MINUTES OF THE HEALTH POLICY COMMISSION

Meeting of May 1, 2019

MASSACHUSETTS HEALTH POLICY COMMISSION

Date of Meeting: May 1, 2019

Start Time: 1:03 PM

End Time: 3:38 PM

	Present?	**ITEM 1: Approval of Minutes**
Stuart Altman*	X	X
Don Berwick	X	ab.
Barbara Blakeney	X	X
Martin Cohen	X	M
David Cutler	X	ab.
Timothy Foley	X	X
Chris Kryder	X	X
Rick Lord	X	2nd
Ron Mastrogiovanni	X	X
Sec. Marylou Sudders	X	X
Sec. Michael Heffernan	X	X
Summary	**Members 11 Attended**	**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 Health Policy Commission (HPC) was held on May 1, 2019, at 1:00 PM. A recording of the meeting is available here. Meeting materials are available on the Board meetings page here.

Commissioners present included Dr. Stuart Altman (Chair); Mr. Donald Berwick; Ms. Barbara Blakeney; Mr. Martin Cohen; Dr. David Cutler; Mr. Timoth Foley; Dr. John Christian "Chris" Kryder; Mr. Richard Lord; Mr. Ron Mastrogiovanni; Undersecretary Lauren Peters, designee for Secretary Marylou Sudders, Executive Office of Health and Human Services; and Mr. Bryan Klepacki, designee for Secretary Michael Heffernan, Executive Office of Administration and Finance.

Dr. Altman called the meeting to order at 1:03 PM and welcomed those present.

ITEM 1: Approval of Minutes from April 3, 2019

Dr. Altman called for a vote to approve the minutes from April 3, 2019. The motion to approve the minutes from April 3, 2019, was approved with nine votes in the affirmative. Dr. Berwick and Dr. Cutler abstained.

ITEM 2: Market Oversight and Transparency

Dr. Altman turned the presentation over to Mr. David Seltz, Executive Director, who provided an overview of the day's agenda. Mr. Seltz introduced Mr. Klepacki, the new designee for Sec. Heffernan.

Item 2a: Notices of Material Change

Mr. Seltz introduced Ms. Megan Wulff, Deputy Director, Market Performance, who provided an update on material change notices (MCNs) received since the last Board meeting. For more information, see slides 7 through 9.

Dr. Cutler asked Ms. Wulff whether staff had planned any retrospective looks at MCNs to determine whether or not the parties had abided by their commitments. Ms. Wulff said that this topic would be addressed later in the day's agenda.

Regarding Baystate Medical Center's (BMC) planned closure of some psychiatric beds at community hospitals as a part of its proposed joint venture with Beach Health Development, Ms. Blakeney asked whether it was within the HPC's purview to ask how that additional space would be used. Ms. Wulff said that while this was within the HPC's purview, it was not a factor that was reviewed in this specific transaction. Dr. Altman asked Ms. Wulff to clarify the staff's conclusions regarding the BMC-Beach Health Development joint venture listed on slide 9. Ms. Wulff said that staff had no evidence that the transaction would negatively impact quality or access.

Regarding the proposed acquisition of New England Geriatrics (NEG) by HealthDrive Corporation listed on slide 9, Mr. Cohen asked whether there had been any investigation into HealthDrive's ability to take on NEG's role. Ms. Wulff clarified that HealthDrive would not be operating the nursing homes itself, but would instead be contracting with them. Mr. Seltz said that HealthDrive was a management company that contracted to provide a variety of services to the nursing homes. He noted that with the acquisition of NEG, HealthDrive would be able to add behavioral health (BH) as one of their service offerings. Mr. Seltz said that staff had contacted skilled nursing facilities that work with HealthDrive in order to get a sense of what those facilities' experiences had been.

Dr. Berwick asked whether there was evidence that the increased psychiatric beds that would result from the BMC-Beach Health Network transaction were necessary. Mr. Seltz said that the parties to the transaction had seen a need for increased BH capacity in order to more timely place patients in psychiatric placements. He said that there was evidence of patients waiting for psychiatric treatment and that the additional capacity would help alleviate some of that wait time. He noted that the transaction would take place over an approximately two-year timeline and that some of these questions would be answered by the Department of Public Health's (DPH) essential service review. Ms. Wulff noted that the parties do not currently have any adolescent psychiatric beds and that while it has not been decided yet whether any of the new beds would be adolescent beds, that is a possibility that might increase access.

Mr. Foley asked at what point in the BMC-Beach Health Network transaction timeline would the DPH review process start. Ms. Wulff said that staff would get back to Mr. Foley on that question.

