



**Minutes of the State Board of Health
March 10, 2010**

Great Wolf Lodge, 20500 Old Highway 99 SW, Centralia, WA 98531

SBOH members present:

Keith Higman, MPH, Chair
The Honorable John Austin, PhD, Vice-chair
Maria Hernandez-Peck, PhD
Patricia Ortiz, MD
Mel Tonasket

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

SBOH members absent:

Frankie T. Manning, MN, RN

SBOH Staff present:

Craig McLaughlin, Executive Director
Desiree Robinson, Executive Assistant
Heather Boe, Communications Consultant

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

Guests and Other Participants:

Jennifer Aspelund, Citizen
Vicki Bouvier, Department of Health
Ann Clifton, Mercury Awareness Team
Kelly Cooper, Department of Health
Denise Frisino, Citizen
Marcia Goldoft, Department of Health
John Kim, Sanofi Pasteur
Jeanette Lane, No Tolerance News

Kathy O'Toole, Washington Education Association
Terry Reid, Department of Health
Tracy Sandifer, Department of Health
Christie Spice, Department of Health
Tami Thompson, Department of Health
Gayle Thronson, Office of Superintendent of Public Instruction

Keith Higman, Board Chair, called the public meeting to order at 9:05 a.m., read from a prepared statement (on file), and thanked Great Wolf Lodge personnel for their hospitality.

1. APPROVAL OF AGENDA

Motion: Approve March 10, 2010 agenda

Motion/Second: VanDusen/Wright. Approved unanimously

2. ADOPTION OF JANUARY 13, 2010 MEETING MINUTES

John Austin, SBOH Vice Chair, pointed out a typo on page five.

Motion: January 13, 2010 minutes

Motion/Second: Austin/White. Approved unanimously as corrected.

3. SBOH ANNOUNCEMENTS AND OTHER BUSINESS

Craig McLaughlin, Board Executive Director, directed members to materials in their packets behind Tab 3, starting with "*A Public Health Approach to Children's Mental Health*," which acknowledges the Board's contributions. Mr. McLaughlin noted a letter from Chair Higman to legislators expressing

concerns about restrictions on the use of state funds for anti-tobacco social marketing. He mentioned a news release stating that 16,000 jobs were lost from local public health programs nationwide in 2009 because of the recession. He also noted an announcement soliciting nominations for the Warren Featherstone Reid Award (the deadline is May 1). Included in the packets is a draft one-page summary of rule making processes, as requested by Board members at the last meeting.

4. DEPARTMENT OF HEALTH UPDATE

Bill White, Deputy Secretary of Health and Board Member, read from a list of the department's top ten accomplishments for 2009. He also noted Senate Resolution 8703 acknowledging Mary Selecky's receipt of the American Medical Association's Nathan Davis Award for Outstanding Government Service. Mel Tonasket, SBOH Member, asked whether a program funded by the insurance companies to purchase childhood vaccines would raise insurance rates. Deputy Secretary White said the program should provide savings to the insurance companies. Diana Yu, SBOH Member, applauded the Washington Academy of Pediatrics for leading the effort to get the vaccine purchase bill passed. Member Tonasket asked how to get hospital infection rate data. Deputy Secretary White said it was available online and would get the Board the Web address. Mr. McLaughlin said that he heard many compliments about the contributions of Janna Bardi, Department of Health staff, to efforts to develop the Washington Vaccine Association partnership. Chair Higman said health care providers in his community are relieved that they will not have to negotiate with the drug companies directly for childhood vaccines. He expressed his support for the Healthy Communities Washington program because of the importance of addressing public health at the community level, especially to help prevent chronic diseases.

5. BOARD MEMBER COMMENTS AND CONCERNS

Chair Higman expressed congratulations from the Board to Mary Selecky on her receipt of the Nathan Davis Award. Member Tonasket said he is proud to meet in this fine facility of the Chehalis Tribe. He said the hotel represents a turn-around in the economy of this small tribal nation and provides many jobs. Vice Chair John Austin said he was pleased to see in the recent edition of *USA Today* an article encouraging childhood vaccinations. Patricia Ortiz, SBOH Member, said dentists are telling her the Medicaid pediatric dental program was very cumbersome because of the paperwork required. She said she would like to have the Board consider this issue in the future. Dr. Yu said ABC Dental is an example of a successful approach. She also said fluoridation of community water provided an important public health benefit to reduce dental problems in children. Medicaid reimbursement, she said, was a general problem for providers, who say it does not cover the cost of providing service. She also said she has received complaints about hygiene in medical provider clinics. She asked if anyone regulated those facilities. Deputy Secretary White said the department inspects medical care facilities such as hospitals and has oversight of the professions, but does not regulate physician-owned offices.

