stated that all these beds have telemetry available.

With no further questions, Commissioner Cooke asked for a motion.

Mr. Landers made the motion which was seconded by Dr. Cruz-Davis and approved by all other present members.

**2. DETERMINATIONS OF NEED**

1. *Request by Children’s Medical Center Corporation’s for a substantial capital expenditure and substantial change in service (****Vote****)*

Dr. Bernstein returned at 9:57 am

Commissioner Cooke invited Dennis Renaud to present an overview of a request by Children’s Medical Center Corporation for a substantial capital expenditure and substantial change in service. Once again, he was joined by Elizabeth Kelley, Director of the Bureau of Health Care Safety and Quality, Rebecca Rodman, General Counsel, and Kate Fillo, Director of Clinical Quality Improvement.

Upon conclusion of the presentation, Commissioner Cooke asked the council members if there were any questions or comments.

Ms. Moscato recognized the important role that Children’s Hospital plays and asked how the inter disciplinary team that will expand will be staffed through recruiting and how will retention be maintained. She also asked, as the services expand, how will patients obtain transportation services and are there any challenges currently to transportation?

Dr. Kevin Churchwell, President & Chief Executive Officer, Boston Children’s Hospital (BCH) said that recruitment starts at the high school and college level getting students interested in pediatric healthcare. They have recruitment outreach at community colleges and have programs to help development. BCH is recruiting locally and nationally.

Dick Argys, Executive Vice President, Hospital Operations & Chief Cultural Officer, Boston Children’s Hospital answered concerns about transportation saying that there is free parking at all their satellites and that will continue. They are very careful about choosing locations near highways and where there is public transportation. For patients in the city, they try not to send to satellite locations and if needed there are taxi vouchers for families.

Secretary Chen mentioned the wait times for MRIs asking what barriers prevent partnership with local imaging centers that may have capacity.

Dr. Churchwell said that they do partner with those organizations that have capacity, but the issue is the pediatric specialty and need for safe sedation. This creates limitations on utilization of outside organizations for imaging.

Dr. Chen stated that the 20 day wait time for non-sedated patients is a long time.

Dr. Churchwell agreed and said not only is there a need for more MRIs but the efficiency of utilizing them needs to be looked at.

Mr. Landers asked what the impact would be of the removal of the surgical beds at the Lexington facility, and he asked because the beds are being run jointly with BIDMC, does the council need any statement from BIDMC?

Dr. Churchwell said the Lexington facility is used for ambulatory surgical procedures which is shared with BIDMC and MCH’s move to the Needham site will increase utilization of adult capacity and will create a more efficient operation.

Mr. Argys said that the BI has been very positive about their desire to expand their services in the same location.

Mr. Landers asked if the current ORs in Lexington are for pediatric use.

Mr. Argys said that 4 ORs are split between BCH and BIDMC.

Dr. Bernstein asked what the metrics of MassHealth and Medicaid at Children’s in Boston versus the satellite suburban areas is expected to be.

Dr. Churchwell said that in Boston, the children that have Medicare that they care for is 42%, an increase from three years ago at 36%. They expect to see that at the satellite locations as well.

Ms. Rodman told Dr. Bernstein that the DoN conditions state that the Commonwealth will track these rates.

Dr. Bernstein spoke of the intensive day program and its high value to the community and that he hopes that BCH makes sure that they hold the benchmark of the 42%.

With no further questions, Commissioner Cooke asked if there was a motion for the request by Children’s Medical Center Corporation for a substantial capital expenditure and substantial change in service.

Ms. Moscato made the motion which was seconded by Dr. Bernstein and approved by all other present members.

**3. EMERGENCY REGULATIONS**

1. *Request to promulgate amendments to 105 CMR 130, Hospital licensure (****Vote****).*

Commissioner Cooke invited Marita Callahan, Director of Policy and Health Communication for the Bureau of Healthcare Safety and Quality to present an overview of a request to amend, on an emergency basis, the Department’s regulations on addressing hospital licensure.

Upon conclusion of the presentation, Commissioner Cooke asked the council members if there were any questions or comments.

Dr. Evans encouraged that on site staff not only have mental health expertise, but also expertise in opioid and other substance use disorders.