Item 2b: State Conditions for Beth Israel Lahey Health Merger

Ms. Wulff presented on the conditions set by the state on the Beth Israel Lahey Health (BILH) merger. For more information, see slides 11-15. Ms. Wulff noted that her presentation reflects the HPC's understanding of the conditions and that she was not speaking on behalf of either the Determination of Need program or the Attorney General's Office.

Dr. Altman said that the BILH case provided a good template for retrospectively reviewing other transactions. Dr. Berwick agreed and suggested that the agency do some additional examinations of transactions approved in the past. He said that it would be useful for staff to suggest some transactions in recent years to evaluate and examine whether the conditions stipulated had been met.

Dr. Kryder asked whether these conditions represented the first time that DPH had mandated a provider participate in MassHealth. He asked whether this created a risk of physicians leaving the system due to the lower Medicaid reimbursement rates. Undersecretary Peters said that she believed this was the first time providers were expressly required to participate but noted there had been prior transactions that included conditions surrounding the payer mix. Dr. Altman noted that the requirement applies only to physicians employed by BILH and not those otherwise affiliated. Ms. Wulff added that the HPC would track the number of physicians employed by and affiliated with the system over time.

Mr. Foley said that it was his understanding from this discussion that affiliated physicians with BILH would not be required to participate in MassHealth. He asked whether this was a correct understanding. Ms. Wulff said that this was correct. Mr. Seltz added that beyond the specific provision being discussed, the conditions contained broader provisions to increase the public payer mix overall.

Regarding the cap listed on slide 14, Dr. Berwick asked whether the carve-out for Lawrence General Hospital (LGH) and Cambridge Health Alliance (CHA) was complete, or LGH and CHA could exceed the cap individually would be counted against the system as a whole. Ms. Wulff said that it was her understanding that it was a complete carve-out and would not be counted against BILH's cap.

Dr. Altman noted that the conditions listed on slide 14 dealt with price and not total spending. Dr. Cutler said that the alternative payment method (APM) portion of the conditions did deal with total spending and said that this was an interesting mix of the price factor on the fee-for-service (FFS) side and total spending on the APM side. Ms. Wulff clarified that the APM portion dealt only with prices negotiated for specific services underneath the cap and not total spending. Dr. Altman said that the performance improvement plan (PIP) process examines total spending and that the HPC was not precluded from exercising its PIP authority should total spending grow excessively. Mr. Seltz confirmed that this was the case and added that the HPC's PIP authority was strengthened by some of the provisions in the DPH and determination of need (DoN) agreement. He added that the PIPs process is retrospective and subject to a data-lag so these potential spending increases would not be seen until a year-and-a-half to two years after they occur, while some of the price caps would be seen in real time. Dr. Altman agreed but said that the three percent price cap did not prevent the HPC from continuing to work through the PIPs process. Ms. Lois Johnson, General Counsel, confirmed that nothing in the agreement supplanted the HPC's existing authority.

Dr. Berwick asked for confirmation that the three percent price cap did not prevent the HPC from holding the system to a hypothetical lower statewide cost growth benchmark. Ms. Johnson confirmed that this was true. Dr. Berwick asked then whether the CHA-LGH carve-out gave those entities a license to raise prices excessively. Dr. Altman said that it did not as that agreement was with the attorney general's office (AGO) and did not impact the authority of the HPC. He reiterated that nothing in the agreement impacts the HPC's authority to review entities identified by the Center for Health Information and Analysis (CHIA) for having excessive cost growth. Ms. Johnson said that this was correct: the HPC could still hold these entities to the total medical expenditure (TME) benchmark. Dr. Berwick speculated that the reason for the CHA-LGH carve out was likely that the AGO believed these entities required additional flexibility on prices. He said that this might be something for the HPC to keep in mind in any potential review. Dr. Altman said that the Board could not know what the exact reasoning behind it was.

Dr. Kryder said he found the math a little confusing in this agreement and said that instituting a price floor seemed problematic. Ms. Wulff clarified that the price cap in the agreement was a ceiling but that the ceiling could not drop below three percent. She said it was not a guaranteed price increase of three percent. Dr. Kryder said that, while this price increase might not be

guaranteed, it was likely to happen. Mr. Seltz noted the CHA and LGH had been mentioned in the HPC's review as important providers in their respective communities. He said that the agreement had included specific financial provisions to protect these entities and that this was part of a policy imperative aimed at protecting community-based providers. Dr. Berwick noted that the PIPs review process did not include any stipulations that community hospitals be given greater leeway with regard to cost growth. Mr. Seltz said that the HPC did look at the relative financial strength of institutions in its review and relative prices as well. He said that a low-priced provider that exceeded the benchmark because it was able to negotiate higher commercial prices would likely be considered very differently than a high-priced provider further increasing its prices.

