



**Minutes of the State Board of Health  
March 11, 2009**

Point Plaza East, Tumwater, WA 98501

**SBOH members present:**

Treuman Katz, Chair (by telephone)  
Keith Higman, MPH, Vice Chair  
The Honorable John Austin, PhD  
Frankie T. Manning, MN, RN  
Patricia Ortiz, MD

Bill White  
Karen VanDusen  
The Honorable Donna Wright  
Diana T. Yu, MD, MSPH

**SBOH members absent:**

Mel Tonasket

**State Board of Health Staff present:**

Craig McLaughlin, Executive Director  
Desiree Robinson, Executive Assistant  
Tamara Fulwyler, Outreach Coordinator

Ned Therien, Health Policy Analyst  
Tara Wolff, Health Policy Analyst

**Guests and Other Participants:**

Jennifer Aspelund, Citizen  
Tony Barrett, Citizen  
Vicki Bouvier, Department of Health  
Kate Bradley, Bellevue College  
Michelle Davis, Department of Health  
Jessie Deloach, Department of Health  
Mitch Denning, Alliance of Education Association  
Cari Franz-West, Department of Health  
James Green, Citizen  
Jan Jacobs, Department of Health

Peggy Johnson, Department of Health  
Richard Lillie, Department of Health  
Maria Mason, Citizen  
Drew Noble, Citizen  
Kathy O'Toole, Washington Education Association  
Keith Simon, Citizen  
Thelma Simon, Citizen  
Kyle Sturgill-Simon, Citizen  
Tami Thompson, Department of Health

Keith Higman, SBOH Vice Chair, called the public meeting to order at 1:03 p.m. and read from a prepared statement (on file).

**1. APPROVAL OF AGENDA**

*Motion: Approve March 11, 2009 agenda*

*Motion/Second: Approved by general consent.*

**2. ADOPTION OF JANUARY 14, 2009 MEETING MINUTES**

*Motion: Approve the January 14, 2009 minutes*

*Motion/Second: White/Ortiz. Approved unanimously.*

### 3. SBOH ANNOUNCEMENTS AND OTHER BOARD BUSINESS

Craig McLaughlin, SBOH Executive Director, handed out a summary of the SBOH budgeted and actual expenses for this fiscal year to date. He also referred to materials in Board member packets under Tab 3. He explained the overall State budget deficit is projected to be about \$8.7 billion through the next biennium. He said the Governor built her original budget proposal for the next biennium on an assumption that about \$1 billion of federal stimulus money would be coming to this state. It now looks more like \$4 billion of federal stimulus funds will be received by the State. However, the State budget shortfall projections have increased by \$3 billion since the Governor developed her original budget and federal stimulus money cannot be used flexibly. He explained that SSB 5460 reimposed hiring freezes for state agencies and other cost savings for the current biennium. He said he has responded to a request from OFM to propose some cost savings. This included his recommendation to move the Annual Report to the Governor to a two-year cycle, incorporating some aspects of the current State Health Report and eliminating the State Health Report. He said he also recommended suspending responsibility for health impact reports.

Mr. McLaughlin said he has heard from Dr. Ortiz that she is interested in a second term and has alerted the Governor's office. He said he understands that Chair Katz will not likely be seeking a second term. Mr. McLaughlin also reported that he would be taking about six weeks off for knee surgery at the end of April.

When the State hiring freeze was lifted, the Board hired Andrea Corage Baden on an on-call basis to prepare health impact reviews. However, no health impact reviews have been requested.

He spoke about a new push to establish national accreditation standards for public health agencies. The standards closely match with this state's Public Health Improvement Partnership standards. Although the Public Health Accreditation Board promotes the national standards as voluntary, they might end up as criteria for grants. He said he was still active in work of the Mental Health Transformation Group. He said Tamara participated in National Policy Agenda Leadership Summit through a federal grant. He said that Tara was participating in meetings regarding HIV rules and Ned has been working on zoonotic rules. He also mentioned that staff is reviewing TB treatment rules regarding due process for directly observed therapy. He also said that the Board is soliciting nominations for the Featherstone Reid Award.

The Board received a public request to review an action of Vickie Ybarra, acting as Chair of the Governor's Interagency Council on Health Disparities. The issue was her authority to prevent someone from showing a PowerPoint presentation while providing public testimony to the Council. After review and consultation with counsel, the complainant was advised that Ms. Ybarra appeared to have handled the situation within her authority as Chair.

Vice Chair Higman commented that there is apprehension about public health agency accreditation during a time of deep cuts in local health programs. Diana Yu, SBOH member, commented that she was hearing the same apprehension from local health officials and doubts the value of accreditation.

