



**Minutes of the State Board of Health
March 13, 2013**

Department of Health, Point Plaza East, 310 Israel Road SE, Tumwater, WA 98501

State Board of Health members present:

The Honorable John Austin, PhD, Chair
Fran Bessermin
Keith Grellner, Vice-Chair
Stephen Kutz, BSN, MPH

Donald Oliver
Mary Selecky
James Sledge, DDS

State Board of Health members absent:

Thomas Pendergrass, MD, MSPH
Diana T. Yu, MD, MSPH
The Honorable Donna Wright

State Board of Health staff present:

Michelle Davis, Executive Director
Desiree Robinson, Executive Assistant
Christy Hoff, Health Policy Analyst

Yris Lance, Community Relations Liaison
Ned Therien, Health Policy Analyst
Tara Wolff, Health Policy Analyst

Guests and other participants:

Richard Aleshire, Department of Health
Ann Clifton, RN, BSS Mercury Action Team of
Washington
Allison Cook, Department of Health
Pam Cowley, Health Benefit Exchange
Paul Davis, Department of Health
Rusty Fallis, Office of the Attorney General
Nelly Kinsella, Health Benefit Exchange

Allene Mares, Department of Health
Terry Reid, Pierce County – Anti Tobacco Coalition
Tami Thompson, Department of Health
Kim Zabel, Department of Health
Justin Nordhorn, Washington State Liquor Control
Board
John Snaza, Thurston County Sheriff
Jennifer Helseth, Educational Service District 113

John Austin, Board Chair, called the public meeting to order at 9:34 a.m. and read from a prepared statement (on file).

1. APPROVAL OF AGENDA

Motion: Approve March 13, 2013 agenda

Motion/Second: Sledge/Kutz. Approved unanimously

2. ADOPTION OF JANUARY 9, 2013 MEETING MINUTES

Motion: Approve the January 9, 2013 minutes

Motion/Second: Grellner/Bessermin. Approved unanimously

3. BOARD ANNOUNCEMENTS AND OTHER BUSINESS

Michelle Davis, Board Executive Director, reported that today is cutoff in the Legislature for bills to get out of the house of origin. She said the next revenue forecast will be released March 20. She said that she and Christy Curwick-Hoff met with Representatives Santos and Morrell, who expressed interest in health impact reviews. Those reviews have been suspended under the current budget, but

funding is in Governor Gregoire's proposed carry-forward budget. Ms. Davis said she has provided a transition document for the new Secretary of Health, John Weisman. She reported the announcement for the vacant Communication Consultant (CC) position closed March 12. She thanked Desiree for stepping in to fulfill the duties of the CC position while vacant. Ms. Davis mentioned that three Board members' terms will be up in June and she hoped they would consider reapplying. She asked the Board to note a move in date for the June meeting to Thursday, June 13 at Lake Chelan. She reported the Department of Health would be requesting delegation for rule making required by legislation to change the term "boarding home" to "assisted living facility" in several Board rules.

Keith Grellner, Board Vice-Chair, reported the Board's Environmental Health (EH) Committee met in mid February to hear a briefing on a study of fish kills in Hood Canal. He said the research indicates that onsite wastewater effluent is not the cause of episodic fish kills. He also reported that Fran Bessermin had joined the EH Committee. James Sledge, Board Member, announced that applications are being solicited for the Featherstone Reid Award. He said nominations will be accepted until the first of May. He said Board members could pass along suggestions for nominations to Tara Wolff. Mary C. Selecky, Secretary of the Department of Health and Board Member, commented that the award is a very significant honor.

4. DEPARTMENT OF HEALTH UPDATE

Secretary Selecky commented that she had not announced her retirement at the Board's January meeting because she did not want to overshadow the retirement of Deputy Secretary Gregg Grunenfelder. She told the Governor she did not have a set date, but planned to retire. She commented that John Wiesman, the incoming Secretary, has an extensive career in public health, including receiving his doctorate in public health from the University of North Carolina last year. She said she would stay connected to public health in some way.

