

MINUTES OF THE HEALTH POLICY COMMISSION

Meeting of January 13, 2021

MASSACHUSETTS HEALTH POLICY COMMISSION

Date of Meeting: January 13, 2021

Start Time: 12:00 PM

End Time: 2:03 PM

	Present?	ITEM 1: Approval of Minutes	ITEM 2: ACO Certification 2022
Stuart Altman*	X	X	X
Don Berwick	X	2nd	X
Barbara Blakeney	X	X	M
Martin Cohen	X	M	X
David Cutler	X	X	X
Timothy Foley	X	X	2nd
Patty Houpt	X	A	X
Chris Kryder	X	X	X
Ron Mastrogiovanni	X	X	X
Sec. Marylou Sudders	X	X	X
Sec. Michael Heffernan	X	X	X
Summary	11 Members Attended	Approved with 10 votes in the affirmative	Approved with 11 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 virtual meeting of the Health Policy Commission (HPC) was held on January 13, 2021, at 12:00 PM. A recording of the meeting is available [here](#). Meeting materials are available on the Board meetings page [here](#).

Participating commissioners included: Dr. Stuart Altman (Chair), Mr. Martin Cohen (Vice Chair); Dr. Donald Berwick; Ms. Barbara Blakeney; Dr. David Cutler; Mr. Timothy Foley; Ms. Patricia Houpt; Dr. John Christian “Chris” Kryder; Mr. Ron Mastrogiovanni; Undersecretary Lauren Peters, designee for Secretary Marylou Sudders, Executive Office of Health and Human Services; and Ms. Cassandra Roeder, designee for Secretary Michael Heffernan, Executive Office of Administration and Finance.

Dr. Altman began the meeting at 12:00 PM and welcomed the commissioners, staff, and members of the public viewing the meeting live on the HPC’s YouTube channel. Dr. Altman turned the meeting over to former commissioner Mr. Richard Lord. Mr. Lord thanked Dr. Altman and welcomed his replacement Ms. Houpt. Mr. David Seltz, Executive Director, thanked Mr. Lord for his eight years of service to the HPC. Ms. Houpt briefly introduced herself and thanked the staff and her fellow commissioners for their support as she joined the Board of the HPC.

ITEM 1: Approval of Minutes

Dr. Altman called for a vote to approve the minutes from the November 18, 2020, Board meeting. Mr. Cohen made the motion to approve the minutes. Dr. Berwick seconded it. The vote was taken by roll call. The motion was approved with 10 votes in favor and one abstention.

ITEM 2: Executive Director’s Report

Dr. Altman turned the presentation over to Mr. Seltz who briefly outlined the day’s agenda.

ITEM 2a: Recent HPC Publications

Mr. Seltz turned the presentation over to Ms. Coleen Elstermeyer, Deputy Executive Director, who gave an update on the HPC’s activities in 2020 and recent publications. For more information, see slides 8 through 9.

ITEM 2b: Legislative Session Recap (2019-2020) and New HPC Responsibilities

Mr. Seltz, Ms. Lois Johnson, General Counsel, and Ms. Katherine McCann, Assistant General Counsel and Data Privacy and Security Manager, gave an update on recent legislative activities and their implications for the HPC. For more information, see slides 11 through 16.

Dr. Altman noted that protections from billing for ambulances were left out of the federal out-of-network (OON) law. He said that this was surprising given how frequently surprise billing resulted from ambulance services. He asked to what extent the Massachusetts OON law

addressed this issue. Ms. Johnson said that the federal law had been heavily negotiated with a compromise late in the process that explicitly excluded ambulance services and left this issue to an advisory committee. She said that only air ambulances, which are governed by the federal aviation administration (FAA) were subject to the law. She said that the state law also did not address ambulance services. She said that Dr. Altman was correct that many OON billing scenarios do involve ambulances. She said that this was an issue that would have to be addressed in continuing legislation. Dr. Altman said that he had seen a study highlighting what a small percentage of ambulances are on in-network contracts, suggesting that the vast majority of patients who utilized ambulances would be receiving OON services. He said that this area warranted close observation by the HPC. Ms. McCann added that this was a notable exclusion from the federal law and that it would be interesting to see what the advisory committee concluded in its report on the topic. She said that the advisory committee, established by the Departments of Labor, Health and Human Services (HHS), and the Treasury, was to issue a report that prioritizes recommendations on the prevention of balance billing to patients who have to utilize ground ambulances in OON emergencies.