### 4. DEPARTMENT OF HEALTH UPDATE

Bill White, Deputy Secretary of Health & SBOH Member, reported that the sale of tobacco to minors is starting to creep up and this issue needs constant vigilance. He said budget problems at local health jurisdictions are affecting the Department of Health because of rules that make the department the backup enforcement agency. His example was the water recreation program in Lewis

County. The department does not have a fee structure and cannot add positions. He reported that the national recall on peanut products due to Salmonella resulted in about 60 illnesses in Washington. He mentioned that the department's WIC program recently published a new list of foods that qualify. Organic milk was removed from the approved list because of the increased cost over other milk. He discussed federal dollars to fund public drinking water projects. The State is getting \$36 million for this, but the department has received more than \$400 million in requests. He said the Death with Dignity initiative has required the department to develop rules to implement provisions. The department has a special Web site to provide information to the public and access to forms. The department has used the Oregon model heavily for its rules. He also mentioned that a whooping cough outbreak tied to a recent wrestling tournament at the Tacoma Dome.

The budget issues can be split into the supplemental budget for this biennium and the new budget for the next biennium. The department needs to save \$8 million from the budget for the current biennium. The next economic forecast will come out March 19. The House and Senate are expected to come out with proposed state budgets the following week. The department expects to have a reduction of \$70 million in its budget for the next biennium. The money coming in from the federal stimulus package will come with lots of strings and federal agencies have not finalized the details. In response to a question from Vice-Chair Higman, he clarified that the state must find both long-term and immediate savings. He said the goal is to come out of the budget crisis with a public health system with its basic structure intact that can be built on.

**5. BRIEFING ON PROPOSED SEWAGE TANK RULES, CHAPTER 246-272C WAC**

Vice Chair Higman introduced this agenda item, which focused on explaining the department's proposal to put construction standards for sewage tanks used in on-site wastewater systems into rule. Standards are currently only in guidelines.

Maryanne Guichard, Department of Health, introduced herself as the Office of Shellfish and Water Protection Manager. She said wastewater disposal is important for preventing disease transmission and protecting water quality. Materials behind Tab 5 in member packets provide an overview of the development of this sewage tank rule proposal, types of tanks included, and a timeline. The department has guidelines for septic tank design, which it has reviewed with a panel of technical experts to develop a rule proposal. The rule would apply to many types of tanks used in on-site wastewater systems, including grease interceptors. It would apply to both pre-manufactured tanks and built-in-place tanks. Because her program has unfilled positions due to the hiring freeze, finalization of the rule is proceeding slower than expected. She anticipates being ready for a public hearing in October.

In response to a question from Dr. Yu, Ms. Guichard clarified that the proposed rule would apply to new tanks, not existing tanks. Karen VanDusen, SBOH Member, asked how repair issues such as a leaking tank would be handled. Ms. Guichard explained that this would be addressed through existing rules and requirements for regular inspections. Patricia Ortiz, SBOH Member, asked about the use of pump versus holding tanks. Ms. Guichard explained that pump and holding tanks were mainly used for single homes but that in some cases holding tanks were used for larger needs such as campsites and highway rest stops.

**6. HEARINGS ON SHELLFISH SANITATION: MINIMUM PERFORMANCE STANDARDS, WAC 246-282-005, AND VIBRIO CONTROL PLAN, WAC 246-282-006**

Vice Chair Higman asked Ned Therien, SBOH Staff, to introduce this agenda item. Mr. Therien explained that these proposed rule revision applies to shellfish, oysters, and clams but not to

crustaceans. He explained that the rule needs to reference the most current National Shellfish Sanitation Program (NSSP) standard. There is also a need to update the *Vibrio parahaemolyticus* (*Vp*) plan in rule to better prevent illness from *Vp*. Mr. Therien reintroduced Ms. Guichard.

Ms. Guichard explained that there is a need to adopt the 2007 NSSP standard. She said 80% of Washington shellfish are marketed outside of Washington and it is critical to the industry's viability to stay current with these regulations. Treaty tribes have also agreed to adopt the latest NSSP standards. Shellfish industry leaders also want the state to increase *Vp* protections. Ms. Guichard summarized the steps leading to the proposed rule revision and the major recommendations that have been included. Proposed rule changes include: (1) requiring that shell-stock that is intended to be eaten raw be refrigerated within four hours after harvest from Puget Sound during summer months; (2) requiring that harvest records indicate time of transfer of shell-stock from a harvester to another dealer; (3) requiring that records be kept for shell-stock disposition when temperature controls are delayed; (4) clarifying training requirements; (5) requiring non-compliant companies or companies linked to a disease outbreak to take refresher training; (6) modifying HACCP plan requirements to help ensure *Vp* control precautions are in place. Plans would have to be approved by the department before harvest season. She also noted that the department's Assistant Attorney General developed language to clarify exemption provisions in the rule.

