



**Final Minutes of the State Board of Health
March 14, 2012**

Department of Health Point Plaza East, 310 Israel Road S.E., Tumwater, WA 98501

SBOH members present:

The Honorable John Austin, PhD, Chair
Keith Grellner
Maria Hernandez-Peck, PhD
Stephen Kutz
Donald Oliver

Patricia Ortiz, MD
Maxine Hayes, MD, MPH (for Mary Selecky)
James Sledge, DDS
Diana T. Yu, MD, MSPH

SBOH members absent:

The Honorable Donna Wright

State Board of Health Staff present:

Michelle Davis, Executive Director
Desiree Robinson, Executive Assistant
Gordon MacCracken, Communications Consultant
Christy Curwick, Health Policy Analyst

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

Guests and Other Participants:

Luisa Parada Estrada, Department of Health
Sheri LaVigne, The Calf and Kid
Alli Larkin, Washington Action for Safe Water
Lin Watson, Department of Health
Mary Ellen Ward, Olympia
Jim Tassielli, Sartori
Janelle Hall, NVIC, TACA
Sally Johnson, Insight Food Sales
Jason Stevens, Pacific Lutheran University
Dan Asterino, GlaxoSmithKline Vaccines

Jan Gee, Washington Food Industry Association
Suzanne Skoda-Smith, Seattle Children's Hospital
Diana McMaster, Department of Health
Jennifer Tebaldi, Department of Health
Bill Osmunson, Washington Action for Safe Water
Paige Lamb, Metro Market
Cheryl Smith, Northwest Grocers
Paul Nielsen, Medimmune
Ann Clifton, Mercury Awareness Team
Bill Stephenson, DPI Specialty Foods

John Austin, Board Chair, called the public meeting to order at 12:37 p.m. and read from a prepared statement (on file).

1. APPROVAL OF AGENDA

Motion: Approve March 14, 2012 agenda

Motion/Second: Yu/Sledge. Approved unanimously

2. ADOPTION OF MONTH DAY, YEAR MEETING MINUTES

Motion: Approve the January 11, 2012 minutes

Motion/Second: Ortiz/Grellner. Approved unanimously

3. BOARD ANNOUNCEMENTS AND BUSINESS

Michelle Davis, Board Executive Director, started her report with a legislative session update. She asked whether her brief weekly updates to the Board members throughout the session were helpful and had the right amount of information. Board members indicated those updates had been helpful. She said the e-mail updates replaced posting Bill Watch this year due to some concerns the Web postings might be considered third-party lobbying. The regular short session concluded on March 8. A special session started March 12. Ms. Davis reported that during the regular session, the Board opposed an on-site sewage system bill [HB 2267] and another bill about cottage food facilities [HB 2551]. We shared our concerns about a bill [HB 2561] about drinking water at ski facilities. We provided input on a bill [SSB 6116], which passed, that would allow Puget Sound county treasurers to collect local health agency on-site management program fees. Staff worked with representatives of the Washington State Association of Local Public Health Officials to help the bill along. Ms. Davis reported that Chair Austin testified alongside Secretary of Health Mary Selecky to the House Ways and Means Committee in February on its initial budget bill [HB 2127]. Chair Austin's testimony expressed concern for local public health funding. This is the first time, in recent years at least, the Board has testified about a budget bill. Ms. Davis said the budget bills, as they stood unresolved at the end of the regular session, would not reduce flexible funding for local health agencies or HIV/AIDS. However, they would include cuts to environmental health, rural health, the public health laboratory, and the regional Emergency Medical System and Trauma Councils. Diana T. Yu, Board Member, asked what happened to the volunteer retired medical personnel malpractice insurance piece. Brian Peyton, Department of Health, responded from the audience that funding for that would not be reduced according to any of the budget bills.

Ms. Davis pointed out a biography for new member Don Oliver behind Tab03 in members' packets. She mentioned his experience in environmental health and with the American Red Cross. She thanked James Sledge, Board Member for accepting the chairmanship of the Warren Featherstone Reid Award selection committee this year and Member Yu for formerly chairing that committee. She summarized the Featherstone Reid award nomination process. She said announcements have gone out to get nominations for the award this year.

Ms. Davis reported the Mercury Action Team of Washington had submitted a packet of written testimony for this meeting. That packet of information was available at the meeting for Board member review.

Ms. Davis said the terms of members Maria Hernandez-Peck and Patricia Ortiz would be ending in July of this year and encouraged them to apply to the Governor for reappointment.

