MINUTES OF THE PUBLIC HEALTH COUNCIL

Meeting of November 9, 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, November 9, 2022 – 9:00AM**

***Note: The November 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:

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1. **ROUTINE ITEMS**
   1. Introductions.
   2. Updates from Commissioner Margret Cooke.
   3. Record of the Public Health Council Meeting held October 12, 2022 **(Vote)**.
2. **DETERMINATIONS OF NEED**
   1. Request by UMass Memorial Health Care, Inc. for a substantial capital expenditure and substantial change in service **(Vote)**.
   2. Request by New England Baptist Surgery Center, LLC for a freestanding ambulatory surgery center- transfer from an existing Hospital Based Department **(Vote)**.
   3. Request by Mass General Brigham, Inc. for an amendment for a significant change **(Vote)**.
3. **PRELIMINARY REGULATIONS**
   1. Overview of proposed amendments to 105 CMR 700, *Implementation of MGL c.94C.*

*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: November 9, 2022

Start Time: 9:06 am Ending Time:10:45 am

| **Board Member** | **Attended** | **First Order: Approval of October 12, 2022 Meeting Minutes (Vote)** | **Second Order: Determination of Need - Request by UMass Memorial Health Care, Inc. for a substantial capital expenditure and substantial change in service (Vote)** | **Third Order:**  **Determination of Need- Request by New England Baptist Surgery Center, LLC for a freestanding ambulatory surgery center – transfer from an existing Hospital Based Department (Vote)** | **Fourth Order:**  **Determination of Need - Request by Mass General Brigham, Inc. for an amendment for a significant change (Vote)** |
| --- | --- | --- | --- | --- | --- |
| **Commissioner Margret Cooke** | Yes | Yes | Yes | Yes | Yes |
| **Edward Bernstein** | Absent | Absent | Absent | Absent | Absent |
| **Lissette Blondet** | Yes | Yes | Yes | Yes | Yes |
| **Kathleen Carey** | Yes | Yes | Yes | Yes | Yes |
| **Secretary Elizabeth Chen** | Yes | Yes | Yes | Yes | Yes |
| **Harold Cox** | Absent | Absent | Absent | Absent | Absent |
| **Alba Cruz-Davis** | Yes | Abstain | Yes | Yes | Yes |
| **Michele David** | Absent | Absent | Absent | Absent | Absent |
| **Elizabeth Evans** | Yes | Yes | Yes | Yes | Yes |
| **Eduardo Haddad** | Yes | Yes | Yes | Yes | Yes |
| **Joanna Lambert** | Yes | Abstain | Yes | Yes | Recused |
| **Stewart Landers** | Yes | Yes | Yes | Yes | Yes |
| **Mary Moscato** | Yes | Yes | Yes | Yes | Yes |
| **Secretary Cheryl Poppe** | Yes | Yes | Yes | Yes | Yes |
| **Summary** | 11 Members Present;  3 Absent | 9 Members Approved  2 Abstained 3 Absent | 11 Members Approved;  3 Absent | 11 Members Approved;  3 Absent | 10 Members Approved;  3 Absent  1 Recusal |

**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, November 9, 2022, by the Massachusetts Department of Public Health, 250 Washington Street, Boston, Massachusetts 02108.

Members present were: Margret Cooke; Lissette Blondet; Kathleen Carey PhD; Secretary Elizabeth Chen, PhD; Alba Cruz-Davis PhD; Elizabeth Evans, PhD; Eduardo Haddad, MD; Joanna Lambert; Stewart Landers; Mary Moscato and Secretary Cheryl Poppe.

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

Commissioner Cooke called the meeting to order at 9:06 am and made opening remarks before reviewing the docket.

Secretary Elizabeth Chen arrived at 9:07 am.

**1. ROUTINE ITEMS**

*b. Updates from Commissioner Margret Cooke*

Commissioner Cooke proceeded to update the council on the following:

**DPH at American Public Health Association Meeting**

Commissioner Cooke reported that DPH was invited to the American Public Health Association’s Annual Meeting, celebrating its 150th anniversary here in Boston. DPH shared over 15 presentations including health equity lessons learned from COVID-19 and the impact of the statewide law banning the sale of flavored tobacco. The APHA draws more than 12.000 public health officials making it the largest health conference in the world.