The Board took a break at 10:10 a.m. and reconvened at 10:30 a.m.

6. WAC 246-760-100, WHAT ARE THE QUALIFICATIONS FOR VISUAL SCREENING PERSONNEL? — DISCUSSION OF EXPEDITED RULE MAKING

Mr. McLaughlin explained that he is authorized to sign rule making orders and that expedited rule making does not require a vote of the Board, but said he wanted to make sure the full Board approves any such actions. He said expedited rule making is a streamlined process requiring fewer staff resources. A CR-105 notice has been filed, he said. If there are no objections to the rule change by April 5, the CR-103 can be filed; however, if it is challenged the Board would need to file a CR-101 and hold a hearing. Tara Wolff, Board Staff, acknowledged members of the audience who

worked on the rule. She explained that WAC 246-760-100 lists the qualifications necessary for people who provide vision screening of students. Currently, the rule specifies that ophthalmologists, optometrists, or opticians cannot perform vision screening in schools. This restriction discourages self-referrals. However, last session the Legislature passed ESSB 5889, which explicitly allows these professionals to perform vision screenings. Provisions in legislation reduce the risk of self-referrals. She said the Board needs to revise its rule to conform to the statutory change. She directed members to material behind Tab 6 in their packets, including a CR-105. Chair Higman asked for an explanation of the process if someone objects during the comment period. Ms. Wolff explained how someone could contact Board or Department of Health staff with a concern. Mr. McLaughlin explained that if the Board received an objection, members would be notified and a hearing scheduled. In this case, the CR-105 would become a CR-101. Karen VanDusen, SBOH Member, said the bill specifically allows these three provider groups to donate their time. She wondered if the rule revision made this clear enough. Mr. McLaughlin said this was a choice. The Board could either, edit the rule to say this more explicitly, or we could remove the restrictive language from our rule and let the RCW carry the water. He explained that there are pluses and minuses to either approach, but that our partners had favored this approach. Ms. Thronson, in the audience, agreed that her agency, the Office of Superintendent of Public Instruction, preferred this approach.

***Motion:** Provided no objections are received by the Department of Health or the State Board of Health during the public comment period, the Board approves the amendments to revise WAC 246-760-100 as published in WSR 10-04-069 and asks that a CR-103 be filed to adopt the amendments.*

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

7. LEGISLATIVE REPORT

Mr. McLaughlin noted this year's short legislative session would end March 11. He said there were many unresolved issues related to the budget that might result in the need for a special session. One of those issues is education reform, part of which relates to federal *Race to the Top* funding. This late in session the Legislature will most likely not consider other policy bills. He said a pair of pharmaceutical product stewardship bills of interest to the Board did not survive. A bill (SB 6248) that bans bisphenol A in children's food containers and sports bottles passed. House Bill 2551 to establish the Washington Vaccine Association passed. Mr. McLaughlin testified with concerns on Senate Bill 6494, regarding the Board's school environmental health and safety rules. It did not pass. He said the Legislature was still considering Senate Bill 6426, which would eliminate some boards and commissions. An amendment under consideration would eliminate travel reimbursement for all board and commission members during FY 2010-11. He explained the status of the budget bills. He said the drafts included large cuts to the department. He mentioned a bill still being considered (SB 6503) that would require state agencies to furlough employees or save equivalent money through other compensation changes. He said the various budget-related bills would result in a lot of pain for state employees and for people who receive government services. Materials behind Tab 7 provide more details, he said.