4. DEPARTMENT OF HEALTH UPDATE

Maxine Hayes, State Health Officer and Board Member Designee for Secretary Mary Selecky, explained that Secretary Selecky was in Washington, D.C., to express her views on proposed cuts to public health funding. Member Hayes reported on an outbreak of norovirus affecting a statewide meeting of cheerleaders in February 2012. She reported that the number of pertussis [whooping cough] cases reached its highest incidence for six years in 2011. There were almost 1,000 cases last year. She said it is important for seniors to get booster immunizations for pertussis in combination with a tetanus booster (Tdap) to protect their infant grandchildren from pertussis. She said a study of the incidence of disease compared with the reluctance of people to get immunized would be valuable and suggested it should be done in this state. She said there were discussions at a recent meeting of a committee of the National Academy of Sciences Institute of Medicine held in Washington State about the effectiveness of alternative immunization schedules. She was pleased to announce that Washington had reached its goal of getting health promotion materials to more than

90 percent of families (more than 470,000) through Child Profile. Child Profile is a registry of reported immunizations and a health promotion tool for parents. She said that the Department is collecting data to evaluate how the immunization exemption law passed last year is affecting immunization rates and looks forward to reporting findings to the Board at a future meeting. She mentioned that Washington received two awards recently from the CDC recognizing improvements in immunization rates for teens and for adults in particular.

5. BRIEFING – FOOD SERVICE, CHAPTER 246-215 WAC

Keith Grellner, Board Vice Chair, explained this agenda item on the food rule reflects work by the Board's Environmental Health Committee with the Department on recommended revisions. He introduced Ned Therien, Board Staff, and Nancy Napolilli and Dave Gifford, Department of Health. Mr. Therien explained the rule was last revised in 2004 and it references the U.S. Food and Drug Administration's (FDA) 2001 food code. The FDA last updated its Food Code in 2009. The Department formed an advisory group called the Core Workgroup, which met 11 times in 2010 and 2011 to develop recommendations to the Department regarding adopting provisions in the newest FDA Food Code. The Department has incorporated most of the workgroup's recommendations into its recommendations to the Board. In late 2010, the Governor issued a rules moratorium. However, due to stakeholder requests to continue work on this rule, the process continues. Ms. Napolilli's presentation focused on the history of the Washington food rule revision process; membership of the Core Workgroup; new provisions recommended by the Department (including refrigerating cut tomatoes and cut leafy greens, date marking, hot holding, handling of wild mushrooms, conditionally exempting preschools from some provisions); variations from Core Workgroup recommendations (including limiting the time-as-a-public-health-control provision and not adopting a time limit for hand-washing sink water to reach 100 degrees). She described the next steps to finish the rule making process. She recommended the Board hold a public hearing on the rule in October 2012 and the new provisions become effective in May 2013. For more details on the recommended rule changes please refer to the presentation and summary under Tab05.

Member Yu asked for clarification on who identifies wild mushrooms and which species would be allowed. Ms. Napolilli explained the picker would identify and document the species. She said only relatively safe and easily identifiable species were on the approved list. Member Yu commented about the highly susceptible population at preschools and asked whether personnel were exempted from food worker card requirements. Ms. Napolilli said no. Stephen Kutz, Board Member, asked if source documentation must be retained by the retailer and the mushroom lots kept separated. Mr. Gifford said retailers would need to keep documentation but would not be expected to keep mushrooms separated by lot. Ms. Napolilli said whether to require keeping the mushrooms separated by source warranted additional consideration by the Department. Chair Austin asked for clarification on the hot holding temperature recommendation. Ms. Napolilli said the Department is recommending adopting the latest FDA Food Code requirement of 135 degrees. Member Sledge asked if the date marking recommendation followed the 2009 FDA Food Code provision. Ms. Napolilli said it does and is based on FDA's risk assessment. She said the date marking provision has been in the FDA Food Code for many years. She added that FDA provisions exempt some foods (such as semi-soft and hard cheeses) due to properties in these foods that keep them safe for consumption. She said about 25 states are following FDA guidance in this area. Member Sledge asked why more states weren't following FDA guidance in this area. Ms. Napolilli said that because the FDA Food Code is a model code many states vary in some way. Dr. Hayes asked how close the state's rules would be to the latest FDA Food Code if all the Department's recommendations are adopted. Mr. Gifford responded it would be about 98 percent consistent. Member Yu asked why it was necessary to cook mushrooms to 135 degrees. Ms. Napolilli explained it was due to the need to

reduce chemicals (such as in morels) that cause gastro-intestinal distress in some people. She said it also was a sanitation measure for mushrooms harvested under uncontrolled wild conditions.