Ms. Blakeney asked if there was any data on what percentage of towns and cities in the Commonwealth have ambulance contracts. Ms. Johnson said that she did not have this information readily available but said that she could look into this and get back to Ms. Blakeney.

Regarding the study on the nurse licensure compact, Dr. Kryder suggested reaching out to other states to see if they had studies or utilization data on the difference between acute, self-limited illness, and chronic illness. He said that it would be useful to get a sense of how much of the success in other states was related to self-limited illness or chronic disease.

Dr. Cutler noted that there had been some recent studies on the travel of nurses related to the COVID epidemic and that these might be useful in informing the nurse licensure study. Ms. Johnson agreed and noted that Dr. David Auerbach, Director, Research and Cost Trends, was actively reviewing some of this literature.

Dr. Berwick asked what the current situation was in Massachusetts regarding physician licensure across state boundaries. Ms. Johnson said that it was her understanding that the governor's emergency executive order applied to physicians as well as nurses. Undersecretary Peters confirmed that this was the case. Mr. Seltz said that there was a similar multi-state physician licensure compact that Massachusetts was also not a part of.

Mr. Foley noted that there had been a great deal presented that represented additional work for the HPC on relatively tight timelines. He asked how the HPC should think about prioritization of its many workstreams and whether there was bandwidth to meet these new mandates without taking away from the HPC's other workstreams. He added that it was crucial as the agency proceeded with all of these projects that it not lose sight of the racial justice dimension of the work. Mr. Seltz reiterated the HPC's commitment to applying an equity and racial justice lens to all of its workstreams. He said that this would be an important part of everything the agency did across its research and programs. He said that the presentation represented a great deal of work and that it was an ambitious agenda added on top of an already ambitious agenda. He noted that

the Massachusetts health care system was still in the midst of responding to the COVID pandemic and that the state's health care workforce was being historically taxed. He said that in this context the HPC's role was increasing. He noted that staff were already doing a great deal of work in many of these areas and that the agency was well-positioned to continue and build upon that work.

Ms. Blakeney said that the nurse compact had existed since 2000 and that it had taken many years to get to the number of states now involved. She said that there were many issues to flesh out but that she believed that a deeper dive into this topic would greatly benefit Massachusetts moving forward. She said that she looked forward to providing any assistance that she could. She noted that the HPC now had three new significant studies in its charge, one of which was on a very tight timeline. She said that as long as the HPC had the resources to do the work, she would welcome it. She said, however, that she also wanted to ensure that staff had sufficient bandwidth for these projects. She encouraged Mr. Seltz to request assistance from commissioners.

ITEM 3: Care Delivery Transformation

ITEM 3a: ACO Certification 2022: Learning, Equity, and Patient-Centeredness (LEAP) Final Design

Mr. Seltz introduced Ms. Kelly Hall, Senior Director, and Mr. Michael Stanek, Senior Manager, Health Care Transformation and Innovation (HCTI), who presented on the final recommendations on the revised accountable care organization (ACO) certification standards. For more information, see slides 19-29.

Dr. Altman said that a key issue in the HPC's ACO certification program had been where it would be in relation to national standards. He noted that it was important to balance the desire to set the country's most rigorous standards with the capacity of the delivery system to implement these standards. He asked how these new standards compared to those across the rest of the country. Mr. Stanek said that these standards would put Massachusetts ahead of much of the country but were in line with national standards. He said that during the stakeholder engagement phase of the process, staff had tried to get a sense from ACOs as to whether the proposed standards went too far. He said that the responses had generally been very positive in terms of alignment of ACOs today and where they hoped to be in the future. Dr. Altman said that he was strongly in favor of these standards and that he appreciated the focus on serving historically underserved populations.

Dr. Berwick said he was very pleased with the new standards and that the modifications made a lot of sense to him. He said that he understood the importance of assuring ACOs that proprietary information would not be shared, but that there was a tremendous opportunity for a statewide learning system for ACOs to take and apply best practices from one another. He said that he wondered if there was a way to invite the ACO community to share information in an unblinded fashion. Dr. Altman said that this was a great idea and that staff should look into the possibility of doing this.

