

Chapter 297 (2022 Acts of Assembly)

September 30, 2022

This meeting is being recorded

CALL TO ORDER & INTRODUCTIONS

REVIEW OF AGENDA

Ch. 297 (2022 Acts of Assembly) Workgroup - Agenda

Study Mandate and Goals

Ms. Allen

Review of Potential Recommendations

Deputy Secretary Williams

- Unanimous Recommendations from Prior Meeting
- Minimum Data
- Consumer/Patient Usability
- Compliance
- Other/Miscellaneous

Public Comment Period

Wrap Up and Next Steps

STUDY MANDATE & GOALS

Chapter 297 (2022 Acts of Assembly)

Effective July 1, 2023, every hospital shall:

- 1) make available to the public
- 2) on its website
- 3) a machine-readable file
- 4) containing a list of all standard charges
- 5) for all items and services provided by the hospital

The terms "hospital," "items and services," "machine-readable," and "standard charge" have the same meaning as set forth in 45 C.F.R. § 180.20.

Chapter 297 (2022 Acts of Assembly)

Directs the Secretary of Health and Human Resources to develop recommendations on implementing the act

Report on recommendations due by November 1, 2022 to:

- Governor
- Chair of House Committee on Health, Welfare and Institutions
- Chair of Senate Committee on Education and Health

REVIEW OF POTENTIAL RECOMMENDATIONS

Rules of Conduct

An organization's spokesperson may speak once about each potential recommendation.

Only one person may speak at a time.

If an organization wishes to address a potential recommendation, its spokesperson must raise their hand using the WebEx "raise hand" functionality.

An organization's spokesperson may not speak until the meeting chair has called upon the spokesperson.

Each organization's spokesperson may speak no more than 2 minutes per potential recommendation.

An organization's comments will address the potential recommendation and any position that the organization has regarding that potential recommendation.

An organization's spokesperson may not use their time to argue with or attack other organizations' comments.

All speakers must be respectful in tone and word choice.

Rules of Conduct (cont.)

If a speaker violates these rules:

- For the first occurrence, the speaker will receive one oral warning from the meeting chair.
- For the second occurrence, the meeting chair will recess the meeting for a duration of the chair's choosing.
- For the third occurrence, the meeting chair may ask staff to mute the speaker or eject the speaker from the WebEx meeting.

All organizations' comments about potential recommendations are being taken under advisement by the Office of the Secretary of Health and Human Resources.

Unanimous Recommendations from Prior Meeting

- No. 1: Virginia should adopt the federal minimums for machine-readable files found in 45 CFR § 180.50 in its hospital regulations.
- No. 2: Links to each hospital's webpage for the machine-readable file should be provided by Virginia Health Information (VHI) on each hospital's already-existing VHI webpage.

Example of VHI webpage for hospitals

Henrico Doctors' Hospital

General Info

Cardiac

Efficiency

Financial

Outpatient

Satisfaction

Service Lines

General Info

Our General Information includes locations, prices, facility size and other information to get you started comparing facilities.

Address:

1602 Skipwith Road
Richmond, VA 23229
[Get Directions](#)

(804) 289-4500

Administrator:

Chris Denton
CFO

Medicare Provider Number: 490118

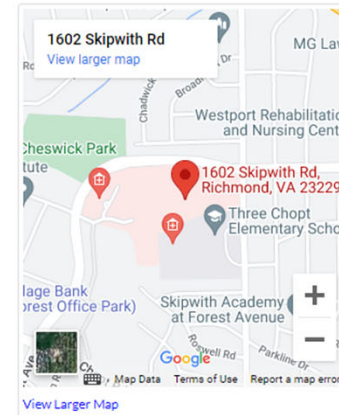
Parent Company: [HCA Healthcare Capital Division](#)

Tax Status: Proprietary

Teaching Status: None

NOTE: Retreat Hospital integrated with HDH in August 2008.

