

**MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES (MDHHS)  
CERTIFICATE OF NEED (CON) COMMISSION MEETING**

Thursday, January 26, 2023

In-Person Meeting

**APPROVED MINUTES**

**I. Call to Order and Introductions**

Chairperson Falahee called the meeting to order at 9:31 a.m.

A. Members present:

James Falahee, Jr., JD, Chairperson  
Amy L. McKenzie, MD, Vice-Chairperson  
Donald Haney  
Amy Engelhardt-Kalbfleisch, DO  
Debra Guido-Allen, RN  
Lorissa MacAllister, PhD  
Eric Ferguson, MD  
Renee Turner-Bailey  
Ashok Kondur, MD

B. Members present and participating remotely:

None.

C. Members Absent:

Justin B. Dimick, MD

D. Department of Attorney General Staff:

Brien Heckman

E. Michigan Department of Health and Human Services Staff Present:

Tulika Bhattacharya  
Kenny Wirth  
Beth Nagel  
Kate Tosto  
Marcus Connolly

## **II. Review of Agenda**

Motion by Commissioner MacAllister, seconded by Vice-Chairperson McKenzie to approve the agenda as revised. Motion carried.

## **III. Declaration of Conflicts of Interests**

None.

## **IV. Review of Minutes of December 8, 2022**

Motion by Vice-Chairperson McKenzie, seconded by Commissioner Kondur to approve the minutes as presented. Motion carried.

### **Special Public Comment**

1. Dr. Daniel Chang, University of Michigan

## **V. Psychiatric Beds and Services – Report**

Wirth provided a summary on the ongoing Psychiatric Beds and Services work.

### **A. Public Comment**

1. Dr. Subodh Jain, Corewell
2. Ken Deighton, McLaren
3. Jenifer Nyhuis, UHS
4. Sean Gehle, Trinity

### **B. Commission Discussion**

Discussion followed.

### **C. Commission Action**

Motion to amend the Psychiatric Beds and Services Informal Workgroup charge to direct the workgroup to address the medical psychiatric units in acute care settings, to expand the scope of the workgroup to explore flexibility in admissions for freestanding medical psychiatric units, to investigate whether the bed need methodology for child and adolescent psychiatric beds should be placed on a temporary hold while maintaining project delivery requirements, and to identify ancillary issues and identify potential solutions to improve access to psychiatric beds and services, and to delegate to the Chairperson the drafting of the charge. Motion made by Commissioner Guido-Allen, seconded by Commissioner Kondur.

Motion carried.

## **VI. Cardiac Catheterization (CC) Services – October 7 – 21, 2022 Public Comment Period Summary & Report**

Wirth gave an overview of the public comment period summary and the Department's recommendations.

### **A. Public Comment**

1. Eric Barnaby, Ascension
2. Dave Walker, Corewell
3. Tracey Dietz, Henry Ford Health
4. Dr. Shrin Hebsur, Trinity Health

### **B. Commission Discussion**

Discussion followed.

### **C. Commission Action**

Motion to accept the Department's recommendation as presented to continue regulation and to form a Standard Advisory Committee (SAC) to make recommendations for the issues identified by the Department, to consider alignment of standards with the most recent Society for Cardiovascular Angiography and Interventions (SCAI) recommendations, to consider modification to the definition of diagnostic cardiac catheterization services to allow permanent pacemaker and ICD implantation procedures and align standards with CMS definitions for ASC, to consider revisions to allow elective PCI hospital programs to perform left-sided cardiac ablations, and to consider revisions to allow certain procedures in mature hospitals without on-site Open Heart Surgery, and to delegate to the Chairperson the drafting of the charge and the selection of the Chairperson of the SAC. Motion made by Vice-Chairperson McKenzie, seconded by Commissioner Kondur.

Motion carried.

## **VII. Hospital Beds – October 7 – 21, 2022 Public Comment Period Summary & Report**

Wirth gave an overview of the public comment period summary and the Department's recommendations.

A. Public Comment

1. Jack Curtis, Charter Township of Oxford
2. Matthew Majestic, Oxford Fire Department
3. Joseph Madore, Oxford Village
4. Sean Gehle, Trinity Health

B. Commission Discussion

Discussion followed.

C. Commission Action

Motion to accept the Department's recommendations as presented to continue regulation, but to form a Standard Advisory Committee (SAC) to make recommendations for the issues identified by the Department, to review the hospital bed need methodology to determine bed need and limited access areas, to review adding language to address what happens to a LTAC when a host hospital closes, to review adding a requirement for a market survey if applying to relocate or replace a hospital, and to review adding language regarding a hospital designated as a Rural Emergency Hospital, and to delegate to the Chairperson the drafting of the charge and the selection of the Chairperson of the SAC. Motion made by Commissioner Engelhardt-Kalbfleisch, seconded by Commissioner Ferguson.

Motion carried.

**VIII. Megavoltage Radiation Therapy (MRT) Services/Units – October 7 – 21, 2022 Public Comment Period Summary & Report**

Tosto gave an overview of the public comment period summary and the Department's recommendations.

A. Public Comment

1. Patrick O'Donovan, Corewell Health

B. Commission Discussion

Discussion followed.

