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Department of Health

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) respectfully submits this **letter of support with amendments for House Bill 1169** (HB 1169) titled, "Hospitals - Community Benefits". HB 1169 establishes new provisions for the development of community health needs assessments and community benefit reporting.

We applaud the sponsors for continuing the conversation on community benefit programming. Across the State, there is great potential to build on the important work that is already occurring by engaging local resources in a workgroup that can make recommendations on opportunities to improve transparency and effectiveness of community benefits reporting. The amendments included below were developed in collaboration with interested stakeholders. They represent consensus language agreed upon by the HSCRC and the following groups:

- Maryland Hospital Association
- 1199 Service Employees International Union
- Representatives from the Maryland Department of Health and Local Health Departments

The HSCRC respectfully requests that the amendments listed below be included in HB 1169. Please feel free to contact me at tequila.terry1@maryland.gov if you have any questions.

Sincerely,

Tequila Terry

AMENDMENT NO. 1

On page 1, on line 2, strike "Hospitals" and substitute "**HEALTH SERVICES COST REVIEW COMMISSION**".

On page 1, in line 2, after "Benefits" insert "**REPORTING**".

RATIONALE: Clarifies that the requirement is on the Health Services Cost Review Commission to promulgate regulations and not on the hospitals themselves.

AMENDMENT NO. 2

On page 2, strike beginning with "an" in line 2 down through "System" in line 14 and substitute:

A PLANNED, ORGANIZED, AND MEASURED ACTIVITY THAT IS INTENDED TO MEET IDENTIFIED COMMUNITY HEALTH NEEDS WITHIN ITS SERVICE AREA. COMMUNITY BENEFITS MAY INCLUDE THE FOLLOWING CATEGORIES:

(I) COMMUNITY HEALTH SERVICES;
(II) HEALTH PROFESSIONALS EDUCATION;
(III) RESEARCH;
(IV) FINANCIAL CONTRIBUTIONS;
(V) COMMUNITY BUILDING ACTIVITIES;
(VI) CHARITY CARE;
(VII) FOUNDATION FUNDED COMMUNITY BENEFIT;
(VIII) MISSION-DRIVEN HEALTH SERVICES; AND
(IX) COMMUNITY BENEFIT OPERATIONS.

RATIONALE: Conforms language with the existing definition of community benefits as included in federal guidelines and the HSCRC Community Benefit Reporting Guidelines (see page 31).

AMENDMENT NO. 3

On page 2, in lines 18 and 19, in each instance, strike the bracket.

On page 2, strike beginning with "**(5)**" in line 18 down through "**CODE**" in line 21 and substitute:

(5) "COMMUNITY HEALTH NEEDS ASSESSMENT" MEANS THE PROCESS REQUIRED BY THE AFFORDABLE CARE ACT OF 2010 BY WHICH UNMET COMMUNITY HEALTH CARE NEEDS AND PRIORITIES ARE IDENTIFIED BY A NONPROFIT HOSPITAL IN ACCORDANCE

<u>WITH § 501(R)(3) OF THE INTERNAL REVENUE CODE</u>

RATIONALE: Clarifies that the requirement is included in the Affordable Care Act.

<u>AMENDMENT NO. 4</u>

On page 4, strike beginning with the comma in line 8 down through "**AND**" in line 9 and insert: "**<u>TO IMPLEMENT THE RECOMMENDATIONS OF</u>**".

RATIONALE: Clarifies that the Community Benefit Working Group – of which nonprofit hospitals are a member – should make recommendations to the Health Services Cost Review Commission instead of the hospitals doing so separately.

<u>AMENDMENT NO. 5</u>

On page 4, strike beginning with the "**BY**" in line 13 down through "**COMMISSION**" in line 15 and substitute "**<u>ON WHICH NONPROFIT HOSPITALS MUST SUBMIT THE ANNUAL COMMUNITY BENEFIT REPORTS</u>**".

<u>AMENDMENT NO. 6</u>

On page 4, strike beginning with "**IDENTIFY**" in line 16 down through the semicolon in line 28 and substitute: "**<u>SOLICIT AND TAKE INTO ACCOUNT INPUT RECEIVED FROM PERSONS WHO REPRESENT THE BROAD INTERESTS OF THAT COMMUNITY, INCLUDING THOSE WITH SPECIAL KNOWLEDGE OF OR EXPERTISE IN PUBLIC HEALTH IN ACCORDANCE WITH § 501(R)(3) OF THE INTERNAL REVENUE CODE;</u>**".

RATIONALE: Avoids redundancy with Section § 501(R)(3) of the Internal Revenue Code, which includes a requirement on hospitals to engage in a public process.

<u>AMENDMENT NO. 7</u>

On pages 4 and 5, strike beginning with "**(4)**" in line 29 on page 4 down through "**AND**" in line 4 on page 5.

RATIONALE: Hospitals are already required to hold public meetings to discuss their community benefits process. This amendment reduces redundancy by removing an additional requirement to do so.

AMENDMENT NO. 8

On page 5, strike beginning with "**(5)**" in line 5 down through "**INCLUDES**" in line 8 and substitute:

"**(4) REQUIRE EACH NONPROFIT HOSPITAL TO CONDUCT ITS COMMUNITY HEALTH NEEDS ASSESSMENT IN CONSULTATION WITH COMMUNITY MEMBERS AS RECOMMENDED BY THE COMMUNITY BENEFIT REPORTING WORKGROUP AND TO SUBMIT AN ANNUAL COMMUNITY BENEFITS REPORT TO THE COMMISSION DETAILING THE COMMUNITY BENEFITS PROVIDED BY THE HOSPITAL DURING THE PRECEDING YEAR THAT SHALL INCLUDE**".