Deputy Secretary White mentioned there were major differences between the House and Senate versions of the budget, but said it would not be worth speculating about the final budget. He said there were not a lot of surprises for the department in the draft budgets. Chair Higman asked if there was a statutory deadline to pass a budget bill. Mr. McLaughlin said there was not because a biennial budget is in place from the 2009 session; however, if adjustments are not made to the budget, the state will not have a balance in its accounts to pay bills by this fall. Member Tonasket asked about a line item in the proposed department budget regarding reduced funding for colon

screening. Deputy Secretary White explained that the funding cut reduced awareness programs, not screenings.

8. POSSIBLE AMENDMENT OF CR-103 (WSR 10-01-174) FOR CHAPTER 246-366A WAC, ENVIRONMENTAL HEALTH AND SAFETY STANDARDS FOR PRIMARY AND SECONDARY SCHOOLS, REGARDING EFFECTIVE DATE

Chair Higman stated he would accept public testimony relevant to the agenda item before the Board takes action. Member VanDusen introduced the agenda item. She explained that the Board adopted revised environmental health and safety standards for primary and secondary schools in August 2009. However, the 2009-11 biennial state operating budget includes a proviso prohibiting the Department of Health and the Board from implementing new or amended school rules without specific funding. The CR-103 rule making order filed by the Board in December specified a July 1, 2010 effective date in case the Legislature allocated funds during the 2010 legislative session. Such funding has not materialized. The Board's Environmental Health Committee, therefore, recommended amending the CR-103 to change the effective date to July 1, 2011. Member VanDusen introduced Ned Therien, Board Staff, and read the proposed Board motion (see Tab 8). Mr. Therien described documents behind Tab 8 in members' packets. He further explained the need for the action recommended by the committee. He mentioned that proposed Substitute Senate Bill 6494, as amended, would have eliminated all of the Board's school rules on June 30, 2011 and would have required different procedural actions. Dr. Yu, asked for clarification about whether the old rule (chapter 246-366 WAC) was still in effect. Mr. Therien said it was. Chair Higman said the motion in front of the Board was essentially an administrative procedure.

At 11:20, Chair Higman took public testimony.

Denise Frisino, former teacher, said she regretted Board staff had not alerted school rule stakeholders when SB 6494 was introduced in the Legislature because she would have spoken against the bill. She said she had expected to be notified about legislative bills that could affect implementation of the Board's school environmental health and safety rules.

Jennifer Aspelund, citizen, also expressed disappointment that Board staff did not alert stakeholders about the introduction of SB 6494. She said she hoped the CR-103 amendment would be filed in a timely manner, so as not to compromise all the hard work already done on revising the Board's school environmental health and safety rules. She read a similar statement of sentiment from Maria Mason, citizen, asking Board staff to send e-mail notifications to stakeholders about legislative bills that could affect the rules.

Kathy O'Toole, Washington Education Association (WEA) representative, said that her association continues to monitor bills related to the school environmental health and safety rules and provide testimony to the Legislature about its interest. She said WEA offered its support to the Board to advocate for the rules.

Chair Higman closed public testimony at 11:30 am.

Member VanDusen asked Mr. McLaughlin to review the timing for filing an amended CR-103. Mr. McLaughlin explained that the Board was being asked to provide direction at this meeting because it will not meet until June and a decision to amend the CR-103 would need to be made before then. Mr. Therien explained that the *State Register* now says the new rules will become effective in 2010. To

assure a corrected effective date is published in the *State Register* before the scheduled July 1 effective date, an amended CR-103 would need to be filed in May. Chair Higman said he was confident staff would complete appropriate actions in time. Member Tonasket indicated that he was unhappy with some members of the Legislature. He said he wanted Board staff to do a better job notifying interested parties of legislative actions that could impact the school rules. Mr. McLaughlin said staff could provide limited notification, but the Board is restricted in taking an advocacy role. He said information about legislative activities is publicly available and the Board should not be considered the primary source for information about proposed legislation. Chair Higman said all state agencies walk a fine line around advocacy. Member VanDusen noted that the Board has an underlying frustration with the inability to implement the new rules. She said the important thing is for Board members to keep the work alive. Deputy Secretary White reminded members that slow growth in funding even if positive economic forecasts are realized. He said he expects the Board will take similar action on the rules a couple of times more.