C. Commission Action

Motion to accept the Department's recommendations as presented to continue regulation and to form an Informal Workgroup to make

recommendations for the issues identified by the Department, to review the provisions related to initiation of new MRT services in HSA 8, to review all weights, additive values, and associated definitions, and to add a charge to review regulations related to proton beam therapy, and to delegate to the Chairperson the drafting of the charge and selection of the Chairperson and Vice-Chairperson of the Informal Workgroup. Motion made by Commissioner Ferguson, seconded by Vice-Chairperson McKenzie.

Motion carried.

**IX. Open Heart Surgery (OHS) Services – October 7 – 21, 2022 Public Comment Period Summary & Report**

Wirth gave an overview of the public comment period summary and the Department's recommendations.

A. Public Comment

None.

B. Commission Discussion

None.

C. Commission Action

Motion to accept the Department's recommendations as presented to continue regulation and to form an Informal Workgroup to make recommendations for the issues identified by the Department, to review Section 8 STS Star Ratings reporting to address compliance monitoring difficulties, and to delegate to the Chairperson the drafting of the charge and the selection of the Chairperson and Vice-Chairperson of the Informal Workgroup. Motion made by Vice-Chairperson McKenzie, seconded by Commissioner Engelhardt-Kalbfleisch.

Motion carried.

**X. Positron Emission Tomography (PET) Services – October 7 – 21, 2022 Public Comment Period Summary & Report**

Wirth gave an overview of the public comment period summary and the Department's recommendations.

A. Public Comment

None.

B. Commission Discussion

Discussion followed.

C. Commission Action

Motion to accept the Department's recommendations as presented to continue regulation of PET Services and to charge the Department with drafting language to update the standard project delivery requirements to notify the Department of any planned decrease or discontinuation of services at least 30 days prior to the planned decrease or discontinuation of services and to have the Department present this language as a future meeting. Motion made by Vice-Chairperson McKenzie, seconded by Commissioner Engelhardt-Kalbfleisch.

Motion carried.

**XI. Surgical Services – October 7 – 21, 2022 Public Comment Period Summary & Report**

Wirth gave an overview of the public comment period summary and the Department's recommendations

A. Public Comment

1. Amy Barkholz, Michigan Health and Hospital Association
2. Dr. Vidooshi Maru, Nephrology Associates of Michigan
3. Linda Rahm, Lifeline Vascular Care
4. Patrick O'Donovan, Corewell Health

B. Commission Discussion.

Discussion followed.

C. Commission Action

Motion to accept the Department's recommendations as presented to continue regulation of Surgical Services and to form a Standard Advisory Committee (SAC) to make recommendations for the issues identified by the Department, to review the ownership and volume requirements for applicants proposing to relocate an existing surgical service or operating room in Section 5(6), consider revisions to allow the application of excess cardiac catheterization maintenance volume to the initiation volume requirement for a FSOF that will be used exclusively for cardiac

catheterization services, to consider revisions to initiation requirements for ambulatory surgical centers to accept dialysis access procedures performed in office-based labs, to review and revise volume requirements to protect access to surgical services provided by rural hospitals, to revise the definitions for “Ambulatory Surgical Center,” “Freestanding Surgical Outpatient Facility,” “Procedure room,” and “Surgical case,” to revise Section 6(1)(a) to clarify expansion volume, to revise Section 6(1)(b) to include existing operating rooms, revise Section 9 to clarify that an individual physician’s Medicaid enrollment is not sufficient for the facility’s Medicaid enrollment, to clarify “reasonable” projections under Section 11, to review adding language to improve access to surgical services in rural and micropolitan counties, and to revise Section 5 to improve clarity around requirements, and to delegate to the Chairperson the drafting of the charge and the selection of the Chairperson of the SAC. Motion made by Vice-Chairperson McKenzie, seconded by Commissioner Engelhardt-Kalbfleisch.

Motion carried.

**XII. Hospital Beds – Re-calculation of Bed Need Numbers – Setting the Effective Date (Written Report from Paul Delamater, et al.)**

Wirth gave an overview of the Re-calculation of Bed Need Numbers and the Department’s recommended effective date.

Motion by Vice-Chairperson McKenzie, seconded by Commissioner Macallister to set the effective date of March 1<sup>st</sup>, 2023.

Motion carried.

**XIII. Legislative Update**

Wirth provided an update.

**XIV. Administrative Update**

A. Commissions and Special Projects Section Update provided by Wirth.

B. CON Evaluation Section Update provided by Bhattacharya.

**XV. Legal Activity Report**

Legal Activity Report provided by Dept. Attorney General Brian Heckman.

**XVI. Public Comment**

None.

**XVII. Review of Commission Work Plan**

Wirth provided an overview of the changes to the Work Plan including actions taken at today's meeting to be added.

A. Commission Discussion

Discussion followed.

B. Commission Action

Motion by Vice-Chairperson McKenzie, seconded by Commissioner Kondur to accept the Work Plan as presented with updates from today's meeting.

Motion carried.

**XVIII. Future Meeting Dates:** March 16, 2023, June 15, 2023, September 14, 2023, & December 7, 2023.

**XIX. Adjournment**

Motion by Commissioner Engelhardt-Kalbfleisch, seconded by Commissioner MacAllister to adjourn the meeting at 1:34 p.m. All in favor.  
Motion carried.