The Board took a break at 1:37 p.m. and reconvened at 1:51 p.m.

PUBLIC TESTIMONY

Chair Austin deviated from the published agenda to allow for public testimony about the food service rule briefing. He read a written message about testifying.

Paige Lamb, representing a small family-owned grocery chain and a member of the American Cheese Society, expressed concern about maintaining cut leafy greens at 41 degrees and the date marking provisions. She said current equipment used for produce does not hold the 41-degree temperature, such as for buffets. She also expressed concern for adding a requirement to wash mushrooms, because wet mushrooms had shorter shelf life. Her biggest concern was with date marking. She said she has contacted other markets around the country and learned that the date marking provision has resulted in financial loss due to having to discard cheese and reducing the varieties of cheeses sold. She said if markets like hers stopped buying their cheeses, the effect to artisan cheese makers could put many of them out of business. She said there are different time limits around the country for date marking in retail. She said the FDA lists of types of cheeses are outdated and more cheese types should be on the lists. She said Listeria can be controlled better through wholesale processes. She expressed concern the date marking provision will create an adversarial relationship with inspectors who are likely to be confused over cheese types. She said she agrees there should be some time limit, but requested the Board to consider allowing a 14- or 21-day time limit for date-marking cheeses, instead of the seven days specified by the FDA Food Code. She said she found out from a retailer in Ohio that local health agencies in that state differ. At least one allows 21 days, but others limit storage to seven days.

Ned Therien, Board Staff, informed the Board that washing mushrooms had been in an earlier draft, but the Department has removed it from its recommendations for the rule revision.

Bill Stephenson, DPI Specialty Foods, expressed concern about the date marking provision. He said the food industry believes many states have modified the seven-day time limit, and wants time to investigate and report back to the Board. He said the FDA cheese category lists are not based on any industry convention. He said he has not been able to find data about there being many illnesses attributable to cheese. He said he thinks seven-day date marking on certain cheeses will confuse customers, who will then avoid buying those products. He said a 2006 white paper from the Wisconsin Center for Dairy Research recommends cheese with a moisture content less than 50 percent be held at below 86 degrees for food safety reasons and refrigerator temperatures for quality.

Jan Gee, Washington Food Industry Association President, stated her association was represented on the Department's Core Workgroup and strongly advocates for consistency among federal, state, and local agencies. She complemented Department of Health staff on the rule making process. She said the vast majority of the FDA Code is embraced by industry. However, she would like the opportunity to investigate and collect more information on the controversial issues, such as date marking, that have economic effects. She said her association would like the chance to share more information and have further discussions before the Board considers a final proposal.

Sheri LaVigne, owner of the The Calf and Kid, an artisan cheese shop in Seattle, expressed concern about date marking. She said about 20 percent of her \$250,000 annual sales is in soft cheese. It is hard for her to go through a wheel of cheese in seven days, but would usually do so within 14 days. She would like the Department to do additional investigation of the need to discard soft cheese in seven days. She has heard that 14 days are allowed in Oregon.

6. REVIEW AND APPROVAL OF PLANS – IMMUNIZATION OF CHILD CARE AND SCHOOL CHILDREN AGAINST CERTAIN VACCINE PREVENTABLE DISEASES, CHAPTER 246-105 WAC

Patricia Ortiz, Board Member, introduced this agenda item and said the Board would have action to consider today. Tara Wolff, Board Staff, described the documents behind Tab 6 in members' packets. She said a rule revision proposal would be ready for the Board to consider at its June 2012 meeting. Janna Bardi, Department of Health, explained that the overarching issue is to align school requirements with medical best practice. She presented a comparison of 2011 and 2012 national Tdap guidelines, the rationale for the Tdap updates, the current Tdap requirements for schools, and a proposal to update the Tdap vaccination requirements for schools. (For more detail on her presentation please refer to Tab 6.) The proposed 2012 implementation plan would complete the 2006 Tdap plan and also allow schools to accept 7- to 10-year-olds who were under-immunized but had received Tdap. In the past two years, four babies too young to be vaccinated died of pertussis in Washington. In 2011, just under 1,000 people were infected with pertussis in Washington. Ms. Bardi also called attention to the latest ACIP recommendation advising those 19 years and older to get a booster dose of Tdap.

