

**MARYLAND COMMISSION ON KIDNEY DISEASE
OPEN SESSION MEETING VIA GOOGLE MEET
THURSDAY OCTOBER 27, 2022**

MEETING MINUTES

The Maryland Commission on Kidney Disease held an Open Meeting on Thursday, October 27, 2022 via Google Meet, a virtual platform.

Chairman Dr. Adam Berliner, called the meeting to order at 2:07 P.M.

Commissioners present: Dr. Donna Hanes, Dr. Sonal Korgaonkar, Dr. Nadiesda Costa, Dr. Jeremy Yospin, Susan Leon, RN, Jacqueline Hires, LCSW NSW-C, Jerome Chiat, Dr. Sumeska Thavarajah and Andrene Townsend, RN.

Commissioners Guthrie and Harris were absent.

Staff present: Eva Schwartz, Executive Director, Donna Adcock, RN, Nurse Surveyor
Commission Counsel present: Leslie Schulman, AAG

MDH staff present: Carol Manning, Chief Kidney Disease Program
OHCQ representatives: Evidelia House, Program Coordinator
Renal Network 5 representative: Renee Bova-Collis, MSW, LCSW and Phyllis Haas, LMSW

**I. RATIFY APPROVAL OF THE MINUTES OF THE PUBLIC SESSION OF
JULY 28, 2022**

Commissioner Korgaonkar motioned to ratify the approval of the Public Minutes from the July 28, 2022 session. Commissioner Hanes seconded the motion and the Commission voted unanimously to ratify the approval of the Minutes of the July 28, 2022 Public Session.

II. RATIFY APPROVAL OF THE MINUTES OF THE CLOSED SESSION OF JULY 28, 2022

Commissioner Thavarajah motioned to ratify the approval of the Closed Minutes from the July 28, 2022 session. Commissioner Korgaonkar seconded the motion and the Commission voted unanimously to ratify the approval of the Minutes of the July 28, 2022 Closed Session.

III. CHAIRMAN'S REPORT

Dr. Berliner reported on the uptick of involuntary patient discharges over the past quarter. He discussed a recent Involuntary Discharge (IVD) at a unit where he is the medical director. The patient was verbally abusive leading to physical assault of a staff member. A staff member was verbally abusive as well and formal action was taken by the facility.

Discussion ensued. Ms. Haas from Renal Network 5, reported that she directed the facility administrator to report the staff member's actions to the relevant licensing board and submit such as a formal complaint against the licensed staff member, in this case a registered nurse. Ms. Haas will provide in-service to the facility on violence in the workplace. Ms. Haas reported that the number of IVDs is the same as last year, however, the associated verbally abusive behavior and physical violence has escalated.

Mrs. Schwartz discussed in generalities the Boards' processes for investigating complaints, as well as the processes in sanctioning formally or informally a licensee, and publishing the formal public sanctions on the respective board's website.

IV. VICE CHAIRMAN'S REPORT

Dr. Thavarajah reviewed the categories for IVDs: nonpayment, facility ceases to operate, facility cannot meet the patient's needs (transfer necessary for patient's welfare) and disruptive or abusive behavior. She noted that facilities are not permitted to discharge patients for non-adherence to the dialysis prescription. Patients have the right to choose less than the prescribed optimal care. Dr. Thavarajah reported on the cost to the healthcare system when patients are discharged and dialyzing in the emergency rooms. The healthcare system could save \$30 million a year if these IVDs were averted.

Dr. Thavarajah reported that her facility has been piloting a "cool off period" for patients that are identified with escalating behavior. The patient is offered to dialyze elsewhere for 2-3 weeks in hopes of diffusing the situation.

V. EXECUTIVE DIRECTOR'S REPORT

Mrs. Schwartz reported that the January 2023 Commission meeting will be virtual. In person meetings will resume in a hybrid (in person/virtual) when the Metro Building is equipped with Wi-fi.

VI. NEW BUSINESS

A. Kidney Disease Program

Ms. Manning reviewed the KDP budget. Ms. Manning reported that the KDP budget has been stable for the past few years. She is unaware of any planned cuts to the budget.

B. Network Update

Ms. Bova-Collis reported that the Network is working with the second group of facilities regarding meeting CMS goals. They are educating staff about the Network and providing technical assistance. She noted that all facilities are to be working towards meeting Network goals. Each facility has an individual login where they can access dashboard reports on their progress meeting the goals. Facilities should contact the Network if they believe the information in the report is incorrect.

Ms. Bova-Collis stated that the Network is having difficulty with facility cooperation. The Network has developed new policies and procedures to address this issue. Cooperation with the Network is required in the Conditions for Coverage (CFC). Facilities failing to cooperate with the Network will be referred to State agencies.

Ms. Bova-Collis noted that there have been an unprecedented number of facilities being referred to the State agencies related to involuntary discharges. Facilities often are not following their own organization's policies and procedures or the CFCs when involuntarily discharging patients.