Dr. Yu noted that we anticipate climate changes and wondered if the rule could indicate something other than the month of year. Ms. Guichard explained that environmental triggers were no clearer than using historical data tying illnesses to summer months. Ms. Guichard explained that 24-36 hours was allowed from harvest until refrigeration during winter months. Dr. Yu stated that she appreciated that the department's shellfish program seemed to have continually strong support from the industry. John Austin, SBOH Member, asked about the five-day provision for exemptions. Ms. Guichard explained that the five-day clock started when the department received the complaint. She did not anticipate problems meeting this time frame.

No one came forward to testify.

**Motion:** *The Board adopts a revision to WAC 246-282-005 for the purpose of referencing the 2007 version of the National Shellfish Sanitation Program's Guide for the Control of Molluscan Shellfish, as proposed in WSR 09-04-097.*

**Motion/Second:** *Yu/Austin. Approved unanimously*

**Motion:** *The Board adopts a revision to WAC 246-282-006 for the purpose of enhancing the state-specific Vibrio parahaemolyticus control plan, as proposed in WSR 09-04-096.*

**Motion/Second:** *Yu/Manning. Approved unanimously*

Deputy Secretary White complemented shellfish program staff on their relationship with industry stakeholders.

*The Board recessed for break at 2:30 p.m. and reconvened 02:42 p.m.*

## 7. SCHOOL ENVIRONMENTAL HEALTH & SAFETY RULE UPDATE

Mr. McLaughlin introduced a recording of the March 10 Senate floor debate and vote on SSB 5779. He said there is no specific money in the final federal stimulus package earmarked for school repairs. The Legislature has been ratcheting back the things schools are required to do. He said that if SSB

5779 goes through and becomes law, it speaks to implementation rather than adoption. He said that the Board could still consider a June 2009 adoption of the rule with delayed implementation to match the statute. The existing rule could be left in place until the new rule became effective. If the bill does not pass or the Governor vetoes it, it would leave the Board with mixed messages.

Member VanDusen commented that she was disturbed that the Senate discussion indicated that the senators did not know which agency would adopt this rule and probably have not read the proposal. Mr. McLaughlin said if the bill becomes law, he would recommend the Board adopt the rule and send it, with the significant analysis, to the Legislature. Member VanDusen wondered whether it would be appropriate for the Board to send a thank you letter to legislators who voted against the bill. Member Austin wondered whether it would be helpful or harmful for the Board to prioritize provisions in the proposed rule for the Legislature. Deputy Secretary White said DOH generally would not write a thank you letter to legislators about votes. He said it could be done as an individual citizen. Vice Chair Higman said the Board's Environmental Health Committee is looking for direction from the full Board about how to proceed. Frankie Manning, SBOH Member, said the Board indicated its direction last fall and encouraged the committee to develop language to move the rule forward in June. After additional discussion among Board members and Mr. McLaughlin, Vice Chair Higman concluded that the Board was requesting that the Environmental Health Committee move forward on its behalf for the June meeting. Member Yu volunteered to serve as an adjunct member of the committee.

## **8. LEGISLATIVE UPDATE**

Mr. McLaughlin discussed the status of bills in the Legislature that could impact Board business. See materials behind Tab 8 in member packets. He spent some time discussing concerns with SB 5588 provisions that would suspend the Governor's Interagency Council on Health Disparities during the next biennium. This would severely hinder the Council's momentum and jeopardize a federal grant that funds the outreach coordinator, Tamara Fulwyler.

## **9. DISCUSSION ON HEALTH DISPARITIES POLICY COMMITTEE**

Tara Wolff, SBOH Staff, reminded the Board that one year ago it formed three policy committees but deferred a decision about how to handle the Board's health disparities focus. She explained that over the past year, the Health Disparities Committee has been meeting jointly with the Health Promotion Committee. Ms. Wolff indicated that there were three options. The Board could retain the Health Disparities committee, disband it and assign its work to all three committees, or establish it as a sub-committee of the Health Promotion Committee. Member Manning said that health disparities issues continue to be important for the Board. She encouraged keeping the function of the committee in some form. Vice Chair Higman asked for comments. Dr. Ortiz supported keeping the functions of the committee in some form too. Member Austin asked which structure Member Manning recommended. She said she recommended making it part of the Health Promotions Committee. Mr. McLaughlin recommended turning over the decision on the structure to the Health Promotions Committee. This was agreed to as the sense of the entire Board.