Mr. Foley asked if the national ACO accrediting organization was contemplating a health equity lens for their national ACO standards. He also asked what the next step in the process was for the HPC should the updated standards be approved. Mr. Stanek said that if the standards were approved today, staff would move forward with the development of a more detailed application requirements document for the ACOs. He said the application process would then take place in the fall. Regarding Mr. Foley's first question, Mr. Stanek noted that the Institute of Medicine's (IOM's) framework was not exactly a set of ACO standards so much as a vision for how the health system would evolve. He said these standards were an effort to look at ways that ACOs could fit into that framework on a more granular level. Dr. Altman said that he believed the question was regarding the National Committee of Quality Assurance (NCQA) and whether its standards incorporated an equity component and, more generally, how these new proposed standards compared to NCQA's. Mr. Stanek said that he believed that NCQA was no longer issuing ACO standards, focusing instead on patient-centered medical home (PCMH). Dr. Altman asked if there were any other national organization in the ACO space that the HPC might be able to draw from or compare these standards to. Mr. Stanek said that states were generally on their own in this space and that there were only a few states issuing ACO certification standards. Dr. Altman asked if the HPC were involved at all with NCQA at this point. Mr. Stanek confirmed that the HPC was not. Dr. Berwick said that there was a national association of ACOs which had a non-profit foundation that the HPC might be able to glean some information from.

Mr. Cohen said that he was happy to see this next evolution of standards and, in particular, the health equity component. He asked if staff anticipated the volume of requests for certification to be the same as in the previous round. He also asked if staff had been incorporating MassHealth feedback as these standards were developed. Mr. Stanek said that staff had coordinated with MassHealth which had been supportive of the framework as laid out. Dr. Altman said that he did not want to lose sight of the private payers in this conversation and asked if there had been any feedback from them. Mr. Stanek said that at this point there had been no comments from the private payers during the public comment process. Mr. Cohen said that he would hope that the private payers would accept these same standards. Dr. Altman noted that the private side had been reluctant to do so.

Dr. Cutler said that he was surprised by the fact that NCQA was no longer issuing ACO standards. He said he was not sure what to make of the broader trend away from ACO certification. Mr. Seltz said that there continues to be a great deal of support for Massachusetts having an ACO program from all stakeholders. He said these standards represented an evolution of something that ACOs had already been doing and that their feedback was extremely important in designing the standards. He said that other stakeholders wanted these standards to go even further and that the HPC's role had been finding the right balance between those competing interests. He said that the NCQA ACO certification program had been highly prescriptive, requiring many documents to be submitted and utilizing a scoring mechanism. He said that when the HPC had first looked at those standards, the response from stakeholders had been that there was still a great deal of learning to do and that the HPC should be less prescriptive in its standards. He said that the HPC continued to give a great deal of flexibility due to the variation among ACOs. He said that his recollection was that NCQA's standards did not receive very

much market interest, and that that was why the organization moved away from them. Dr. Altman noted that NCQA was geared heavily toward private payers and that the private side had generally been reluctant in this area. Dr. Berwick said that he believed there would be a resurgence of interest in ACOs. He noted that COVID had reduced activity on the alternative payment model (APM) front as the focus had been keeping stressed providers afloat. He said that APM providers had fared better during COVID than those trapped in fee-for-service (FFS) models and that this had increased interest in APMs. He said that now that there had been some time to gather data on APMs, ACOs are among the more promising forms of alternative payment. He said that he thought the proposed standards were anticipating where ACOs would be moving in the post-COVID world.

Dr. Kryder asked what the size of the ACO world was in Massachusetts in terms of numbers of certified ACOs, patients served, how they have grown over time, and how much risk they were taking. Dr. Altman said that this was something that he would like to devote some time to at a future meeting. He asked Mr. Seltz to note that this topic should be added to a future agenda. Mr. Seltz said that the HPC had a lot of the data that Dr. Kryder had asked about such as patients under risk, whether they are upside or downside, and where they are located and that this could be compiled and shared. Dr. Altman said it would be important to focus not just on Massachusetts as the Centers for Medicare & Medicaid Services (CMS) was getting very aggressive on downside risk. Ms. Hall said that much of the data Dr. Kryder requested was routinely collected and included in the HPC's ACO profiles. She said that putting together a trend document or compilation of highlights was something that staff could easily do and that national trends could be overlaid for perspective. Dr. Kryder said that that would be excellent to see and agreed with Dr. Altman that it would be useful to add a deeper dive on this topic to a future meeting.

Dr. Altman called for a vote to approve the updated ACO certification standards. Ms. Blakeney made the motion to approve the minutes. Mr. Foley seconded it. The vote was taken by roll call. The motion was approved unanimously.