Facility Comments: Henrico Doctors Hospital includes 3 campuses: Henrico Doctors on Skipwith, Retreat Doctors on Grove and Parham Doctors on Parham Road



Website: www.hcavirginia.com

Example of VHI webpage for hospitals

Henrico Doctors' Hospital

General Info Cardiac Efficiency **Financial** Outpatient Satisfaction Service Lines

Financial Information

For Fiscal Year 1/1/2020 - 12/31/2020

[Why is this important?](#)

Revenue

| | |
|---------------------------|-----------------|
| • Gross patient revenue | \$4,859,466,138 |
| • Contractual allowance | \$4,216,637,182 |
| • Charity care | \$62,774,733 |
| • Bad Debt | \$13,488,649 |
| • Net patient revenue | \$566,565,574 |
| • Other operating revenue | \$50,548,190 |

Expense

| | |
|--|---------------|
| • Labor | \$186,963,904 |
| • Non-labor | \$218,219,868 |
| • Capital | \$35,396,419 |
| • Taxes | \$40,827,434 |
| • Total expense | \$481,407,625 |
| • Operating income | \$135,706,139 |
| • Net non-operating gains (loss) | \$0 |
| • Revenue and gains in excess of expenses and losses | \$135,706,139 |

Balance Sheet

| | |
|-------------------------|-----------------|
| • Current assets | \$102,363,177 |
| • Net fixed assets | \$206,962,658 |
| • Other assets | \$1,038,136,684 |
| • Total assets | \$1,347,462,519 |
| • Current liabilities | \$79,135,530 |
| • Long term liabilities | \$16,871,688 |
| • Total liabilities | \$96,007,218 |
| • Net worth | \$1,251,455,301 |

[Click here](#) for more information on operating and total margins.

Updated on: 12/17/2021

Unanimous Recommendations from Prior Meeting

No. 3: The Centers of Medicare and Medicaid Services and the Virginia Department of Health (VDH) should be responsible for compliance monitoring, and VDH should make public determinations of noncompliance.

No. 4: Outpatient surgical hospitals should be subject to Virginia's hospital price transparency requirements.

- VDH was unable to locate machine-readable file for any OSHs
- 2 OSHs did not appear to have websites
- CMS confirmed to VDH that ASCs in Virginia that are licensed as OSHs are subject to the federal hospital price transparency rule

Unanimous Recommendations from Prior Meeting

No. 5: VDH and VHI should compile a list of all currently licensed outpatient surgical hospitals and conduct outreach to each facility in advance of July 1, 2023 (no later than March 30, 2023) to inform the outpatient surgical hospitals of the applicability of Chapter 297 (2022 Acts of Assembly) to their facility.

Minimum Data

No. 6: Hospitals should be required to display prices in the machine-readable file as U.S. dollars (see pg. 10 of the Centers for Medicare and Medicaid Services “Hospital Price Transparency Frequently Asked Questions (FAQs)).

No. 7: “Items and services” should include medication that the hospital customarily provides as part of, or in conjunction with, a service.