Dr. David was pleased to see the announcement that there was significant tuition reimbursement for those going into the mental health field and that this may hopefully help alleviate the scarcity of mental health providers, especially for pediatric and adolescents.

Mr. Landers if there was any knowledge of why this was never included in legislation in the past.

Ms. Callahan said that this proposed emergency amendment stems from a legislative requirement that was passed in August.

Commissioner Cooke added that it ensures that regulations are compliant with the statute.

Dr. Volturo asked if this also included telehealth evaluations.

Ms. Callahan confirmed yes.

Dr. Bernstein asked if there can be data provided for the next step to help patients align with the transition to the next level of treatment.

Kate Fillo, Director of Clinical Quality Improvement, said that data collection of emergency department safety is collected in a variety of ways. Emergency departments share administrative data, and case mix data with CHIA (Center for Health Information and Analysis) on a quarterly basis. We look at compliance using claims codes to see if continuing service took place. Also, the survey team does onsite investigations to ensure there is an appropriate number of behavioral health clinicians to address patient needs.

Dr. Bernstein stated that she did not mention any data principles for next level care after the emergency department to behavioral health treatment.

Dr. Fillo said that along with data they already collect regarding discharge destination, there is room to leverage more information. We are thinking more on the lines of trends of patients that need a placement setting and those that are discharged back into the community.

Dr. Bernstein said it is critical for sustaining this program to reduce the boarding and overcrowding.

With no further questions, Commissioner Cooke asked if there was a motion to approve, on an emergency basis, amendments to 105 CMR 130.

Dr. David made the motion which was seconded by Dr. Bernstein and approved by all other present members.

**4. REGULATIONS**

1. *Request to promulgate amendments to 105 CMR 170, Emergency Medical Services System (****Vote****).*

Commissioner Cooke invited Marita Callahan, Director of Policy and Health Communication for the Bureau of Healthcare Safety and Quality to present a request to promulgate amendments to the Department’s regulations regarding the emergency medical services system.

Upon conclusion of the presentation, Commissioner Cooke asked the council members if there were any questions or comments.

Secretary Chen stated that the 7-day period for incident reporting seemed to her to be a long time. Serious incident reporting can be a signal for intervention from a regulatory perspective.

Ms. Callahan said the 7-day reporting is for certain incidents, and that there is an immediate reporting requirement for incidents resulting in injury or death. This is the same standard that is used in other healthcare facilities.

Dr. Volturo asked if there would be clarification as to what is defined as a medication error.

Ms. Rodman said the Drug Control Program already has guidance on medication errors.

Dr. Bernstein asked if EMS are required to have electronic records.

Ms. Callahan responded that though it is not a requirement most, if not all, ambulance services have electronic capabilities.

Dr. Bernstein emphasized the importance of having that electronic record and 7 days to receive a record will not help patient care.

Ms. Callahan said that an electronic record is sent to the receiving facility or immediately after receiving a patient. If the service is called to another emergency, they are required to give at least a verbal report immediately.

Dr. Evans was curious about first responders called to a scene but who do not necessarily transport someone to a hospital and asked if that is reported and tracked in the system.

Ms. Fillo stated that all EMS services are required to be reported to the state, including EMS encounters that do not transfer the patient. All EMS encounters are captured.

With no further questions, Commissioner Cooke asked if there was a motion to approve, a request to promulgate amendments to 105 CMR 170.

Mr. Landers made the motion which was seconded by Dr. Bernstein and approved by all other present members.

With no further questions, Commissioner Cooke stated that this concluded the final agenda item for the day and reminded the council that the next meeting is scheduled for Wednesday, January 11, 2022, at 9AM.

Commissioner Cooke asked if there was a motion to adjourn.

Dr. Bernstein spoke before adjourning, concerning overcrowded conditions in the Emergency Department (ED) and the current crisis that it poses. He requested that DPH report to the PHC on the issues contributing to overcrowding and the placement of patients into post-ED services. He believes this is a structural problem in need of review and financial resources.

Commissioner Cooke agreed there was a combination of issues contributing to the crisis of overcrowding and said that DPH is managing some solutions but believes it is a larger systemic problem. She said DPH would report back to the PHC at a later date.

Dr. Bernstein made the motion which was seconded by Dr. Cruz-Davis and approved by all other present members.

The meeting was adjourned at 11:00 am.