Secretary Selecky reported that flu rates have been higher in Western Washington than Eastern Washington. She said reports on whopping cough cases are still trickling in for 2012. The information from this outbreak is being studied and will likely result in changes in recommendations about booster shots. She said "hill visits" in Washington D.C. last month gave her an opportunity to talk about public health to Congress. She provided a handout to Board members summarizing work done for the Transforming Washington Communities program. She reported that sequestration would cut funding for Washington's WIC program (\$7 million), safe drinking water, and other human services. The cuts are expected to be 5% for such programs. The details have not come from the federal agencies yet. Fran Bessermin, Board Member, commented that funds for aging programs are expected to be cut 10% for the remaining half of the federal fiscal year (5% overall for the year). Stephen Kutz, Board Member, said there is uncertainty about specific programs we don't know what discretion the federal agencies will have for individual programs. Member Grellner mentioned that Kitsap County has a large federal payroll from the shipyards. Sequestration reductions will affect spending in the community, thereby impact funding for public health.

Secretary Selecky commented about the change in power with the new Governor, but feeling uncomfortable when new staff in his office did not recognize her. She reported on new appointments or reappointments of agency heads. She reported the forecast for the budget for the next biennium is not expected to be good. It is projected to be \$2 billion short of the carry forward level. Besides that, the McCleary Supreme Court decision means more money needs to go to public schools.

Secretary Selecky was pleased to report the Department of Health and Spokane Regional Health District are in the first group of health agencies to receive national accreditation. She said accreditation is a very big deal. One humbling thing she heard about during the process was that the Washington Department of Health seems very paperwork dependent, while other agencies are moving to digital files.

Member Kutz asked about the investigation of vaccination failure in the whooping cough outbreak. Secretary Selecky said the study showed that the booster shot did not seem to last as long as expected. Also, there was a difference in length of immunity between varieties of vaccines. Member Kutz also asked about CRE (carbapenem-resistant Enterobacteriaceae) infections in Washington; and whether disinfection procedures were changing in health care facilities. Secretary Selecky said cases of CRE have been reported in Washington. She said the Washington Hospital Association has started to combat this. Member Bessermin commented about hand washing not being as effective as it could be because people do not generally do it long enough. Therefore, alcohol-based sanitizers show benefits.

5. PUBLIC TESTIMONY

Ann Clifton, Mercury Action Team of Washington, provided a handout showing that several flu vaccines still contain thimerosal. She also provided handouts of articles about an apparent association between antidepressants and violent behavior; and that certain genetic mutations diminish metabolism of such drugs. She expressed concern with mixing antidepressants and marijuana as the new law goes into effect.

The Board took a break at 10:38 a.m. and reconvened at 10:52 a.m.

6. 2009 STRATEGIC PLAN PROGRESS REPORT

Michelle Davis, Board Executive Director, pointed out the strategic plan and tracking document in member packets behind Tab 06. She said the plan has been changed as advisory groups and other projects have gone away or been completed. She explained proposed updates noted in red in the tracking tool and asked for comments on the proposed changes. Secretary Selecky asked for an explanation of the concept for 4.2.2.1 regarding the Board exploring a possible role for it in trying to reduce drug abuse. Tara Wolff, Board Staff, commented that the Board's Health Promotions Committee wants to leave the description of a possible activity broad. James Sledge, Board Member, asked if there is a mandate to have a five-year strategic plan. Ms. Davis said there was not, but it was expected. Member Kutz said he does not see a goal that should be removed, but in the future might want to add a goal. Member Bessermin commented she would like to include some specific strategies for the elderly.