| A1 | Type | CDM / DRG Code | Description | HCPCS Code | Charge | Aetna Medicaid | Aetna Medicare | Anthem Medicaid |
|----|------|----------------|---|------------|---------|------------------------------|----------------------------|---------------------|
| 1 | CDM | AM000008 | TRANSPORT REVERSE PER 30MIN | | \$121 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 2 | CDM | AN000001 | ANES LOCAL PUDENDAL | | \$576 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 3 | CDM | AN000021 | ANESTHESIA TIME 1/2 HR LVL 1 | | \$1,212 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 4 | CDM | AN000022 | ANESTHESIA TIME 1/2 HR LVL 2 | | \$1,490 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 5 | CDM | AN000023 | ANESTHESIA TIME 1/2 HR LVL 3 | | \$1,761 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 6 | CDM | AN000024 | ANESTHESIA TIME 1/2 HR LVL 4 | | \$2,089 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 7 | CDM | AN000025 | ANESTHESIA TIME 1/2 HR LVL 5 | | \$2,202 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 8 | CDM | AN000026 | ANESTHESIA TIME 1/2 HR LVL 6 | | \$1,212 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 9 | CDM | AN000028 | MOD SED SAME PHYS/QHP 5 OR GREATER | 99152 | \$279 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 10 | CDM | AN000029 | MOD SED SAME PHYS/QHP EA | 99153 | \$279 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 11 | CDM | AN000030 | MOD SED OTH PHYS/QHP GREATER 5 YRS | 99155 | \$279 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 12 | CDM | AN000031 | MOD SED OTH PHYS/QHP 5 OR LESS YRS | 99156 | \$279 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 13 | CDM | AN000032 | MOD SED OTHER PHYS/QHP EA | 99157 | \$279 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 14 | CDM | AN000033 | MOD SEDAT ENDO SERVICE GREATER THN 5YRS | G0500 | \$173 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 15 | CDM | AU000030 | AUD SCREEN PURE TONE AIR ONLY | 92551 | \$158 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 16 | CDM | AU000062 | TYMPANOMETRY | 92567 | \$144 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 17 | CDM | AU000082 | AUD EVOKED POTENTIAL AUD LTD | 92586 | \$749 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 18 | CDM | AU000089 | TYMPANOMETRY/REFLEX THRESHOLD MEASURE | 92550 | \$371 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 19 | CDM | BL000200 | CONVALESCENT PLASMA | P9099 | \$0 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 20 | CDM | BL009035 | PLATELET PHERES PAS LEU RED | P9035 | \$2,408 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 21 | CDM | BL009036 | LIQUID PLASMA | P9044 | \$459 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 22 | CDM | BL009037 | PLATELET PHERES PAS LEURED IRR | P9037 | \$2,469 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 23 | CDM | BL019072 | PLATELETS PHERES PASC LEURED PATHRED | P9073 | \$2,705 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 24 | CDM | BL072103 | FRESH FROZEN PLASMA(FFP) | P9017 | \$368 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 25 | CDM | BL072251 | CRYOPRECIPITATE | P9012 | \$283 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 26 | CDM | BL073053 | BLOOD (WHOLE) TRANSFUSION | P9010 | \$729 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 27 | CDM | BL073055 | POOLED COMPONENT FEE | 86965 | \$490 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 28 | CDM | BL073100 | THERAPEUTIC PHLEBOTOMY | 99195 | \$279 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 29 | CDM | BL073401 | WASHED RBC'S | P9022 | \$1,118 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 30 | CDM | BL078102 | DAT-ANTI-IGG | 86880 | \$102 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 31 | CDM | BL078103 | DAT-ANTI COMPLEMENT | 86880 | \$102 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 32 | CDM | BL079019 | PLASMA EXCHANGE | 36514 | \$7,687 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 33 | CDM | BL086003 | IGE PEANUT COMPONENT PROFILE | 86008 | \$18 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |
| 34 | CDM | BL086030 | IMMUNE AB TITER-AHG PREVIOUS | 86886 | \$210 | 100% of Medicaid IP/OP Rates | 102% of Medicare IPPS/OPPS | 100% of Medicaid II |

Consumer/Patient Usability

No. 8: VHI should publish instructions on its website on how a consumer/patient can view the contents of machine-readable file, including recommended free software to open the file.

Compliance

No. 9: VDH should be directed to create an off-site inspection process to monitor compliance with Virginia's hospital price transparency requirement.

No. 10: VDH should have sufficient resources to monitor compliance.

Sufficient resources

- 1 wage Program Administration Specialist II

OR

- 1 FTE Healthcare Compliance Specialist II, who would also handle complaints arising from Chapters 678 and 679 (2022 Acts of Assembly) about hospital requirements regarding financial screening of uninsured patients and payment plans for hospital bills
 - Despite reporting a fiscal impact including hiring staff for those bills, VDH only received \$100,000 (10% of which is for VHI to update its data collection processes) and no FTE authorization

Compliance

No. 11: If VDH determines that a hospital is noncompliant with any Virginia hospital price transparency requirement, VDH should provide notice to the hospital of the alleged noncompliance and publish determinations of noncompliance on its website.