Dr. Cutler asked whether the price data would be included in the public data or the private data stipulated in the agreement and, if private, would this data be automatically shared with the HPC or shared at the AGO's discretion. He also asked whether the third-party monitor had been chosen yet. Mr. Seltz said that Grant-Thornton, a national financial consulting firm, had been chosen as a third-party monitor. Ms. Wulff said that, as far as she was aware, the pricing data would be provided to the third-party monitor to access BILH's compliance. She said that the AGO would have the authority to provide this information to the HPC but that she did not believe the agreement stated that the AGO would affirmatively share that data with the HPC. Dr. Cutler suggested that it would be helpful to clarify that question with the AGO. Ms. Wulff agreed and noted that the third-party report would be a public record though the underlying data might not be. Mr. Seltz added that the HPC would coordinate closely with the AGO and DPH on data access. Mr. Foley said that this coordination and data sharing was very important for the HPC to meet its monitoring requirements. Mr. Seltz agreed and noted that there were many opportunities for the HPC to continue monitoring BILH moving forward. Ms. Wulff added that were the HPC to undertake a cost and market impact review (CMIR) in five years, the HPC would have the ability to mandate information from the parties and other stakeholders.

Dr. Kryder asked if there were further details on the agreement's restrictions on recruiting certain physicians. Ms. Wulff said that BILH was prevented for one-year from hiring a primary care provider (PCP) employed by or contracting with a safety-net hospital or health center, and for eight years BILH could not recruit most or all of the medical staff in a department of a safety-net hospital. Dr. Kryder expressed concern about the possible impact on individual physicians' freedom to contract and asked Dr. Altman whether it might be helpful to ask a representative from the AGO to come to a meeting and address the Board's questions. Dr. Altman said that, to a degree, the question of the physician recruitment condition was beyond the HPC's purview. Dr. Kryder said that the HPC often examined clinical affiliations. Dr. Altman said that the HPC's main responsibility was cost growth containment and that the HPC tried not to get involved in the relationships between and functions of individual providers and organizations. Ms. Johnson added that these provisions were agreed to by the parties, both the AGO and BILH, and that the recruiting restrictions fall into line with the AGO's policy goals to maintain PCPs in community-based providers. Mr. Seltz said that the HPC could certainly engage with the AGO to address any unanswered questions that the Board might have.

Dr. Berwick said that he felt it was important to do some retrospective analyses of transactions in 2019 and suggested that, for the Board meeting scheduled for July 24, staff could suggest three to five previous transactions that were sufficiently consequential, had occurred far enough in the past for relevant data to be available, and contained explicit conditions that the parties could be held to. Dr. Altman said that he was in favor of looking back at transactions but said that it was important that they were evaluated based on guarantees made by the parties rather than generally. Dr. Berwick agreed and said that that was why he felt it was important that there be specific conditions attached to any of the transactions that were evaluated. Dr. Altman agreed, and noted that both affirmative promises by the parties and assurances made in response to concerns raised by the HPC would be relevant. He also noted that information gleaned from these retrospective analyses would be helpful in the consideration of future transactions. Mr. Seltz said that staff did plan to do this for 2019 and would also look at changes to the Massachusetts health care system as a whole. He agreed with Dr. Altman's point that this would be an important exercise to build the agency's analytic strength to evaluate transactions moving forward.

Dr. Cutler asked when the agreement officially went into effect. Ms. Wulff said that the merger closed on March 1. Dr. Cutler asked when the first set of price increases from the merger would kick in. Ms. Wulff said that she believed that depended on when the contracts were up and new prices could be negotiated.

ITEM 3: CARE DELIVERY TRANSFORMATION

Item 3a: Academic Detailing Program

Mr. Seltz introduced Ms. Catherine Harrison, Interim Policy Director, Care Delivery Transformation, who presented on the HPC's new academic detailing program. For more information, see slides 18-23.

Dr. Altman asked whether there would be an evaluation of the impact of the academic detailing program. Ms. Harrison said that there had been conversations with the contractor about doing this. She added that what metrics would be used was an open question and that there may be some limits on the data available at the accountable care organization (ACO) level. Dr. Altman said that it would be useful to see whether the academic detailing program actually changes the practices of the organizations that participate in it. Ms. Harrison agreed.