***Motion:** The Board adopts the recommended updates to the 2009 Final Strategic Plan.*

***Motion/Second:** Kutz/Sledge. Approved unanimously*

7. BRIEFING – HEALTH BENEFIT EXCHANGE

Chair Austin introduced a presentation from Nelly Kinsella, Washington Healthplanfinder; Health Benefit Exchange. Ms. Kinsella explained, in 2011, Washington received a grant to start planning to implement a health benefit exchange for to meet provisions of the Affordable Care Act. Legislation (SSB 5445) formed a public-private partnership that is the Health Benefit Exchange Board (HBEB). Her complete presentation is in member packets behind Tab 07. She said the HBEB has decided to include pediatric dental care (up to age 19) in the plans. The structure for implementing the program

will be a network of consumer assistants across the state. She said workgroups are organized by staff to develop proposed policy for her board. She described the tight timeline for getting the program running by October 1, 2013, when open enrollment will begin. She said building the IT services for the program is like “building the plane as we are taxiing down the runway.” She said ESHB 1947, currently in the Legislature, would establish expenditure provisions for the program. She noted all meeting materials of the HBEB are posted on its web site.

Chair Austin asked how the 280,000 projected enrollment for the first year compares with the Basic Health Plan. Secretary Selecky recollected the Basic Health Plan had an enrollment as high as 125,000. Member Sledge asked about the description of a “bipartisan Board.” Ms. Kinsella said that is the description in legislation. She said Washington is acknowledged to be a “pace car” state in the effort to implement a health exchange.

Pam Cowley, Outreach Manager, Washington Health Benefit Exchange, explained the outreach plan for the health exchange. Staff are working with organizations such as AARP. They are also working on a “Bank on Washington” program to make payments efficient. Member Kutz asked when the premium amounts might be announced. Ms. Kinsella said that is expected in late summer. She said a wave of outreach will occur at that time. She said open enrollment would be October 1, 2013 through March 1, 2014 for the first year. After that, open enrollment will go from October 1 through the end of December. Chair Austin asked if the state program was independent enough to survive if the Affordable Care Act gets repealed. Ms. Kinsella replied she thought so. Member Bessermin asked if small businesses would be covered. Ms. Kinsella said yes, businesses with up to 50 employees could participate. Secretary Selecky asked how inter-faith groups would participate. Richard Aleshire, Department of Health, came up from the audience and commented his program was working to facilitate transition from Medicaid. He said Kaiser Health has a table on its web site to estimate premiums for basic silver plans and the amount of subsidies for different incomes. It may be viewed at KFF.org. Member Kutz asked if an approved drug list has been determined yet. Ms. Kinsella said no.

8. CONSIDER EXTENDING EFFECTIVE DATE OF SCHOOL ENVIRONMENTAL HEALTH RULE REVISIONS, CHAPTER 246-366A WAC

Member Grellner explained that in 2009, the Board completed its revision of the environmental health and safety rules for schools. He said there was substantial wrangling about the proposed rule revision as it worked its way through the process. The concerns have been largely to do with school finances. Since 2009, the Board has filed CR-103 documents to extend the effective date of the new rules two times. He explained that, meanwhile, the old rules are still in place. Member Grellner recommended filing another CR-103 to again extend the effective date of the revisions because of the continuing budget situation. He introduced Ned Therien, Board Staff, to explain the Environmental Health (EH) Committee’s recommendation for delaying the effective date of the Board’s updated environmental health and safety standards for primary and secondary schools another two years. Mr. Therien explained that the 2009 budget proviso prohibiting the Board from implementing new or amended school rules without the legislature funding implementation is still in place. The proviso is in bills introducing Governor Governor’s budget. The EH Committee assumes that it will be in the final budget bill that goes to Governor Inslee. Mr. Therien said that after considering the likely scenarios for the state budget over the next two years, the EH Committee had settled on recommending another two-year extension of the effective date of the revised rules. He explained that the rules are written so that part of them could go into effect with legislative agreement. Mr. Therien called the Board’s attention to the 2011 CR-103 in their packet and said the

new CR-103 would look very similar but with the new effective date. Mr. Therien said the CR-103 would be filed without delay and he would then notify stakeholders.

Member Grellner asked if the Board would be bound by the 2015 date in the new CR-103 if funding became available before then. Tami Thompson, Department of Health, came up from the audience. She said the Board may be able to file another CR-103 if that happened. Member Kutz asked if the restriction without legislative funding covered both schools and local health jurisdiction implementation. Mr. Therien said the proviso only applied to funding for schools. Don Oliver, Board Member, asked how many local health jurisdictions still inspect schools. Mr. Therien said that he understands nine of them still inspect schools regarding environmental health and safety, but that all of them enforce the Board's food rules in schools. Secretary Selecky said that if funding were made available it would be important to use it most wisely if it is just partial funding.