***Motion:** The Board directs its Executive Director to amend the CR-103 published as WSR 10-01-174 before July 2010 to change the effective date to July 1, 2011.*

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

Mr. McLaughlin stated that he would continue to monitor legislative actions regarding school health and safety issues if there is a special session. He suggested advocates might want to watch the process of the Quality Education Council and its Funding Formula Technical Working Group.

9. BRIEFING ON DEPARTMENT OF HEALTH TOBACCO PROGRAM ACTIVITIES

Member Yu introduced Terry Reid, Director of Tobacco Prevention and Control Unit at Department of Health. She reminded Board members that his presentation was called for by the Board's five-year strategic plan. Mr. Reid's presentation addressed three areas: program and policy background, current progress and challenges, and opportunities for the future. A copy of the PowerPoint presentation is behind Tab 9.

Member Tonasket said he was struck during a visit to the state hospital at Medical Lake by the large number of chain smokers. He noted the pockets of people (such as low-income people or high school dropouts) in every community with high smoking rates. He wondered if prevention efforts could be more successful if they addressed young people rather than older, committed smokers. He also felt that addressing social inequities is an important element affecting smoking rates. Mr. Reid agreed that preventing smoking is important. It is easier to prevent an addiction than to treat one; however, it is also important to help existing smokers quit. He noted that healthy places promote healthy people and stressed the need to create policies to foster healthy environments. He said tobacco advertising and places that sell cigarettes are much more prevalent in low-income communities. Member Hernandez-Peck mentioned two programs in Spokane directed at people with mental health problems. Mr. Reid noted that more treatment facilities are putting programs and policies in place to help clients with tobacco addiction. Member VanDusen said she was dismayed to see that none of the tobacco settlement revenues were going to fund prevention programs. She wondered what community-based policies might be helpful to promote healthy people. Mr. Reid said there is a groundswell of interest in increasing the number of rental units that are non-smoking, and managing tobacco advertising locations. Deputy Secretary White noted that the Department of Health campus is now smoke free. Chair Higman noted the importance using social marketing to reach people contemplating quitting. Mr. Reid explained that legislative action prevents the use of state funds to buy paid media advertising.

The Board recessed for lunch at 12:26 p.m. and reconvened at 1:37 p.m.

10. WAC 246-491-039, HEARING ON CONFIDENTIAL INFORMATION ON STATE OF WASHINGTON LIVE BIRTH AND FETAL DEATH CERTIFICATES UNDER CHAPTER 70.58 RCW RULE

Dr. Ortiz reminded Board members that this issue had been before them in the fall. She explained that this rule revision concerns information provided on birth certificates. There are two sections on birth certificates, one public and one confidential. The rule revision will allow a person to find out some of the confidential information on their own birth certificates. Tara Wolff, Board Staff, said this rule revision was needed because of changes made by the Legislature. In 2009, Substitute House Bill 1510 passed. It allows people to get some of the information about themselves contained in the confidential section of their birth certificate. The legislation specified that the Board should identify the process for confirming the identity of the individual who is the subject of the birth certificate. The rule proposal also lists items in the confidential section of the birth certificate that a registrar can release to the individual making the request. No information on the mother can be provided. The process for obtaining this information will be much easier and would no longer require a court order. Ms. Wolff then introduced Christie Spice, State Registrar and Director of the Center for Health Statistics at the Department of Health. Ms. Spice's presentation included descriptions of the birth certificate, an overview of the rules for birth certificate information, and the proposed rule changes. For a copy of the PowerPoint, please see Tab 10.

Deputy Secretary White asked Ms. Spice to explain the intent of the new law. Ms. Spice said there was no intent section in the bill and only the bill sponsor testified, so the intent is unclear. She said she assumes the intent is to make it easier for people to get information from their own birth record without a court order. Member VanDusen asked about babies born to mothers with addictions and wondered birth certificates capture this information. Ms. Spice said alcohol use by the mother used to be collected but no longer is because the data proved not to be accurate.

No one signed in to testify at this hearing.

Motion: *The Board adopts the revised WAC 246-491-039 as published in WSR 10-04-101.*

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

11. PUBLIC TESTIMONY – AN OPPORTUNITY FOR THE PUBLIC TO TESTIFY ON ANY PUBLIC HEALTH ISSUE

Chair Higman read a prepared statement about giving public testimony (on file).