**Massachusetts Health Officers Association**

Commissioner Cooke shared that she spoke at the Massachusetts Health Officers Association’s Annual Conference and discussed public health priorities including how to attract more people to the field and strengthen and diversify the public health workforce.

**Association for Behavioral Health Annual Meeting**

Commissioner Cooke reported that she attended the Association for Behavioral Healthcare’s Annual Meeting with colleague Deirdre Calvert, Director of the Bureau of Substance Addiction Services. She thanked the workforce for their work with one of the most vulnerable resident communities especially through the challenges of the pandemic.

**Fall COVID-19 Booster Campaign**

Commissioner Cooke said through December, the Commonwealth is providing free, family-friendly COVID-19 vaccination clinics throughout the state where residents who get vaccinated or boosted can receive a $75 gift card. All the clinics offer the updated (bivalent) booster including those for children ages 5 and older.

**Respiratory Illness**

Commissioner Cooke emphasized the importance of getting a flu shot. She said it’s possible to get the flu and COVID-19 vaccine, or booster in the same visit. A letter was sent to families from DPH, jointly signed by the Massachusetts Chapter of the American Academy of Pediatrics, reminding families about steps to stay healthy this year, including vaccinations, washing hands frequently, avoid social gatherings if you or your children are not well, and keeping children home from school or daycare if they are not feeling well. With increases in respiratory illness in infants and children, these steps to prevent illness are especially important to prevent strain on the health care system.

**Access Law Campaign**

Commissioner Cooke announced DPH’s statewide public information campaign to raise awareness of benefits under the “ACCESS” Law, enacted in Massachusetts in 2017. This campaign reminds residents of the benefits for reproductive health care services such as no-cost birth-control.

**Healthy Aging Grant**

Commissioner Cooke shared that the Baker-Polito Administration recently announced $15.9 million in grants to 24 non-profit organizations, cities and towns and regional planning commissions to fund community health efforts. The funds come from the Massachusetts Community Health and Healthy Aging Funds which are made available for Community Health Improvement initiatives. The 24 new grantees are in addition to 32 organizations funded in 2020, bringing the total funding to $30.6 million for community efforts statewide.

**ASTHO Interview**

Commissioner Cooke reported that she spoke on the Public Health Review Morning Edition, broadcast by the Association of State and Territorial Health Officials, about the Department’s selection by the CDC to develop one of five regional Pathogen Genomic Centers of Excellence for the country.

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

**1. ROUTINE ITEMS**

*c. October 12, 2022 Minutes* ***(Vote)***

Commissioner Cooke asked if there were any changes to the October 12, 2022 minutes. There were none.

Commissioner Cooke asked if there was a motion to approve the October 12, 2022 minutes.

Dr. Haddad made the motion, which was seconded by Ms. Blondet. Dr. Cruz-Davis and Ms. Lambert abstained. All other present members approved.

**2. DETERMINATIONS OF NEED**

1. *Request by UMass Memorial Health Care, 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 UMass Memorial Health Care, 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.

Upon conclusion of the presentation, Senator Harriette Chandler made remarks in support of the request.

Commissioner Cooke asked the council members if there are any questions or comments.

Dr. Haddad asked about staffing needs with the increased capacity of beds.

Dr. Michael Gustafson, President, UMass Memorial Medical Center answered that 130 RNs would be needed to staff the 500 FTEs being proposed. They have made progress increasing programs for new nursing grads. This year they will bring in 180 new grads in three waves. The facility has two and a half years to meet full complement of staff. They are working with the five major unions and have competitive rates for nurses while maintaining good relations with the Massachusetts Nurses Association and other nursing associations. They have intensified their recruiting efforts locally, regionally, and nationally. They feel comfortable that they will meet the future staffing needs by 2025.

Ms. Moscato asked Mr. Renaud if the proposed CT scan and increase in beds are connected.

Mr. Renaud said he believed they were separate.