***Motion:** The Board directs its Executive Director to amend the effective date of chapter 246-366A WAC, set in WSR 11-10-080, by filing a new CR-103 to delay the effective date of the new rules to July 1, 2015.*

***Motion/Second:** Grellner/Oliver. Approved unanimously*

The Board recessed for lunch at 12:08 p.m. and reconvened at 1:32 p.m.

9. BRIEFING – YOUTH TOBACCO USE

Member Kutz introduced a panel presentation on youth tobacco use. He said the Board wants to hear about some of the barriers to reducing youth tobacco usage. Tara Wolff, Board Staff, described panel materials in member packets behind Tab 09. She said there has been little decrease since 2004 in the number of youth who are smoking. She gave a brief introduction for each of the panel members. Paul Davis, Department of Health, explained the tobacco prevention program at the Department. He said they campaign to reduce chronic disease, not ban tobacco. He presented slides showing asthma rates, lung cancer, heart disease, and diabetes rates. He explained diabetes is not caused by smoking, but smoking can make the effects of diabetes worse. Fewer youth starting to use tobacco is a major goal of tobacco prevention and control programs. Youth smoking rates dropped in half since the program started in 2000, but the decline has slowed greatly. Indian youth have the highest rates in this state. He said increasing the price of tobacco products is very effective tool in reducing youth tobacco use. Another approach is to enforce compliance by retailers. The Department does not have funding for school-based education and anti-tobacco ads in the media, except for a small CDC grant. The Department is working with stores to try to reduce advertising. Smoking in movies has been identified in the Surgeon General's report as being a major contributor to youth smoking. The Department also works with public housing associations to encourage no smoking policies. He said there are new challenges such as hookahs, smokeless tobacco products, and tobacco candy. Member Sledge commented that the entire Riverpoint Campus of the University of Washington, Spokane, went smoke free last year.

Rusty Fallis, Office of the Attorney General, said he was happy to collaborate in this cooperative approach. He said the Attorney General's office became involved in tobacco as a result of filing a lawsuit against big tobacco in the 1990s, which resulted in the 1998 Tobacco Master Settlement (MSA). He said he spends most of his time enforcing the MSA. At first, the work primarily involved traditional advertising issues such as magazine ads and brand-name sponsorships. Over time, the tobacco companies have moved to point-of-sale marketing, such as promotions to lower the cost of cigarettes. He said that the Attorney General's office has found it takes continuous efforts to make tobacco companies understand that states take the enforcement of the MSA seriously. Thus, it is still occasionally necessary to file lawsuits against tobacco company advertising, such as Camel's "The

Farm” and “Indie Rock” campaigns. In recent years, the states and tobacco companies under the MSA have been engaged in a major dispute involving the amount of money that the companies are required to pay the states under the MSA.

In addition to MSA enforcement work, state attorneys general also work in other aspects of the tobacco industry to help prevent youth smoking. For example, he said some retailers have signed agreements with state attorneys general for “best practices” in tobacco retailing that require the retailers, among other things, to train staff about preventing sales to youth and to place cigarettes away from items that are appealing to kids such as candy and toys. Agreements with credit card companies and delivery services under which those companies agree to refrain from facilitating illegal internet sales are another tool to reduce sales to youth. Another area the AG’s office has targeted is smoking in movies, but without great success to date.

The AG’s office is part of a statewide consortium that works to reduce youth tobacco usage. He emphasized the need for agencies to coordinate activities. He said he personally believes that the partners need to get aggressive on promoting funding for youth anti-tobacco advertising. Member Kutz commented that if a list of movie companies could be provided to parents, they might be able to make choices. Mr. Fallis indicated that the smoking in movies working group is in the process of expanding its outreach to parent groups. Chair Austin asked if the MSA restricts the liability of tobacco companies. Mr. Fallis said that civil fines are not prohibited by the MSA.