## **10. PUBLIC TESTIMONY**

Kate Bradley, librarian at Bellevue Community College and member of WEA Air Quality Committee, said WEA is supportive of SBOH adopting the proposed school rule and offered lobbying assistance.

James Green, citizen of Cle Elum, expressed concern that the Legislature was hindering the Board's intentions to adopt the school rule.

Jennifer Aspelund, citizen, pointed out a statement of Chair Katz that the Board intends to adopt the rule in some form after the legislative session of 2009. She encouraged the Board to adopt the rule. She provided a handout with a picture of a classroom with ceiling tile damage and asked that it not be used in Board presentation. She said that she testified on SB 5779 and was upset with the way she was treated by Senator McAuliffe.

Maria Mason, testified that she was discouraged about the progress of the school rule. She encouraged the Board to do what it could to explain the importance of the rule to legislators. She pointed out a USA Today article about EPA investigating air quality around schools.

Kyle Sturgill-Simon, former student in Kittitas County, urged the education of legislators about the importance of the proposed school rules.

Keith Simon, parent of Kyle, urged the Board to adopt the proposed school rule.

Drew Noble, representing small water systems, encouraged the Board to try to save the Water Supply Advisory Committee.

Thelma Simon, parent of Kyle, encouraged the Board to find a way to adopt revised school rules.

*The Board took a break at 4:01 p.m. and reconvened at 4:07 p.m.*

## 11. HONORING THE CONTRIBUTIONS OF DAVID CRUMP

Vice Chair Higman read Resolution 09-01 honoring former Board member David Crump. Deputy Secretary White commented on Mr. Crump's ability to handle delicate, difficult issues with civility. Vice Chair Higman spoke of how welcoming Member Crump was to him when he joined the Board. Member Manning spoke of Member Crump's humanist approach and what it meant to her. Mr. McLaughlin talked about how much he appreciated Member Crump reaching out to staff. Dr. Yu commented that she admired how often Member Crump thanked people. Members Austin and VanDusen both commented on how much they enjoyed working with him – and noted his kindness and thought-provoking questions. Dr. Ortiz echoed the other members' sentiments and noted Member Crump's graciousness. Chair Katz said that he felt the proclamation for Member Crump was extremely accurate and asked Member Crump to stay in touch with the Board. Member Crump thanked everyone. He noted that he cherished his time at the Board and had wanted a third term. He said it was a pleasure to work with the Board members and staff.

***Motion:** The Board adopts Resolution 09-01 to honor the service of David Crump to the Board.*

***Motion/Second:** Adopted by unanimous proclamation.*

## 12. BOARD MEMBER COMMENTS AND CONCERNS

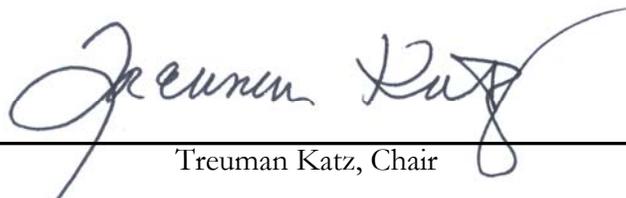
Member VanDusen commented on the great need for homeless shelters. She said that if the Board proceeds with modification of transient accommodation rules it should minimize any requirements that would hinder people providing basic shelter to keep the homeless alive. Dr. Yu commented on the lack of a regulating agency for homeless shelters and for handling complaints about them and not adding burdens to local health agencies. Member Austin commented on the budget problems for State Parks. He would encourage public donations to State Parks through driver license renewals

that would have an opt-out provision. Deputy Secretary White commented that these hard times require working with local health partners to determine the essential deliverables and capacity for public health. Member VanDusen wondered what happened with the work done to develop core public health function guidelines. Dr. Yu said she thinks the issue of protecting public health is resonating with the public. She likes to be optimistic. Dr. Ortiz commented on how gratifying she finds it to work with the Board. Member Wright commented that she sees bright spots with communities becoming engaged to help each other. Member Manning spoke about the need to protect the young and expressed concern with the recent closure of a substance abuse program for Native American youth. Chair Katz commented that our children had nothing to do with the economic mess the country is experiencing and that the children deserve to be protected.

## ADJOURNMENT

Vice Chair Higman, adjourned the meeting at 4:40 p.m.

## WASHINGTON STATE BOARD OF HEALTH



Treuman Katz, Chair