RATIONALE: This allows the Health Services Cost Review Commission to recommend a public engagement process for the Community Health Needs Assessment while aligning the language with federal statute.

AMENDMENT NO. 9

On page 5, strike beginning with "**COMMUNITY**" in line 10 down through "**HOSPITAL**" in line 11 and substitute, "**ACTIVITIES THAT WERE UNDERTAKEN BY THE HOSPITAL TO ADDRESS THE IDENTIFIED COMMUNITY HEALTH NEEDS WITHIN THE HOSPITAL'S COMMUNITY**".

RATIONALE: This avoids ambiguity regarding what constitutes an "initiative" and aligns terminology with the definition of "community benefit." It also limits the scope to those targeted by community health needs rather than all activities the hospital may engage in.

AMENDMENT NO. 10

On page 5, in line 13, strike "**INITIATIVE**" and substitute "**ACTIVITY**".

RATIONALE: This avoids ambiguity regarding what constitutes an "initiative" and aligns terminology with the definition of "community benefit."

AMENDMENT NO. 11

On page 5, strike beginning with "**THE**" in line 14 down through "**INITIATIVE**" in line 16 and substitute "**A DESCRIPTION OF HOW EACH OF THE LISTED ACTIVITIES ADDRESSES THE COMMUNITY HEALTH NEEDS OF THE HOSPITAL'S COMMUNITY**".

RATIONALE: Clarifies that the purpose of the reporting requirement is to link the community benefit spending with identified community health needs and requires the hospital to identify those community health needs.

AMENDMENT NO. 12

On page 5, strike beginning with "**THE**" in line 17 down through "**INITIATIVE**" in line 18 and substitute "**A DESCRIPTION OF EFFORTS TAKEN TO EVALUATE THE EFFECTIVENESS OF EACH COMMUNITY BENEFIT ACTIVITY**".

RATIONALE: This avoids ambiguity regarding what constitutes an "initiative" and aligns terminology with the definition of "community benefit."

AMENDMENT NO. 13

On page 5, strike beginning with "**A**" in line 19 down through "**HOSPITAL**" in line 20 and substitute "**A DESCRIPTION OF GAPS IN THE AVAILABILITY OF PROVIDERS TO SERVE THE COMMUNITY;**"

RATIONALE: Clarifies that hospitals' community benefit mission includes the entire community and not just uninsured individuals.

AMENDMENT NO. 14

On page 5, strike beginning with "**A**" in line 24 down through "**ASSESSMENT**" in line 25 and substitute "**A LIST OF THE UNMET COMMUNITY HEALTH CARE NEEDS IDENTIFIED IN THE MOST RECENT COMMUNITY NEEDS ASSESSMENT PREPARED BY THE DEPARTMENT OR LOCAL HEALTH DEPARTMENT FOR EACH COUNTY**".

RATIONALE: Added for clarity.

AMENDMENT NO. 15

On page 5, strike beginning with "A" in line 26 down through "year" in line 27 and substitute: "**THE LIST OF TAX EXEMPTIONS THE HOSPITAL CLAIMED DURING THE PREVIOUS TAXABLE YEAR, AS REPORTED TO THE COMPTROLLER IN ACCORDANCE WITH § 1–206 OF THE TAX – GENERAL ARTICLE**".

RATIONALE: Incorporates the reference to the Tax-General Article for clarity.

AMENDMENT NO. 16

On page 5, in line 29, strike "On or before October 1" and substitute "**BY NO LATER THAN DECEMBER 1**".

RATIONALE: Gives HSCRC an additional two months to develop the report to allow for a

more robust process.

AMENDMENT NO. 17

On page 5, in line 30, after "shall" insert "**COMPILE A REPORT ON THE STEPS TAKEN TO UPDATE THE COMMUNITY BENEFIT REPORTING PROCESS. THE REPORT SHALL INCLUDE**".

Strike beginning with "issue" in line 31 on page 5 down through "assessment" in line 11 on page 6 and substitute:

(1) A DESCRIPTION OF EACH HOSPITAL'S PROCESS FOR SOLICITING INPUT IN THE DEVELOPMENT OF THE COMMUNITY HEALTH NEEDS ASSESSMENT FOR THE PURPOSE OF § 501(R)(3); AND

(2) RECOMMENDATIONS FOR THE MARYLAND DEPARTMENT OF HEALTH AND THE LOCAL HEALTH DEPARTMENTS TO ASSESS THE EFFECTIVENESS OF THE HOSPITALS' COMMUNITY BENEFIT SPENDING TO ADDRESS THE COMMUNITY HEALTH NEEDS

RATIONALE: This amendment includes the Maryland Department of Health and the Local Health Departments in assessing the extent to which each non-profit hospital addresses the community health needs for its community. The HSCRC lacks the expertise that the health departments have in making these sorts of public health assessments.

AMENDMENT NO. 18

On page 6, strike beginning with "On" in line 12 down through "Article" in line 15 and substitute:

AFTER SATISFYING THE REQUIREMENTS UNDER SUBSECTION (A) OF THIS SECTION, THE COMMISSION SHALL SUBMIT A COPY OF THE ANNUAL NONPROFIT HOSPITAL COMMUNITY HEALTH BENEFIT REPORT, SUBJECT TO § 2–1257 OF THE STATE GOVERNMENT ARTICLE, TO THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE AND THE SENATE FINANCE COMMITTEE

RATIONALE: To incorporate the Annual Nonprofit Health Community Health Benefit Report in the report, which the HSCRC currently produces.