Motion:

The Board approves the Department of Health plan implementing the Tdap requirement as described in the 2012 ACIP Recommended Immunization Schedule, in accordance with WAC 246-105-090. And the Board approves moving forward with rulemaking in accordance with RCW 34.05.310, with the goal of updating the reference to the 2012 ACIP schedule in WAC 246-105-040.

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

7. BRIEFING – NEWBORN SCREENING PROGRAM AND SEVERE COMBINED IMMUNODEFICIENCY ADVISORY COMMITTEE

Member Yu introduced this agenda item. She said part of the Board's role is to consider conditions that may warrant newborn screening. She explained that she and Dr. Hayes co-chaired an advisory committee that looked at Severe Combined Immunodeficiency (SCID). The Board is not being asked to take action today, as the committee's recommendations will be presented in more detail in June. Ms. Wolff explained the materials behind Tab 7 of members' packets. Mike Glass, Department of Health (DOH), gave a briefing about the newborn screening program, SCID, and the advisory committee process. He started by describing the discovery of Phenylketonuria (PKU) which is due to improper processing of phenylalanine. It took many decades for technology to advance enough to develop a newborn screening test for the condition and to find a treatment that prevents the profound mental disabilities caused by PKU. In 1963, Massachusetts became the first state to require all newborns to be screened for this condition known as PKU. Because of several tragic failures in our state, in 1976 the Washington Legislature revised a 1967 law that promoted testing for PKU to require testing, and gave the Board authority to determine what other conditions should be

tested for in newborns. When conditions meet the Board’s five criteria, the Board has the authority to require testing of newborns for that condition. In 2010, the Department’s newborn screening program identified 179 infants with treatable conditions. This screening costs \$60.90 per child. There is also a specialty clinic fee assessed for each child.

Children with SCID, who lack functional immune systems to protect them, are at the mercy of infection that will lead to death in the first years of life if not diagnosed and treated. The condition can now be diagnosed at birth using a test that measures the number of immune cells that have been made. Children with SCID can be completely cured by transplantation with a very good success rate if it is found very early before serious infections have set in. Medical costs are significantly lower for children with SCID when they receive early treatment. In 2010, the U.S. Department of Health and Human Services recommended SCID for newborn screening. Twenty-six states have already approved testing for SCID. Washington has excellent pediatric immunology and transplant services available for children with SCID. The Board’s advisory committee reviewing SCID agreed that it met the five criteria. However, a concern was raised about the potential costs of children who have low immune cells but do not have SCID (i.e. idiopathic lymphopenia), which DOH will look into. The Department cannot absorb the cost of adding the test without raising the fee for newborn screening. It is refining a cost-benefit analysis to address the concern expressed in the Advisory Committee meeting. This, along with a recommendation for next steps, will be presented to the Board in June.

Chair Austin asked how many children are being tested in Washington now. Mr. Glass said no newborns are screened systematically in our state, with the exception of siblings of children diagnosed with SCID who may be tested. Member Yu explained that screening newborns for SCID means life or death to a few infants in Washington each year.

Dr. Hayes invited members of the Board to take an opportunity to visit the Public Health Laboratory north of Seattle, where the blood specimens for newborn screening are analyzed.

8. PUBLIC TESTIMONY

Suzanne Skoda-Smith, MD, of Seattle Children’s Hospital, spoke in support of adding a lethal condition (SCID) to the panel of conditions for newborn screening. She spoke on behalf of the five physicians in her division from Seattle Children’s Hospital, all of whom have experience treating children with SCID. A statement she is sorry to hear from a parent is: “If my child had been born in another state with screening he/she would be alive today.” Without early treatment babies with SCID, who do not have immune systems, rarely live longer than two years. These children have no defense against infection. Once infected, even with appropriate aggressive therapy, the infection becomes deadly and it usually cannot be eradicated. However, with early successful engraftment of stem cells (e.g. bone marrow transplantation) these infants can be completely cured.

Alli Larkin, Washington Action for Safe Water Vice President, said she hoped the Board members had read Paul Connett’s book “The Case Against Fluoride,” which her organization had provided to each Board member. She reported on a recent e-mail message sent by Dr. Connett expressing concern that his book was not spurring the scientific debate hoped for. She quoted from Dr. Connett’s message, a copy of which she provided to the Board.