Dr. Kryder asked whether this contract was renewable. Ms. Harrison said that there might be option to renew the contract, contingent on funding availability. Mr. Seltz added that the program had $150,000 allocated to it for the initial contract term of one year, which is expected to allow the HPC to work with a small number (approximately 5) ACOs. He said that there was a chance that additional funds could be allocated by the legislature which would allow for either an expansion of the program to include additional ACOs or an extension of the program further into the future. Dr. Altman said that, regarding the potential evaluation, this program could be a great opportunity for the HPC to learn what works. He said that it was important to not allow funding constraints from the legislature to limit the evaluation, and that it might be worthwhile for the

HPC to invest some of its own research money into the program. Mr. Seltz agreed and emphasized that this program would be small at the start which would provide an opportunity to see what its impact would be before expanding it. Dr. Berwick added that, if the program worked as intended, value-based payment systems would be interested in it on their own, regardless of whether the legislature provided additional funding.

Ms. Blakeney said that, in light of the opioid use crisis in the state, it was important for the HPC to work to level the playing field to provide prescribing clinicians with unbiased information. Mr. Seltz said that this was excellent point and that the program contractor has developed informational materials on topics such as pain management and medication assisted treatment (MAT).

Item 3b: SHIFT-Care Challenge Investment Program Launch

Mr. Seltz provided an update on the SHIFT-Care Challenge investment program. For more information, see slides 23-28.

Mr. Cohen said that he was very excited about these programs. He added that it was not too early to start thinking about evaluation and sustainability of these programs. Mr. Seltz agreed and said that staff would be sharing evaluations and information regarding the sustainability of the HPC's previous round of innovation investments at upcoming committee meetings.

Mr. Lord asked whether there would be any evaluation on the health-related social needs side of the programs. Mr. Seltz said that awardees in this round of investments were required to have their own plans for evaluation. He said that the HPC was helping to guide the awardees in setting up their evaluations but would not be directing the evaluation process. He added that the HPC would be collecting quantitative and qualitative data on the programs on a monthly and quarterly basis which would aid in the overall assessment.

ITEM 4: RESEARCH AND PUBLICATIONS

Item 4a: 2019 Ongoing Research Projects

Mr. Seltz provided an overview of some of the HPC's planned research projects for 2019. For more information, see slides 31-35.

Mr. Foley asked whether any of these projects planned to examine the issue of post-acute care. Mr. Seltz said that while this issue was not directly looked at in any of the planned reports, it would be part of the health care market retrospective study. He said that the study would look at how sites of care for patients leaving the hospital have shifted over the past eight years.

Dr. Kryder asked the sources for the data in the study on pharmacy benefit managers (PBMs) study were. Mr. Seltz said that this was broken into two separate analyses: one, for the Medicaid-managed care organizations, relies on federally-reported information on drug payments compared to national data on drug costs, while the other, on the commercial side, relies on claims data. He said that the delta between the payments and cost is what is being retained by the PBM and that there are gaps in the data as it is not necessarily possible to see what the PBMs are

using that money for. Dr. Kryder said it would be useful to get further information from PBMs on how they were investing in different programs in order to shed some light on how the funds in that delta were being spent. Mr. Seltz said that he anticipated the analysis would result in more questions than answers, but could guide the investigation moving forward. Dr. Kryder asked what form this request for additional information would take. Mr. Seltz said that this was a question for the Board but it could involve inviting PBM representatives to respond to the HPC's analysis. Dr. Altman said that extensive conversations on this issue were taking place at the federal level. Mr. Seltz agreed and said that recently there had been a robust discussion of pharmaceutical spending generally at both the state and federal levels. He noted that some legislative proposals last year did include provisions allowing the HPC to request more information from PBMs and pharmaceutical manufacturers. Undersecretary Peters added that MassHealth had updated its policies to require MassHealth managed care entities to report additional information regarding PBMs and that this data will help inform some of the HPC's analysis.

Dr. Berwick said it would be helpful to factor in analysis of variation between providers as well as geographic variation across the Commonwealth in all of these reports. Mr. Seltz said that the HPC had built the ability to map patients to provider organizations and understand differences in geography, pricing, utilization, and patient complexity and that these would be looked at across the reports. Dr. Berwick added that this would be interesting to apply to the academic detailing study as well.

Dr. David Auerbach, Director, Research and Cost Trends, provided a brief summary of the HPC's primary care workforce study. For more information, see slide 33.

Ms. Blakeney asked if the study would look at prescribing practices as well. Dr. Auerbach agreed that this was important and said that this would be a natural topic for the study to examine.

Item 4b: DataPoints Issue #11: Insulin Availability

Mr. Seltz introduced the presentation on the HPC's DataPoints issue on insulin availability. For more information, see slides 37-39.

