**Maternal Mortality Review Stakeholder Group**

**Minutes**

**Monday, March 16, 2020**

**2:00 to 4:00 PM**

**Members in attendance:** Linda Alexander, Dr. Doris Titus-Glover, Teneelle Bailey, Pastor Meldon Dickens, Amanda L. Costley, Bonnie DiPietro, Elizabeth Dawes Gay, Rosemarie DiMauro Satyshur, David Mann

**Members absent:** Russell Moy, Meghana Rao, Amanda L. Costley, Kari J. Gorkos, Janice Miller, Maxine Reed Vance

**Note:**  Due to the outbreak of Covid-19 Coronavirus, this meeting was conducted via teleconference. The conference call information was made publicly available in advance of this meeting.

1. **Introductions**

The Maternal Mortality Review Stakeholder Group is pleased to welcome three new members:

* Dr. Doris Titus Glover
* Pastor Meldon Dickens
* Teneelle Bailey

1. **Review and Approval of Previous Meeting’s Minutes**

Dr. Alexander asked the Group to confirm they have received the email with the proposed minutes from the December 9, 2019 meeting. Members had not received the minutes. Dr. Alexander will redistribute and the Group will vote to approve them at the next meeting.

1. **Presentation on the Maryland Open Meetings Act**

*Deb Donahue, Esq., Asst. Attorney General, Office of the Attorney General*

The Open Meetings Act (OMA) is a Maryland statute that appears in Title 3 of the General Provisions Article of the Maryland Code. The Act states that its goal is “public business be conducted openly and publicly” and it sets forth the policy that, except in certain “special and appropriate circumstances,” the public “be provided with adequate notice of the time and location of meetings of public bodies, which shall be held in places reasonably accessible to individuals who would like to attend these meetings.

* Exceptions to OMA:
  + Legal privileges;
  + Personal privacy;
  + Free competition;
  + Procurement fairness;
  + Negotiations;
  + Integrity of investigations; and
  + Public security.
* OMA applies to public bodies that are:
  + Comprised of 2 or more individuals;
  + Created by a legal instrument;
  + Appointed by the Governor, a local chief executive, or an official subject to their direction; or
  + Appointed by a public body.
* OMA applies when the body gathers a quorum (51% or more) of members to discuss public business, consider matters of public business, or vote on public business.
* Members of a public body need to take an OMA training to ensure compliance with OMA.
* OMA does not apply when:
  + There is no quorum; and
  + The body is not discussing public business.
* In some cases, the body may be performing a variety of functions, some subject to OMA and some not. In this case, portions of the meeting may be closed and then reopened when OMA does apply.
* If the Act applies, the body must:
  + Provide notice to the public;
    - Provide time, date, and place in writing;
    - Tell the public if the meeting is being closed;
    - Common places to post agenda include the Maryland Register and the body’s website;
  + Post the meeting’s agenda at least 24 hours in advance;
    - List what the body will be discussing;
    - What items of public business will be covered;
    - Whether the meeting will be closed;
    - Include agenda with notice of meeting;
  + Keep minutes of the open portion of the meeting and of the closed portion and archive them for at least five years.
    - Minutes should be made available as soon as practicable;
    - Availability of minuets may depend on how often the body meets, as members must vote on them in person;
    - The minutes reflecting the closed portion of the meeting should include:
      * Times and locations of the closing;
      * Under which authority the body closed the meeting;
      * Members present;
      * Who voted;
      * A list of topics discussed; and
      * Actions taken.
      * The minutes should give enough information so the public knows what the body discussed, but not enough to expose the information that needs to be kept confidential.
  + Designate a person who will take the online OMA training and be present to do the closing statement when the meeting is closing to the public.
    - If the designee is not present, the Office of the Attorney General (OAG) provides a checklist to read through.
* Guidelines:
  + Open session should be the default, unless one of the OMA exceptions applies;
  + Exceptions are strictly defined under statute;
  + A session can only be closed if a majority of the members vote to close it;
  + The “closing statement” must be made to give members of the public notice;
  + The OAG provides a checklist for closing a meeting, forms to make taking minutes easier, and a form containing the closing statement and instructions.
* The 15 Exceptions to the OMA:
  + Discussing certain personnel matters;
  + Protecting the privacy or reputation of individuals concerning a matter not related to public business;
  + Considering the acquisition of real property for a public purpose;
  + Considering a matter regarding a proposal for a business to locate, expand, or remain in the State;
  + Considering the investment of public funds;
  + Considering the marketing of public securities;
  + Consulting with counsel to obtain legal advice;
  + Consulting with staff/consultants about pending or potential litigation;
  + Conducting or considering collective bargaining negotiations;
  + Discussing public security, if public discussion would constitute a risk to the public or public security;
  + Preparing, administering, or grading a scholastic, licensing, or qualifying examination;
  + Conducting or discussing an investigative proceeding on actual or possible criminal conduct;
  + Complying with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter;
  + Before a contract is awarded or bids are opened, discussing a matter directly related to a negotiating strategy/contents of a bid or proposal, ifpublic discussion would adversely impact participation in the competitive bidding/proposal process; and
  + Discussing cybersecurity, if public discussion would constitute a risk to:
    - Security assessments or deployments;
    - Network security information; or
    - Deployments or implementation of security personnel, critical infrastructure, or security devices.
* Not exceptions to OMA:
  + Topic is contrary to the public interest (unless a specific exception applies);
  + Topic is an unwarranted invasion of privacy (unless a specific exception applies);
  + The body is a law enforcement agency;
  + The matter is politically sensitive;
  + The matter is embarrassing to the public body;
  + The public can find out about the matter in another way;
  + The body believes they know what the public is really interested in and it will not be a topic of conversation; or
  + The topic does not seem right for public discussion.
* Complaints can be filed with the Open Meetings Act Compliance Board:
  + Janice Clark, Administrator
    - [Opengov@oag.state.md.us](mailto:Opengov@oag.state.md.us)
    - (410) 576-6560
* If OMA is violated:
  + 34 OMA opinions were issued by the Board in 2019.
  + If a violation is found, the public entity must have a member announce the finding at a meeting, read it aloud, and return it to the Board with the signatures of the entity’s members.
  + An individual can take a complaint to either the Board or to a court.
  + The Court can void an action if it violated the OMA.
  + The public entity could be fined for an OMA violation.

