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Health Services Cost Review Commission

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March 2, 2020

The Honorable Shane E. Pendergrass
Chair, House Health and Government Operations Committee
Room 241, House Office Building
Annapolis, MD 21401

Dear Chair Pendergrass and Committee Members:

The Health Services Cost Review Commission (HSCRC) submits this letter of information for House Bill 838 (HB 838) titled, “Unregulated Space in Hospital Operating Suites Pilot Project Study”. HB 838 requires HSCRC, in conjunction with the Maryland Health Care Commission (MHCC), to conduct a study on the feasibility and desirability of allowing for unregulated space in a hospital operating room (OR) as a pilot program.

A similar bill was introduced during the 2019 Legislative Session. Though the bill was not signed into law, a letter dated May 30, 2019 from Health and Government Operations Committee Chair Delegate Pendergrass directed the HSCRC to examine the same policy items identified in Section 1(b) of HB 838. The HSCRC was directed to provide an update to the Health and Government Operations Committee (Committee) on these items during the 2020 Maryland General Assembly legislative session and produce a report by June 30, 2020. The HSCRC has been working to comply with this request. Should HB 838 be signed into law, the HSCRC will comply with the new date for the completion of this report. In the meantime, this letter serves as the requested update to the Committee on the work that has been occurring in the interim.

In August 2019, the HSCRC convened a workgroup made up of representatives from across the industry including the MHCC, hospitals, payers, and other healthcare experts to explore issues associated with the feasibility and desirability of allowing for an unregulated space in a hospital OR suite as a pilot project. As indicated by the Committee, the goal of the pilot would be to test whether hospital OR space could be used for higher risk patients who might need immediate post-surgical care following elective services. The workgroup was tasked with exploring options and identifying considerations for a pilot program.

The workgroup has met multiple times to consider this topic and discussed options that would allow hospitals to do this. While there is widespread agreement that hospital environments can provide the safety and post-surgical care that may be needed for patients, hospitals would need to

be able to reduce their charges for these elective surgeries so that they are similarly priced to unregulated ambulatory surgery centers in order for consumers to consider the hospital environment for these procedures. Given this, the initial focus of the workgroup's discussion included a comparison of hospital prices to external unregulated entities for minor surgeries. The workgroup also began to explore options to set alternative pricing that would allow hospitals to be competitive with freestanding ambulatory surgery centers. This factor was identified as a key requirement in order to make any initiative in this area successful.

As directed by the Committee, one of the options explored by the workgroup included a pilot program to test modified hospital models with alternative pricing strategies. In its meeting on February 25th, the HSCRC staff presented the potential pilot program to the industry. The pilot program would allow hospitals to reprice minor surgical procedures at 40% of the current hospital outpatient pricing, leading to prices that are comparable to those at ambulatory surgical centers. This approach would result in a pricing structure that would allow hospitals to perform the services competitively while maintaining access to high quality, safe options for the public. All hospitals in the state would be able to voluntarily participate in the program.

The workgroup also explored other approaches besides a pilot. First, the group considered the ability for HSCRC to modify the hospital global budgets and deregulate space. This option is within the current authority of the HSCRC, but questions arose as to whether or not hospitals could achieve the necessary competitive pricing levels to make services attractive under this option. Second, the group also considered an option to partially deregulate OR space, room location, time blocks, procedures and/or specific arrangements for "self-pay" patients as outlined in HB 838. The group agreed that this option would likely require major statutory and regulatory changes and would impact the Total Cost of Care contract with the Centers for Medicare and Medicaid Services (CMS). Thus, any partial deregulation of OR space or alternative arrangements for self-pay patients would also need to be properly vetted by the federal government. Given this, none of these actions could be considered in the pilot option proposed by HSCRC.

HSCRC will continue to meet with the stakeholder workgroup to consider these options so that it can determine what will work best to ensure access to high quality, safe elective services that are affordable for patients and competitively priced for hospitals. As the work continues, the HSCRC will keep the Committee informed of its progress. If there are questions in the meantime, please feel free to contact me at tequila.terry1@maryland.gov.

Sincerely,

A handwritten signature in cursive script that reads "Tequila Terry". The signature is written in black ink and is positioned below the word "Sincerely,".

Tequila Terry
Deputy Director