

MINUTES OF THE HEALTH POLICY COMMISSION

Meeting of January 25, 2023

MASSACHUSETTS HEALTH POLICY COMMISSION

Date of Meeting: January 25, 2023

Start Time: 12:00 PM

End Time: 2:43:00 PM

	Present?	Vote 1: Approval of Minutes (December 14, 2022)	Vote 2: Vice Chair Election Commission Martin Cohen Nomination	Vote 3: Committee Membership	Vote 4: Office of Patient Protection: Regulatory Changes	Vote 5: Issuance of the report on telehealth utilization in the Commonwealth	Vote 6: Approval for Chair to negotiate a new three-year contract with Executive Director
Deborah Devaux*	X	X	X	X	M	M	X
Don Berwick	X	X	M	M	X	X	X
Barbara Blakeney	X	M	2 nd	X	X	X	X
Martin Cohen	X	X	ab	2 nd	X	X	M
David Cutler	X	X	X	X	X	X	X
Timothy Foley	X	X	X	X	X	X	2 nd
Patty Houpt	X	2 nd	X	X	X	2 nd	X
Matilde Castiel	X	X	X	X	X	X	X
Ron Mastrogiovanni	X	X	X	X	2 nd	X	X
Sec. Mary Beckman	X	ab	X	X	X	X	X
Sec. Matt Gorzkowicz	X	ab	X	X	X	X	X
Summary	11 Members Attended	Approved with 9 votes in the affirmative	Approved with 10 votes in the affirmative	Approved with 10 votes in the affirmative	Approved with 10 votes in the affirmative	Approved with 11 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 25, 2023, at 12 PM. A recording of the meeting is available [here](#). Meeting materials are available on the Board meetings page [here](#).

Participating commissioners included: Ms. Deborah Devaux (Chair), Mr. Martin Cohen (Vice Chair); Ms. Barbara Blakeney; Ms. Patricia Houpt; Dr. Matilde Castiel; Dr. David Cutler; Mr. Ron Mastrogiovanni; Dr. Don Berwick; Acting Secretary Mary Beckman, Executive Office of Health and Human Services; Mr. Timothy Foley; and Secretary Matthew Gorzkowicz, Executive Office of Administration and Finance.

Ms. Devaux began the meeting at 12 PM and welcomed the commissioners, staff, and members of the public viewing the meeting live on the HPC's YouTube channel.

ITEM 1: Approval of Minutes

Ms. Devaux turned the meeting to Ms. Coleen Elstermeyer, Deputy Executive Director, to call for a vote to approve the minutes from the December 14, 2022, Board meeting. Ms. Barbara Blakeney made the motion to approve the minutes. Ms. Patricia Houpt seconded it. The vote was taken by roll call. Secretary Gorzkowicz abstained. The motion was approved unanimously by the voting commissioners.

ITEM 2: Vice Chair Election

Ms. Devaux called for nominations for Vice Chair. Ms. Blakeney nominated Mr. Martin Cohen. Ms. Elstermeyer called for a vote to confirm Mr. Cohen as Vice Chair. Dr. Berwick made the motion and Ms. Blakeney seconded. The vote was taken by roll call. The motion was approved unanimously.

ITEM 3: Committee Assignments

Ms. Devaux gave an overview of the proposed committee assignments for commissioners and called for a motion to approve the assignments. Dr. Berwick made the motion, and Mr. Cohen seconded. The vote was taken by roll call. The motion was approved unanimously.

ITEM 4: Executive Director's Report

Ms. Devaux turned the meeting over to Mr. David Seltz for an executive director's report and presentations on upcoming research publications on the impact of COVID-19 on the health care workforce and how health system factors perpetuate disparities. For more information, see slides 10-30.

Mr. Foley asked whether the upcoming publication on private equity and health care will include nursing homes and home care. Mr. Seltz said the publication will include those areas.