Ms. Moscato asked Dr. Gustafson if there was a correlation of requesting more beds and the demonstration of longer lengths of stay, and if so, what was it attributed to?

Dr. Gustafson acknowledged an Emergency Department boarding problem prior to the COVID-19 pandemic which then increased during and throughout the pandemic, turning the problem into a crisis, including external changes, instability in the post-acute sector and the psychiatric sector. He added that there is a need for extra beds due to these concerns and challenges with the ED.

Ms. Moscato asked if the new imaging was related to the bed increase.

Dr. Gustafson said that they are renovating a building to add 72 beds for mainly internal medicine which requires roughly ten scans per day. Operationally, it would eliminate the need to transfer patients to another building for a CT scan. In addition, they have a lot of opportunity to improve outpatient imaging. They have a variety of community programs and health equity to improve upon such as lung cancer screening. Imaging overall has increased significantly over the two or three years.

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

Dr. Carey made the motion which was seconded by Dr. Haddad and approved by all other present members.

**2. DETERMINATIONS OF NEED**

1. *Request by New England Baptist Surgery Center, LLC for a freestanding ambulatory surgery center – transfer from an existing Hospital Based Department (****Vote****).*

Commissioner Cooke invited Dennis Renaud to present an overview of a request by New England Baptist Surgery Center, LLC for a freestanding ambulatory surgery center-transfer from an existing Hospital Based Department. Once again, he was joined by Elizabeth Kelley, Director of the Bureau of Health Care Safety and Quality and Rebecca Rodman, General Counsel.

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

Dr. Carey said that although the literature demonstrated that Ambulatory Surgery Centers (ASCs) are safe and have a good outcome, it’s difficult to sort out patient risk across patients that are referred to an ASC versus a hospital-based outpatient department (HOPD). She is concerned about maintaining quality after the conversion to an ASC. She mentioned several areas of metrics that were recorded and asked if the metric data could be expanded to include deep vein thrombosis, total knee replacements, and pulmonary embolism.

David Passafaro, President of New England Baptist Hospital, said that the selection of patients is critical for safety and quality outcomes at the outpatient center. The record at Baptist and their procedures and protocols are unmatched. With the highest rankings in patient satisfaction, low rates for readmission and infections, he feels confident that they can have safety and great outcomes in the outpatient setting as they have had all along. He said they could include the additional metrics moving forward.

Dr. Haddad clarified that this is an existing outpatient surgical center, currently run by the hospital. It is now going to be an ASC with ownership that is partly physician driven and hospital driven. He asked if this would make a substantial difference in what is being offered or will it be the same.

Mr. Passafaro said it will be the same but with more outpatient joint replacements than they are currently doing as this is the trend in surgery.

Ms. Moscato mentioned that Baptist is on the low spectrum of caring for percentage of public payer mix, and asked is there any opportunity for Baptist reach out to the underserved and with the Dedham location being such a distance from Boston will you still be able to attract the public payer mix?

Mr. Passafaro said that Baptist takes underserved population health care access seriously, but the difficulty is in reaching the underserved population in their area. Baptist does not have an emergency room and typically these populations reach health care through the ER. They have a specialty orthopedic service that is basically a walk-in service and they do treat the local population. They have an outreach program to the local neighborhood health centers and to the housing projects that they are available to the public. The Dedham location is a little more challenging being a suburb location and making transportation more difficult. They have transportation relationships with ambulance services and the Ride but is one of the things they need to work on because it needs to be better.

Ms. Moscato thanked him for noting the need for improvement and mentioned their collaborative partnership with Beth Israel Needham on community health needs.

Mr. Passafaro said the contributions for health initiatives will be centered in the Dedham community and partnering with many of the non-profits to help reach the underserved communities, so they are able to manage that program for us and it’s a great relationship.

Secretary Poppe asked if there were any tri-care recipients in the payer mix. Specifically, veterans who are served by the VA in the Jamaica Plain area close to Baptist.

Mr. Passafaro offered to get the information for Secretary Poppe but did not know that at the moment.

Dr. Carey stated that she was very happy to see a decrease in expenses as an ASC and billing payments from Medicare will be much less, but this also affects a dramatic decrease in revenue. She was concerned that they will be able to continue to meet their staffing needs with less revenue.