No. 12: If VDH determines that a hospital is noncompliant with any Virginia hospital price transparency requirement and after providing notice, VDH should require the hospital to submit an acceptable plan of correction.

Compliance

No. 13: If VDH determines that a hospital is noncompliant with any Virginia hospital price transparency requirement and the hospital fails to submit an acceptable plan of correction, the State Health Commissioner should have the authority to impose monetary penalties on a hospital in amounts commensurate with federal civil monetary penalties.

No. 14: The State Health Commissioner should have the authority to place a hospital's license on probation if it fails to comply with any Virginia hospital price transparency requirement.

Probation by Other HHR Agencies

DHP: “place the practitioner or permit holder on probation with such terms as it may deem appropriate...”

- Terms are often remedial efforts and submission of proof within a specified time period, monitoring by another licensee, self-reports to DHP on a specified interval, etc.

DSS: "Probationary status" means placing a licensee on notice that the facility or agency is substantially out of compliance with the terms of its license and the health, safety, and wellbeing of persons in care are at risk.

- Probationary status is a precursor to more serious action such as license revocation, denial, or injunctive action unless immediate corrective action occurs.

Monetary Penalties

From Last Meeting: schedule of federal civil monetary penalties based on maximum daily dollar amount

- Hospitals with 30 or fewer beds: \$300
- Hospitals with 31 to 550 beds: # of beds X \$10
- Hospitals with 551 or greater beds: \$5,500
- Maximum daily dollar amounts will be adjusted annually using the multiplier determined by federal Office of Management and Budget

Virginia has created monetary penalties specific to noncompliance that do not involve patient quality of care

- Va. Code § 32.1-137.07 – Fines \leq \$1,000 for medical care facilities who engage in a pattern of balance billing

Compliance

No. 15: VDH should report to the Centers for Medicare and Medicaid Services any hospital that has been subject to enforcement action for failing to meet Virginia hospital price transparency requirements.

No. 16: VDH should not assess compliance of outpatient surgical hospitals with the Virginia hospital price transparency until January 1, 2024.

- This recommendation combined with Recommendation #5 would give OSHs at least 9 months to comply

Other/Miscellaneous

No. 17: Hospitals should be required to provide the link to the webpage where their machine-readable files are located as part of their annual filings to VHI.

No. 18: Hospitals should be required to submit the machine-readable file to VHI as part of their annual filings to VHI.

Other/Miscellaneous

No. 19. Based on the recently enacted law in Colorado:

- a. There should be a prohibition that prevents a hospital that is not in material compliance with Virginia hospital price transparency requirements from initiating or pursuing a collection against a patient or patient guarantor for a debt owed for the items or services;
- b. There should be a private right of action for a patient to file suit against a hospital that the patient believes was not in material compliance with Virginia hospital price transparency requirements and that has taken a collection action against that patient or their guarantor;
- c. There should be a prohibition that prevents a hospital from taking a collection action against the patient or patient guarantor while a lawsuit under 19(b) is pending; and
- d. If a hospital is found by a judge or jury to be materially out of compliance with Virginia hospital price transparency requirements, the hospital should:
 - i. Refund the payer any amount of the debt the payer paid;
 - ii. Pay a penalty to the patient or patient guarantor equal to the total amount off the debt;
 - iii. Dismiss or cause to be dismissed with prejudice any collection action and pay any attorney fees and costs to the patient or patient guarantor; and
 - iv. Remove or cause to be removed from the patient's or patient guarantor's credit report any report made by the hospital related to the debt.

PUBLIC COMMENT

Public Comment Period

There is a 4-minute time limit for each organization to speak

We will be calling from the list of persons who signed up to speak

After the 4-minute public comment limit is reached we will let you complete the sentence and will move on to the next speaker

We will call the name of the person on list and also the name of the person is next on the list

WRAP-UP & NEXT STEPS

ADJOURNMENT