Dr. Berwick asked if the HPC will refocus on price variation and seek authority to work to address the highest cost providers and plans. Dr. Berwick also asked if that would take

legislative action. Mr. Seltz noted that legislative action is required to include an upfront evaluation of the differential price position of providers when thinking about who is referred to the HPC by CHIA but that legislative action is not required for how the HPC currently evaluates entities on the CHIA referral list and considers performance improvement plans. He also said that recommendations on the evolving the approach to benchmark accountability (item 1(b) on slide 13) and continuing and enhancing scrutiny of provider and payer spending performance (item 1(c) on slide 13), both present an opportunity to incorporate, to a greater degree, a recognition of the underlying variation between providers and to focus our time and attention on those entities that are most impactful in terms of health care spending. Dr. Berwick suggested the HPC do a retrospective look at transactions where the HPC did and did not do a cost and market impact review and whether it was the right decision. Dr. Berwick asked if we are partnering with other agencies when conducting these retrospectives, in particular given that the Beth Israel Lahey merger was subject to an agreement with the Attorney General. Mr. Seltz said the HPC will work with those agencies so as not to duplicate work. Acting Secretary Beckman noted that there has been ongoing monitoring of the Beth Israel Lahey's compliance with the obligations that were agreed to as part of the Assurance of Discontinuance and that there are reports from the compliance monitor on the Attorney General's website already.

Mr. Cohen reiterated the need to focus on behavioral health across all domains and that there are major behavioral health implications around workforce, equity, and costs. Mr. Seltz agreed and noted that many of these are embedded in other focus areas. Dr. Cutler noted that due to the urgent nature of some of the priorities and non-urgent nature of others, a schedule to go along with the priorities would be helpful. Mr. Seltz noted that the HPC could add a schedule to each and revisit with the Board in July. Mr. Mastrogiovanni asked if the HPC was examining the difference in cost for running telemedicine compared to an in-person visit. Mr. Seltz said that this was identified in the telehealth report as a topic for future research.

On the topic of the workforce report, Mr. Foley noted that the workforce event in March will be helpful in developing clear recommendations for the new administration and legislature on how to address this significant issue. Ms. Blakeney noted that the workforce issue is impacting the entire industry and will require a significant commitment by the state and federal government to find the resources to address it. Ms. Blakeney wondered if the workforce event was long enough to discuss all the important topics. Dr. Cutler said that this event and report does not feel like a one and done moment and that this issue requires continued focus. Dr. Cutler wants to see how the event builds on those efforts and what conversations come from the event to address the issue. Mr. Seltz concurred that the event will not solve all the problems but will help move us forward. Dr. Berwick asked that those with this lived experience be included in the event.

ITEM 5: Office of Patient Protection Regulatory Changes

Mr. David Seltz introduced Ms. Nancy Ryan, Director of the Office of Patient Protection, to present on the Office of Patient Protection's proposed regulatory changes. For more information, see slides 31-40.

Ms. Blakeney asked what Ms. Ryan's analysis of the additional work responsibilities for OPP was and what she was anticipating was going to happen because of the new regulations. Ms. Ryan noted that the changes to the external review process are ones that have already been implemented to a certain degree. Ms. Ryan noted that the OPP request form and other internal processes will have to change and OPP already monitors behavioral health complaints and works closely with other state agencies. Ms. Elstermeyer noted that there is an opening on the OPP team. Ms. Houpt asked what would happen to someone on COBRA requesting continued coverage through an external review and if the language of the proposed regulation would extend the outer limits of COBRA. Ms. Ryan said it would not extend anybody's eligibility for COBRA and that the external review decision would no longer apply if a patient were no longer enrolled in the health plan that denied the service or treatment. Ms. Houpt noted her concern for patients losing coverage and not getting the care they needed if they lost coverage and an appeal had not been decided. Ms. Ryan noted that OPP offers an expedited process. Ms. Devaux asked if the process would then have to restart with the patient's new plan, and Ms. Ryan said yes. Dr. Berwick asked if this applied to ERISA plans and Ms. Ryan said it applies to only fully-insured Massachusetts-based plans. Dr. Berwick asked if we hear complaints from self-insured plans and Ms. Ryan said yes and that OPP provides information to consumers with those plans but cannot regulate those plans. Dr. Berwick asked if OPP keeps records of these complaints and Ms. Ryan noted that they do keep records for internal inquiries and external review cases that have been ruled ineligible, some of which are ineligible because the plans are self-insured. Dr. Berwick noted that the 93A was an important move and asked Ms. Ryan to elaborate on the importance. Ms. Ryan noted that it is important and provides some assurance of people's legal rights. Ms. Lois Johnson noted that OPP has not experienced health plans failing to comply with external review decisions.