Mr. Passafaro said they will maintain the staffing and lease the nurses to the ASC. They would remain Baptist employees and be leased to the joint venture, thereby retaining their compensation and benefit packages and they have a very stable workforce.

With no further questions, Commissioner Cooke asked if there was a motion for New England Baptist Surgery Center, LLC’s request for a freestanding ambulatory surgery center – transfer from an existing Hospital Based Department.

Motion by Ms. Moscato and seconded by Dr. Cruz-Davis and approved by all other present members.

**2. DETERMINATIONS OF NEED**

1. *Request by Mass General Brigham, Inc. for an amendment for a significant change (****Vote****).*

Commissioner Cooke invited Dennis Renaud, Director of the Determination of Need Program to present an overview of a request by Mass General Brigham, Inc for an amendment for a significant change. He was joined by Elizabeth Kelley, Director of the Bureau of Health Care Safety and Quality and Rebecca Rodman, General Counsel.

Joanna Lambert recused herself 10:02 am.

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

Stewart Landers was curious how the contribution to the Community Health Initiative (CHI) was calculated. He understands there may be numbers that he is not seeing but the figure seems low to what is typically seen.

Ms. Rodman answered that the project has had several amendments and when the project size was decreased, the CHI was already committed to from the original proposal. That amount has already been used in the community and to ask them to contribute that again would be asking them to pay twice.

Ms. Moscato asked if the increased length of stay was related to throughput for your patients to post-acute settings and is this tied to needing more beds?

Dr. David J. Roberts, President of Salem Hospital explained the first reason why the length of stay has increased is getting patients into short-term facilities is very difficult right now and there is also a shortage of VNA nurses, but the main driver is that their patients have gotten sicker. The case mix index, which is a measure of acuity, has gone up considerably post-pandemic.

Dr. Haddad mentioned that the number of new beds are not as many as you would expect because you are actually moving to a private room setting which he believes to be due to infectious disease.

Dr. Roberts said they may be the last hospital in the state with four-bed rooms. They are converting give of these rooms to semi rooms and they will create 24 private rooms. Even though the number of beds is not high the impact on flow and border hours will be dramatic.

Commissioner Cooke paused the meeting at 10:14 am to wait for an elected official to join for remarks.

Commissioner Cooke resumed the meeting resumed at 10:20am.

Lieutenant Governor Elect, Mayor of Salem, Kim Driscoll made remarks to the Council in support of the amendment.

With no further questions, Commissioner Cooke asked if there was a motion for Mass General Brigham Inc’s request for an amendment for a significant change.

Motion by Mr. Landers and seconded by Secretary Poppe and approved by all other present members.

Joanna Lambert returned at 10:24 am.

**3. PRELIMINARY REGULATIONS**

*a. Overview of Proposed Amendments to 105 CMR 700, Implementation of MGL c.94C.****.***

Commissioner Cooke invited Lauren Nelson, Acting Deputy Director for the Bureau of Health Professions Licensure to present an overview of the proposed amendments to the Department’s regulations regarding the Drug Control Program.

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

Ms. Blondet commented positively on the changes and additions to the proposed amendment and asked if there will be an oversight group responsible for training the new roles that are to be implemented.

Ms. Nelson said the regulation provides training opportunities and they provide significant guidance to practitioners and facilities about how these revisions will work and what type of training is needed, but they don’t generally operate the training programs. It is a requirement of the registrar and facility, DPH provides guidance on process and regulations.

Ms. Blondet clarified that she meant her comment to say that the training will be important to allow the new implementations to be successful. Ms. Nelson stated the training program review process is significant and is available if needed for further guidance with individual registrants.

With no further questions, Commissioner Cooke stated this concluded the final agenda item for the day and reminded the council that the next meeting is scheduled for Wednesday, December 14th, 2022, at 9AM.

Commissioner Cooke asked if there was a motion to adjourn.

Secretary Chen made the motion which was seconded by Ms. Moscato, and all members present approved.

The meeting was adjourned at 10:45 am.