Jeannette Lane, No Tolerance News, said she has a small program on Thurston Community TV that presents views of individuals interviewed around the Olympia area. She said because of illness, she was not able to do her normal work and became unemployed last July. She has medical problems that are hard to diagnose. She said she is representative of many needy people who are homeless and need assistance with access to health care. She expressed concern about budget cuts that affect needy people.

Ann Clifton, Mercury Awareness Team of Washington, spoke of parents' concerns about vaccines. She said she is a registered nurse with a Bachelor of Science degree. She spoke in opposition to House Bill 2706 because it would require parents to obtain signatures from health care providers to exempt their children from having to be vaccinated for school entry. She said a family history of autoimmune disease causes the most concern about vaccinations among parents. She expressed

concern that children receive too many vaccinations. She also expressed concern about Secretary Selecky allowing children and pregnant women to have the choice of receiving H1N1 flu vaccines that contain thimerosal.

12. 2010 BIENNIAL REPORT TO THE GOVERNOR—REVIEW OF DRAFT TEXT

Mr. McLaughlin gave an overview of a preliminary draft of the 2010 Combined Biennial Report included behind Tab 12 in member packet materials. He said the final draft is due to the Board for consideration at its June meeting and the report is due to the Governor by July 1. He said it is missing the introduction and strategic directions segment. He said he is looking for direction from the Board. He described many he could include, many of which are evolving. He asked whether the Board wants him to explore a discussion of how federal health reform might affect this state's public health system and to include a sixth strategic goal related to reform of government public health. He raised the possibility of including essays from other state health agency heads.

He asked for Board input on three different possible approaches for the report:

1. Follow the outline the report has used the last several cycles, including the five goals in the Board's strategic plan and a sixth one looking at cost containment and quality of health care services.
2. Keep it simple and discuss only the five goals in the strategic plan.
3. Explore including a discussion of a sixth strategic direction about reforming government to enhance public health.

Member Yu said strong community support and partnerships are needed for public health. She said public health must change to adjust to the situation of having insufficient public health infrastructure. She said she favors the third approach. Donna Wright, SBOH Member, said she also favors the third option. Vice Chair Austin said the public expects to live in a healthy environment, but he is not sure how the Board can best encourage change. Member VanDusen said we have seen public health infrastructure undermined in the past decade and she would like the report to step up and say the Board thinks society has headed down the wrong road. She said history supports the need for basic public health programs. If those concerns would be addressed in what Mr. McLaughlin considers his third option, she would favor that approach. Chair Higman commented that although the Board cannot control the purse strings, maybe it can influence policy. Vice Chair Austin said it is a role of the Board to tell policy makers the importance of protecting all of the public, rather than individuals. Member VanDusen said prevention is a way to contain costs for treatment. Member Tonasket said he likes the third option if there is time. He supports the concept of addressing public health reform, but the reality is the Board's policy directions are limited because the Legislature controls funding. Deputy Secretary White expressed concern about getting into issues around controlling health care costs. He commented that the department and local health agencies have been discussing a need to reform government public health infrastructure, driven by the lack of a stable funding source and being spread too thin. Maria Hernandez-Peck, SBOH Member, recommended getting input from community members through listening sessions. Mr. McLaughlin responded that public listening sessions are something the Board does every five years, was not due to do again quite yet, and there was not enough time to be able to hold such sessions for this year's report. Member Hernandez-Peck suggested using the next Board meeting as a working session for the members to edit the report and to allow for public comment. Mr. McLaughlin said he would draft language, share with Board members over the next few months to get additional input, and develop a complete draft for Board member discussion at the June meeting.

Mr. McLaughlin noted that Chair Higman's second term would end this June. He said the Governor rarely appoints board members to a third term. Member VanDusen encouraged Chair Higman to apply for another term. Member Tonasket echoed that sentiment for the sake of Board continuity. He asked Mr. McLaughlin to draft a letter from the Board for all members other than the chair to sign encouraging the Governor to reappoint Chair Higman.

ADJOURNMENT

Chair Higman adjourned the meeting at 3:02 p.m.

WASHINGTON STATE BOARD OF HEALTH

Keith Higman, Chair