Ms. Devaux asked if there are any areas of concern with the proposed regulations. Ms. Ryan said no, and the team is well positioned to implement the changes, and most are slight changes to the existing process.

Ms. Elstermeyer called for a vote to release the proposed regulation. Dr. Berwick made the motion and Ms. Blakeney seconded. The vote was taken by roll call. The motion was approved unanimously.

ITEM 6: Market Oversight and Transparency

Mr. Seltz provided an update on Notices of Material Change and then turned the meeting over to Ms. Kara Vidal, Director of Health System Planning & Performance, to provide an overview of the 2022 Performance Improvement Plan cycle. Mr. Seltz then turned the meeting over to Ms. Yue Huang, Manager for Research and Cost Trends, to present on the HPC's report to the legislature on telehealth use in the Commonwealth and policy recommendations. For more information, see slides 41-85.

Ms. Devaux asked if there were any other states that have developed interstate solutions around the use of telehealth. Ms. Huang said yes and noted that there are interstate compacts that facilitate care for all medical practices. Ms. Huang said for telehealth specifically, there are 16

states that have implemented long-term or permanent solutions, other states have created registry systems for out-of-state providers to see patients, and special permits can be created. Ms. Devaux asked if there was a research-supported estimate of what percentage of visits are appropriately provided through telehealth, given the clinical condition. Ms. Huang said the the provider community is still developing a consensus on what is the best use of telehealth for what clinical conditions. Ms. Devaux asked what Medicare has decided to do around telehealth payment. Ms. Huang noted that at the beginning of the COVID pandemic, Medicare was reimbursing for limited telehealth scenarios, but congress passed legislation and HHS enacted several regulatory changes that allow all Medicare beneficiaries to receive telehealth services, including from their home, and Medicare reimbursed at the same rate as in-person. Ms. Huang said President Biden has signed the appropriations Act of 2023 to extend many of these flexibilities.

Dr. Cutler noted that the presentation showed him that telehealth was substituting for in-person visits and there is not a big reduction in spending for people who use telehealth. Mr. Foley asked about the barrier of language capacity and whether it had to do with the clinicians and the need for a more diverse workforce with language capacity or is it the need for interpreter services or both. Ms. Huang said that the issue lies with the platforms themselves that are not able to integrate a live interpreter and some providers are switching platforms that allow more help for the patient. Ms. Huang also said that the patient communication materials are also an issue as many are only sent in English. Mr. Foley said language barriers is an issue that needs to be fixed and it is a health equity issue. Dr. Castiel noted that telehealth is very helpful, specifically for mental health and said that language barriers need to be addressed, including translations. Dr. Castiel noted that access to free wi-fi is vital to access and telehealth can be used for multiple services, including primary care. Dr. Berwick said he would be hesitant to support extending payment parity indefinitely because there haven't been sufficient studies done and there needs to be a more sophisticated model for payment for telehealth. Ms. Huang noted the mandate to pay at parity expired on January 1, 2023, but many payers are continuing to pay telehealth at parity until more clarity on these issues comes out. Mr. Seltz added that the HPC's work on this topic will continue. Ms. Elstermeyer called for a motion to vote on the issuance of the report. Ms. Devaux made the motion and Ms. Houpt seconded. The vote was taken by roll call. The motion was approved unanimously.

Item 7: Executive Director Employment Agreement

Ms. Devaux provided an update on the Executive Director's Employment Agreement. Mr. Berwick asked if Ms. Devaux was happy with the comparisons to other executive directors and Ms. Devaux said yes. Ms. Houpt asked about discussing salary. Ms. Devaux said the salary recommendation was a substantial increase over where the HPC is right now to reflect tenure and performance. Dr. Cutler praised Mr. Seltz's performance and leadership and said the agency is on the right track. Mr. Cohen made a motion to allow the Chair to negotiate a new three-year contract. Mr. Foley seconded the motion. The vote was taken by roll call. The motion was approved unanimously.

Item 8: Video Presentation: Reflecting on the HPC's 10-Year Anniversary Milestone

Mr. Seltz introduced a video presentation reflecting on the HPC's 10-year anniversary milestone. Following the video, Ms. Devaux adjourned the meeting at 2:45 PM.