Terry Reid, Pierce County – Anti Tobacco Coalition, thanked the Board for making youth smoking a focus. He said his organization’s goal is to bring the community together to help reduce youth smoking and promote adult cessation. This past year they focused on tobacco-free colleges. He said young adults are particular targets of advertising. His group received funding from Pierce County’s Community Transformation Grant. He emphasized the importance of combating the influence of the tobacco industry. He said sting operations find 22% of retailers selling tobacco to minors in Pierce County. Two options that will have the most impact: 1) restore funding for a state comprehensive tobacco control program for a counter tobacco marketing campaign; and 2) remove preemption of state tobacco-access to minors law, chapter 70.155 RCW. A federal preemption was removed when FDA got authority for regulating tobacco. Removing state preemption could allow communities to set standards for retail distance to schools, density, and manner of display. Member Kutz asked if repeat violations by retailers are grounds for loss of license. He requested the Board to help remove the preemption in state law. Member Sledge asked if there was something in the MSA that restricted states from using the money for tobacco prevention. Mr. Nordhorn replied no.

Justin Nordhorn, Washington State Liquor Control Board, said his agency is the enforcement authority for youth access to tobacco. It typically provides education to retailers after violations have occurred. Mostly it does compliance (“Synar”) checks. [If the violation rate for retailers selling to youth exceeds 20% the state loses drug abuse prevention money from the federal government.] The statistics show a decline in compliance rates in recent years, which is concerning as they have fallen to below 81%. He thinks this is the result of changes in the willingness of retailers to take risks during a down economy and low penalty levels. The fine for first violations is only \$100 with no suspension time. Compliance tends to improve greatly after a second violation, when a 6-month suspension is proposed. State statutes set the penalties for selling tobacco to youth. They are not as stringent as are liquor penalties set by the Liquor Control Board. He said his agency does follow-up checks to the “Synar” compliance checks.

John Snaza, Thurston County Sheriff, said the Health Department has a huge affect on influencing legislators. He expressed concern in the reduction of funding for youth anti-smoking education programs. He said youth about 14 years old are experimenting with tobacco. With cutbacks in funding for law enforcement, there is less presence in the schools. Youth are seeing attention on marijuana as taking the stigma away from tobacco. Rental property owners are starting to adjust smoking policies to avoid losing renter dollars. Secretary Selecky commented on achieving control of meth through electronic purchase records for cold medicine and getting cold medicine stored behind the counter.

Member Kutz thanked the panel and said the Board would consider their recommendations, as far as the Board could act.

10. NEXT STEPS – ORAL HEALTH

Member Sledge explained a proposal of the Health Promotions Committee to look at what the Board can do to improve oral health for the citizens of the state. Member Sledge said this is a multi-factored problem that needs multi-factored solutions. He said the problem in schools can result in symptoms that look like ADHD, with children unable to concentrate in class. Seniors too are a vulnerable population. He proposed looking at what other states are doing and what the leaders in our state say might be done. He said this seems to be an opportune time because other health practitioners besides dentists are showing interest in improving oral health as part of total health. The Health Promotions Committee's outline for an oral health project may be viewed behind Tab 10 in member packets.

Secretary Selecky cautioned that any undertaking of the Board should take into account staff capacity. She said there are partners that could do the advocacy work on this.

***Motion:** The Board approves implementation of the Washington State Board of Health Oral Health Project as submitted on March 13, 2013.*

***Motion/Second:** Oliver/ Bessermin. Approved unanimously*

The Board took a break at 3:14 p.m. and reconvened at 3:24 a.m.