Ann Clifton, Mercury Action Team of Washington, requested a full public hearing by the Board before it decides to modify its vaccination rule. She said that those who serve on ACIP have a personal financial interest in vaccines and they promote vaccines despite their conflict of interests. She stated that Dr. David Kessler, former Commissioner of FDA, commented that only 1 percent of vaccine reactions are reported to VAERS and the true extent of adverse reactions is unknown. She said increased use of vaccines is the cause of the rise of autism, obesity, and many other conditions.

Janelle Hall, Washington Advocacy Coordinator of the National Vaccine Information Center, said she was testifying because vaccines had damaged her son. Her son's family history included many autoimmune diseases, but said this fact was not given careful consideration by his pediatrician. She expressed concern that too many vaccines are given to children in a short period. She said what is needed is more information given to parents about adverse effects of vaccines so they can truly give informed consent. She said vaccine choices are a fundamental human right. She would like to see children screened for autoimmune diseases.

Mary Ellen Ward, spoke about the ability and rights of citizens to take part in scientific conversations because of the availability of information through the Internet. She encouraged open discussion of scientific issues.

Bill Osmunson, Bellevue dentist, spoke about informed consent. He said one of the biggest reasons for disciplining dentists is lack of proper informed consent. He said much in medicine is unknown or determined later to be incorrect. He expressed concern that promotion of water fluoridation was likely an error for public health.

9. BRIEFING – COMMUNITY TRANSFORMATION GRANT

Member Yu introduced this agenda item. She said good health required a community-wide approach. Sue Grinnell, Department of Health (DOH), explained that the National Prevention Strategy serves as the basis of the goals of the Community Transformation Grant (CTG) program. Ms. Grinnell presented the core principles of the approach and how DOH was using targeted and area-wide interventions; Washington's CTG infrastructure; the state's healthy community regions; the four strategies contributing to health eating, active living, preventive health care services, and tobacco-free living; and how change would occur at the policy, environmental, programmatic, and infrastructure levels. (For more detail on the presentation, please refer to Tab 9.) The U.S. Centers for Disease Control and Prevention has asked the grant money be directed particularly to people with health disparities. The Department of Health has identified 11 target counties and particular communities with health disparities. Advisors to the project include many of the same organizational representatives serving on the Governor's Interagency Council for Health Disparities. Regional hubs were established to bring together partners to help with the work on a regional basis. The strategies in play come from the National Prevention Strategy. Moses Lake and Spokane have already adopted "Smart Streets" ordinances. Some of the grant money will support local grant writing training.

Member Yu commented that change really depended on commitment from the community. Ms. Grinnell commented that some people are not happy with the regional approach. Member Sledge asked whether each region could set its own priority level work tasks. Ms. Grinnell responded yes. Maria Hernandez-Peck, Board Member, gave an example of the Hmong community sharing produce with neighbors. Stephen Kutz, Board Member, mentioned one of his community's goals is tobacco-free housing. For rental units it can be hard to switch rules for current residents. He has

found establishing tobacco-free rules works best when the building is not occupied. For example, it may be easiest to establish them after a rental unit building is vacated for renovation.

10. BOARD MEMBER COMMENTS AND CONCERNS

Member Kutz reported on the Governor's Interagency Council on Health Disparities plans for the upcoming year. He is serving on a committee developing recommendations for mental health. Chair Austin and Member Yu commented that adverse childhood events (ACES) research findings should be considered when delivering or planning public health services. Dr. Hayes said adverse childhood events have long-term effects on chronic disease over the lifetime of an individual.

Member Yu recommended the Board look at the state of oral health in Washington State. She would like the conversation to broaden and extend beyond fluoride. Member Sledge said there are many contributors to poor oral health, and that dentists need more training on nutrition. He would like the Board to look at the many factors affecting oral health and its far-ranging effects. Member Yu encouraged communities to work together to create more healthy options for vulnerable populations (such as healthier donations to food banks). Member Hernandez-Peck commented that short-term support for the frail and vulnerable is not enough. A long-term commitment is needed. Chair Austin expressed concern, after listening to the newborn screening presentation, that with budget cuts the Public Health Laboratory might not be able to keep up with its workload. Dr. Hayes said she is not concerned about this issue and does not see a problem. Don Oliver, SBOH Member, commented that when promoting community prevention strategies, it's important to consider interfaith groups. He said that in some instances interfaith groups can act flexibly to solve problems that might be harder for government entities to address. He also wondered how the CTG hubs will communicate and coordinate.

ADJOURNMENT

John Austin, Board Chair, adjourned the meeting at 4:37 p.m.

WASHINGTON STATE BOARD OF HEALTH

John Austin, Chair