1. **Questions for the Speaker**

Q: Who pays fines when they are assessed?

A: If the body has its own budget, fines are taken from the budget. If not, the Department would most likely pay the fines.

Q: In various groups, the main body often meets a couple times a year and then creates subgroups that often meet virtually. Are these subgroups subject to OMA?

A: It depends on how the subgroup was constituted. For example, if the subcommittee was appointed by the body’s Chair, the subcommittee becomes a separate public body that is subject to OMA. If the body gets volunteers and convenes a subcommittee, it does not qualify as a public body and is not subject to OMA.

Q: Is privately-held information, like information that is HIPAA-protected, subject to OMA? For example, if the body is using de-identified health information about an event or case, can it close the meeting?

A: OMA requirements apply to discussions, not necessarily material the members have in their possession. Paper with confidential information can be in members’ possession and not subject to OMA.

Q: Would the exceptions not cover more general discussions? For example, would a body have to have an open discussion about whether or not to purchase property, then close to discuss specifics about purchasing?

A: If the body is discussing policy, the meeting should remain open. If the body is discussing how a policy applies to an individual or a group of individuals, then the meeting should be closed.

1. **Public Comment**

Dr. Alexander welcomed any members of the public on the call and opened the discussion for introductions, comments, or questions from the public. No response was received.

1. **Discussion Regarding Approving Minutes**

Dr. Alexander: Does OMA allow the Group to approve minutes via email?

AAG Donohue: Approval of minutes needs to occur in an open meeting.

Dr. Alexander: The body will table the vote on last meeting’s minutes for next meeting to give members time to review them. The body will approve both the December 9, 2019 minutes and today’s minutes at the beginning of the next meeting.

Group: Agrees.

1. **Next Meeting**

The Group will next meet on **Monday, June 8, 2020 from 2:00-4:00 p.m.** The meeting will occur at the Maryland Hospital Association. If necessary due to the ongoing pandemic, a virtual meeting can be arranged.

1. **Vote to Adjourn**

Submitted to the Stakeholder Group by

Linda Alexander, MD, MPP, FACOG

Acting Medical Director, Maternal Child Health Bureau, Maryland Department of Health