C. ADA Laws As Applicable for Requests for Reasonable Accommodations

Mrs. Schwartz provided information regarding ADA requests for reasonable accommodations. She noted that facilities should be aware of the ADA laws. Mrs. Schwartz discussed the discrepancies between what a patient wants and what the provider can deliver. She recommended that facilities seek legal advice before making decisions on requests for ADA accommodations. [The following links are live on the Commission's website as part of the posted October, 2022, Meeting Agenda.](#)

- Information concerning Complaints of Discrimination
- Information concerning Reasonable Accommodations
- Information concerning Interpretation & Translation Services
- Information concerning Visual Communication Services (i.e., sign-language, CART, VRI)
- For information on American Sign Language (ASL) interpreters, Video Remote Interpretation (VRI) or Computer Assisted Real-time Transcription (CART) for individuals who are deaf or hard of hearing, visit the Maryland Governor's Office of the Deaf and Hard of Hearing website.

D. Open Comment Period: PUBLIC INFORMATION ACT (PIA) POLICY (MDH Policy 01.04.01 - Office of Governmental Affairs)

Mrs. Schwartz reported on this policy’s open comment period. She noted that the Commission seeks legal counsel for any PIA requests.

E. Closed Facilities

Dr. Berliner reported that the following facilities have notified the Commission of their closure:

- FMC Robinwood – Temporarily Closed
- Davita 25th Street – Closing 12/2022

F. Citation Free Facilities

Dr. Berliner congratulated the following facilities for achieving citation free surveys:

- Davita Washington County (home program)
- Davita Lakeside

G. Categories of Complaints

Dr. Berliner reported that during the past quarter the following complaints have been reviewed and resolved by the Commission:

- a. **Written**
 - Involuntary discharge of patient from facility (2)
 - Lack of generator, staff behavior
 - Facility physical environment
 - Patient care issues
- b. **Verbal**
 - Hospital inability to place patient in an outpatient facility

H. Commission Approval/Disapproval for KDP Out of State Transplant Reimbursement

Dr. Berliner reported that the Commission received and approved the following out of state transplant prior approvals for KDP reimbursement purposes:

Hospital	Granted	Refused
Georgetown University Hospital	2	0

I. Surveys (14)**Citations**

Citations	Oct 2022	Jul 2022	April 2022	Jan 2022
Total Surveys	14	21	17	22
Compliance with Federal, State and Local Laws and Regulations	0	0	0	0
Infection Control	9	10	11	11
Water and Dialysate Quality	6	7	6	8
Physical Environment	6	13	8	8
Patient Rights	0	0	0	0
Patient Assessment	1	0	0	0
Patient Plans of Care	1	0	0	1
Care at Home	0	0	0	0
Quality Assessment and Performance Improvement	0	0	0	0
Laboratory/Affiliation Guidelines	0	0	0	0
Personnel Qualifications/Staffing	9	15	8	10
Responsibilities of the Medical Director	1	0	2	0
Medical Records	2	0	2	0
Governance	4	3	1	0

The categories and total number of citations are reported above and trended for informational purposes. Dr. Berliner commented that the same categories of citations come up.

J. Surveys Completed

The following 14 facilities have been surveyed since the July 2022 meeting:

Davita Eastern Boulevard
 Davita Dundalk
 Davita Loch Raven
 Davita Pikesville
 Davita Landover
 USRC Old Alexandria
 Davita Lakeside

Davita Washington County
 Davita Charles County
 Davita Brandywine
 FMC Hagerstown
 Davita Owings Mills
 Davita Landover
 Davita Union Memorial

K. Proposed 2023 Meeting Dates

Dr. Berliner reported that the Commission's quarterly meetings will be held on the following dates:

- January 26, 2023
- April 27, 2023
- July 27, 2023
- October 26, 2023

L. Commission Elections

Mrs. Schwartz announced the outcomes of the Commission election of Officers– Dr. Thavarajah is the new Chairperson and Dr. Korgaonkar the new Vice-Chairperson. She noted that there were not enough responses to the Legislative/Regulatory Liaison position and, therefore, the Commission will continue to seek Commission volunteers for this category. Mrs. Schwartz also commented that although the Commission does not intend to propose any new legislation this year, it may need to respond to proposed legislation from other entities.

There being no further public business, upon motion made by Commissioner Thavarajah and seconded by Commissioner Korgaonkar, the Commission unanimously voted to adjourn the Open Meeting Session at 3:07 P.M.

The Commission adjourned into a Closed Administrative Session in accordance with the Open Meeting Act, Md. Code Ann., General Provisions Article, Section 3-103(a)(1)(i) for the purpose of discussing matters related to Out of State transplant and post-transplant care reimbursement services; and the internal administration of the Commission's process for evaluating and deciding patient complaints, plans of correction, and survey deficit resolution.

Next Scheduled Meeting – January 26, 2023