Mr. Seltz turned the presentation over to Dr. Laura Nasuti, Senior Researcher, and Ms. Hannah James, Research Associate, Research and Cost Trends, presented a demonstration on the insulin DataPoints. For more information, see slides 40-44. The DataPoints issue can be seen here.

Dr. Cutler asked if staff knew why there was such a substantial jump in the population with high insulin out-of-pocket expenses from 2015 to 2016. Ms. James agreed that this was a striking change but said that staff had not identified a causal factor. Mr. Seltz said that the graph on slide 40 was striking as it showed manufacturers raising insulin prices in lockstep. He said this raised questions about whether the competitive market was working to provide patients with value.

Ms. Blakeney asked what the next steps for a report like this were. Mr. Seltz said that the HPC shares all of its reports with the legislature and that this data would also show up in the annual

cost trends report. He added that there are conversations studies surrounding this issue occurring at the state house.

Item 4c: Prescription Drug Coupon Study

Mr. Seltz presented on the HPC's prescription drug coupon study. For more information, see slides 46-51.

Item 4d: Health Care Market Retrospective Study

Mr. Seltz turned the presentation over to Ms. Katherine Mills, Director, Market Performance, and Ms. Wulff who presented on the HPC's health care market retrospective study. For more information, see slides 53-56.

Ms. Mills asked if the commissioners had any suggestions for how to structure or what to include in the market retrospective study.

Dr. Cutler said that Dr. Berwick's earlier point regarding conditions placed on these transactions was a good one. He said that it would be important in this analysis to differentiate between conditions that were easier to meet and those that were more difficult.

Dr. Berwick said that he was very excited by the prospect of this study. He said that it could also be useful to look for significantly positive outliers in different metrics to find examples of successful practices that might be replicable.

Dr. Altman agreed with Dr. Berwick's point. He said that, while progress had been made in Massachusetts, it was difficult to determine what specific actions had contributed to reining in TME growth in the state. He said that this study would be important for discovering what strategies have actually worked for containing spending growth.

Mr. Cohen noted that there were a number of past contract affiliations in which the parties had made promises of quality improvement. He said that this was a set of transactions that he would like to see the study examine.

Item 4e: Report on the Statewide Availability of Health Care Providers that Serve Patients with Co-occurring Substance Use Disorder and Mental Illness

Mr. Seltz provided a brief overview on the HPC's co-occurring disorders report. He introduced Ms. Adrienne Anderson, Senior Policy Associate, Care Delivery Transformation, and Ms. Carol Gyurina, Senior Manager, Research and Cost Trends, who presented on the HPC's report on co-occurring disorders care in Massachusetts. For more information, see slides 58-70. The full report can be found here.

Dr. Cutler asked if it was a correct interpretation of the graph on slide 68 to say that only half of physicians treating substance use disorder (SUD) were able to prescribe MAT. Ms. Gyurina clarified that the survey data were from provider organizations and did not represent individual

physicians. Mr. Seltz clarified that these graphs captured a subset of responders: those who provide both mental health and SUD treatment. He said that the number of these respondents that did not have arrangements for SUD prescribing was striking. Mr. Foley asked if these providers had arrangements for treatment other than prescribing MAT. Ms. Anderson said that the question was limited to SUD and mental health prescribing.

Dr. Kryder asked when the survey was taken. Ms. Anderson said that it had been administered in the spring of 2018. Dr. Kryder said that, given the increase in availability of marijuana, self-treatment with cannabis had likely increased over that time period and it would be interesting to see what the survey results looked like today. Mr. Seltz said that there were currently no plans to re-survey but that the HPC was looking into more systematic ways to collect this information as the survey format had been fairly intensive for providers. Nonetheless, he said that a re-survey was a possibility.

Mr. Cohen said that this report did an excellent job of highlighting the issues around access, quality, and cost of BH care. He said that the high number of SUD providers unable to prescribe MAT was a major problem that would need to be addressed in the system. He said that he appreciated the Baker administration's commitment to this issue.

Ms. Blakeney said that research suggested that beginning MAT in the emergency department (ED) and immediately getting patients into ongoing care and treatment made a large difference in treatment success. She said that getting a critical mass of clinicians in a practice to be able to provide co-occurring treatment would make it easier for that practice to treat those patients. Mr. Seltz thanked Ms. Blakeney for these comments and noted that the SHIFT-Care awards provided a platform to examine some of these issues. Dr. Kryder agreed with Ms. Blakeney's point and emphasized the importance of physician training.

ITEM 5: SCHEDULE OF NEXT MEETING

Dr. Altman thanked the Board and the staff. He adjourned the meeting at 3:38 PM. The next Board meeting is scheduled for July 24, 2019.