11. BRIEFING – CHAPTER 246-110 WAC–CONTAGIOUS DISEASE SCHOOL DISTRICTS AND DAY CARE CENTERS

Ms. Wolff gave a presentation on contagious diseases in schools and daycare centers. She introduced Jennifer Helseth, who consults on public health issues in Head Start, sitting with her, and Marcia Goldoft, Department of Health Communicable Disease Epidemiologist, on the phone, to help answer questions. Ms. Wolff described documents in member packets under Tab 11. Her presentation included a description of local health officer powers to control infectious diseases in schools. She said the existing rules for contagious diseases in schools and day care centers are outdated. The rules also need changes for clarity. A stakeholder group helped develop seven criteria for including communicable diseases in the rules. She said the time table to revise the rules is proposed to be quick--with a hearing at the Board's meeting in June. Secretary Selecky asked how broadly the proposal has included various divisions of the Department of Health. Ms. Wolff said she asked Kelly Cooper, Department of Health Legislative Policy Director, for input and heavily involved Kim Zabel, Senior Policy Advisor in the Disease Control and Health Statistics Division at the Department. Secretary Selecky indicated Ms. Zabel would reach out to other parts of the Department, including Environmental Public Health. Secretary Selecky asked Dr. Goldoft if in past revisions of the infectious disease rules a lot of comments were heard from diverse stakeholders. Dr.

Goldoft said yes. Ms. Helseth said daycare operators wanted to balance the rights of families of ill children with those of the other children. Dr. Goldoft said such situations are very hard to balance. She gave the example of a child with diarrhea who came to daycare with E. coli O157:H7 and exposed another child who became infected and died.

12. HONORING DEPARTING BOARD MEMBER AND SECRETARY OF THE DEPARTMENT OF HEALTH, MARY C. SELECKY

Chair Austin read a proposed resolution to honor Secretary Selecky for her years of service on the Board and to the Department of Health. Member Grellner thanked her for fighting hard for local public health funding. Member Sledge commented on her tireless efforts for public health with humor and cheerfulness. Member Oliver commented about her responsiveness, even as a local health official. Member Bessermin said the word to describe her is “compassion.” Member Kutz said there are all the things we know she did and then there are the things we suspect she did behind the scenes to make things happen. Chair Austin asked if she had a twin because she has been seen so many places almost at the same time. Ms. Davis said her first interaction with her was as a new employee with the Department of Health and Ms. Selecky was still at local health. Ms. Davis’ boss at that time told her then that Ms. Selecky had the uncanny ability to know just about everybody. Ms. Davis said Ms. Selecky has been known for a long time as the “Energizer Bunny.”

***Motion:** The Board adopts Resolution 13-03 to honor the service of Mary C. Selecky to the citizens of Washington State.*

***Motion/Second:** Sledge/Kutz/Grellner. Approved unanimously*

Secretary Selecky explained she got into public health by a circuitous route. Her first job in Colville was in economic development. When the job opened up for local health administrator she applied and got it. That started a journey of learning. She said the first meetings with other health administrators included ashtrays. How things have changed! She said she first came to a State Board of Health meeting asking for support with the Legislature for local public health funding. Her experiences in local health dealing with DSHS resulted in her taking a leading role in convincing Governor Booth Gardner to establish a Department of Health. She said it is the synergy between all the agencies and organizations that make public health work.

Secretary Selecky described once dressing up as C. Everett Koop on Halloween and going around Colville handing out condoms. Her commissioners asked her to repeat the performance at a statewide county commissioners meeting held in Colville.

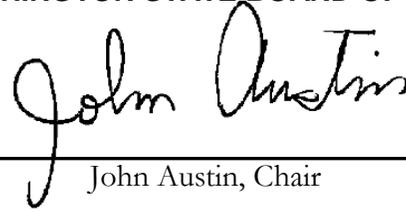
13. BOARD MEMBER COMMENTS

Member Kutz commented that the Board should examine what it could do regarding the recommendations it heard today from the panel of youth tobacco. Member Oliver commented there are many partners that can help with this public health issue. Secretary Selecky recommended that if the Board wants to further the fight against youth access to tobacco, it should work with a consortium of local health agencies that could move the issue with legislators.

ADJOURNMENT

Chair Austin adjourned the meeting at 4:27 p.m.

WASHINGTON STATE BOARD OF HEALTH



John Austin

John Austin, Chair