ITEM 4: Market Oversight and Transparency

ITEM 4a: Notices of Material Change

Mr. Seltz turned the presentation over to Ms. Katherine Mills, Senior Director, Market Oversight and Transparency (MOAT), who provided an update on material change notices (MCNs) received by the HPC since the last Board meeting. For more information, see slides 32-34.

Regarding the proposed affiliation between Baystate Medical Practices (Baystate) and Valley Medical Group (VMG), Dr. Kryder asked if this meant that VMG would no longer be able to contract independently from Baystate. Ms. Mills said that VMG already participated heavily in the Baycare Network. She said that this transaction represented a change in a leasing arrangement rather than in contracting practices already in place. Dr. Kryder asked if VMG could contract outside of Baystate or if they were joined for contracting purposes as a clinically integrated network. Ms. Mills said that this did not change the current contract relationship with

Baycare in any way. Dr. Kryder asked if it was an exclusive affiliation with Baystate. Ms. Mills said that VMG does establish some contracts on its own.

Ms. Blakeney asked how many beds would be created by the Baystate Medical Center (BMC) and Kindred Health joint venture to build a new behavioral health (BH) hospital. She also asked how many of these beds would be devoted to adolescents. Ms. Mills said that she believed the figure in the documentation put forward by the parties was 120 beds in this new facility. She said there were still ongoing discussions and that this number was not final.

Regarding Lawrence General Hospital's (LGH's) proposal to form an integrated delivery network, Dr. Berwick noted that there had been provisions in the attorney general's approval of the Beth Israel Lahey Health (BILH) merger that involved supports to the community hospitals in the network. With LGH's departure from the organization, he asked what the HPC was monitoring regarding the terms of the merger and if this was something the Board could expect to hear back on at some point. Ms. Mills said that nothing about the agreement would change and that there were specific provisions in place for the departure of a safety-net affiliate. She said that these provisions stipulate that the specific funding commitments to the safety-net affiliate in question terminate, but that that funding would then be redistributed among the other safety-net affiliates in the organization. Dr. Berwick asked if it would be possible at a future meeting to look at how that funding was reallocated. Ms. Mills said yes and noted that staff planned to continue observing BILH over time. She said that, since this would change the overall patient population being served by the system, she expected to be reporting back to the Board on this topic.

Dr. Kryder said that the HPC should consider taking an early look at the proposed transaction between Atrius and Optum. He noted that this transaction could have a substantial impact on the Massachusetts health care landscape as Atrius was the largest independent physician group in the Commonwealth. He said that vertical integration with a payer through a subsidiary such as Optum has the potential to create competition at a level not seen before in Massachusetts. Dr. Altman agreed and said that the staff would need to do a significant amount of background work. He said that it would be a significant transaction to examine moving forward. Mr. Seltz said that staff had not received the official notice yet but were engaged in gathering background information in anticipation of the filing. He said staff had also been in communication with the attorney general's office (AGO) regarding timelines and coordination moving forward.

ITEM 4b: Harvard Pilgrim Health Care and Tufts Health Plan Merger

Ms. Mills presented on the merger between Harvard Pilgrim Health Care (HPHC) and Tufts Health Plan (THP). For more information, see slides 36-44.

Dr. Altman noted that even though the HPC did not have specific authority regarding the merger to two health plans, this transaction represented a major change in the health system. He said the HPC would closely monitor the impact of this transaction, including on prices and health care spending.

Mr. Mastrogiovanni said he had concerns about the trend of mergers in the health care market in general, and the impact of all of the market changes combined. He asked if there was a way to examine the big picture impact of these transactions on quality and pricing. Dr. Altman said that this was definitely something that warranted a more in-depth conversation at a future meeting. Mr. Seltz said that, while the HPC tends to examine individual transactions, it would be important to think about the cumulative impact of all these kinds of transactions over time. He said it was worthwhile spending time at a future meeting to look at the big picture. Dr. Altman suggested that this might be a good topic for the cost trends hearing.

Dr. Cutler said that monitoring this transaction could reveal a great deal about the health care system in Massachusetts. He said that it might be worthwhile to spend time at the next MOAT Committee meeting discussing some of what should be monitored in this transaction and looking back at some of the reports that have been filed regarding the BILH merger. He said that it would be helpful to think about how to set up a regular process for learning more about these and overall changes in the market. Dr. Berwick agreed that this would be a useful exercise.

The research presentation on out-of-pocket spending was tabled for a later meeting due to time constraints.

Mr. Seltz previewed the upcoming public meetings. The meeting adjourned at 2:03 PM.