



**Minutes of the State Board of Health
Wednesday, October 9, 2013**

John A. Cherberg Building, Senate Hearing Room 3, Capitol Campus, 304 15th Ave S.E., Olympia, WA 98501

State Board of Health members present:

The Honorable John Austin, PhD, Chair
Fran Besserman
Keith Grellner, RS, Vice-Chair
Stephen Kutz, BSN, MPH
Donald Oliver

Thomas Pendergrass, MD, MSPH
John Wiesman, DrPH, MPH
The Honorable Donna Wright
Diana T. Yu, MD, MSPH

State Board of Health members absent:

James Sledge, DDS, FACD, FICD

State Board of Health staff present:

Michelle Davis, Executive Director
Desiree Robinson, Executive Assistant
Yris Lance, Community Relations Liaison
Christy Curwick Hoff, Health Policy Analyst

Timothy Grisham, Communications Consultant
Ned Therien, Health Policy Analyst
Tara Wolff, Health Policy Analyst

Guests and other participants:

Brooke Aspelund, Public
Jennifer Aspelund, Public
Stacey Banett, Public
Nancy Bernard, Department of Health
Ann Marie Clifton, Health Freedom WA
Mike Glass, Department of Health
Heidi Janeway, Public
Pamela Lovinger, Department of Health

Nancy Napolilli, Department of Health
Jeff Newgard, Department of Health
J. M. Soltman, Department of Health
Suzanne Skoda-Smith, Seattle Children's Hospital
John Thompson, Department of Health
Tami Thompson, Department of Health
Sheila Weiss, Department of Health

John Austin, Board Chair, called the public meeting to order at 9:32 a.m. and read from a prepared statement (on file).

1. APPROVAL OF AGENDA

Motion: Approve October 8, 2013 agenda

Motion/Second: Pendergrass/Wright. Approved unanimously

2. ADOPTION OF JUNE 13, 2013, YEAR MEETING MINUTES

Motion: Approve the June 13, 2013 minutes

Motion/Second: Wright/Oliver. Approved unanimously

3. BOARD ANNOUNCEMENTS AND OTHER BUSINESS

Michelle Davis, Board Executive Director, reported she had completed recruitment for the Health Impact Review Analyst. She reported the Health Disparities Council received a federal grant that

Yris Lance is being retained to work on. She pointed out documents in the Board packet behind Tab 03 to initiate rule making to change the definition of elevated blood lead level, as well as the withdrawal of the CR-101 for rule making regarding transient accommodations. She also mentioned that October 28 is national DEA drug take-back day.

Ms. Davis mentioned e-mail correspondence from Jan Whitefoot, who expressed concerns about large animal feeding operations in the Yakima Valley. This is related to current Board rule making revision of WAC 246-203-130, Keeping of animals.

Keith Grellner, Board Member, reported the Environmental Health Committee last met on August 15. At that time, it talked about the keeping of animals rule, a request from Department of Health to revise the definition of elevated blood lead level, the continued holding pattern for rule making on water fluoridation until federal guidelines are finalized, and recommending withdrawing the CR-101 for the transient accommodations rules to clarify requirements for homeless shelters. Stephen Kutz, Board Member, reported on work of the Health Promotions Committee. The Committee is working on a plan to update the immunization rule to make it more consistent with the immunization laws, and is planning a presentation at the November Board meeting to provide more detail on the proposed rule revision and next steps. The Committee also is making good progress on the *Recommended Strategies to Improve the Oral Health of Washington Residents*, and hope to bring the strategies to the Board's November meeting for review and approval. Members also helped to evaluate nominations for the Featherstone Reid award. The Feather nominating recommendations (Gary Franklin and the School Nurse Corps) were accepted and approved by John Wiesman and the Governor.

4. DEPARTMENT OF HEALTH UPDATE

John Wiesman, Secretary of Health & Board Member, reported the Department has hired a new policy director, Drew Bouton. He reported Dr. Maxine Hayes will be retiring as State Health Officer and the Department is recruiting a replacement. The new State Health Officer will also have the title of Chief Science Officer. He mentioned that Sue Grinnell was promoted to Special Assistant for Health Reform and will speak to the Board later this day. He said the Department will have positions for Chief of Health Disparities, Chief of Climate Change, Chief of Return for Expenditures, Chief of Workplace Health and Wellness, Chief of Organizational Culture and Health, Chief of Employee Health, and Chief of Academia Relations.

Secretary Wiesman mentioned the federal shut down was not affecting grants already issued to the Department. One concern with the shutdown initially was the Department had only 9 days of funding for the Women, Infants, and Children (WIC) program funding. However, funds became available for 30 days. Many of the federal employees that provide technical assistance to state programs are not working, which impacts the Department. There are concerns of the lack of surge capacity, but no critical needs have arisen yet. He said the Governor is monitoring the impacts.

Secretary Wiesman reported on potential agency request legislation. He described the summary of these issues in member packets under Tab 04. He also pointed out the summary of agency supplement budget requests under that Tab. He also mentioned the Department has responsibility under I-502, the legal recreational marijuana initiative, for education to help prevent abuse. He also mentioned the Governor's priority goals, specifically Goal 4: Healthy People.

Member Kutz asked for clarification on the chemical dependency professionals proposed legislation. Secretary Wiesman said the goal is to expand the pool of professionals who may help address chemical dependency.

5. PUBLIC TESTIMONY

Ann Clifton, Mercury Awareness Team Washington and Health Team Washington, testified about concerns with genetically modified foods. She expressed concerns with the potential health effects of the use of Roundup. She also expressed concerns with relaxing restrictions on thimerosal mercury in vaccines. She stated that many vaccines still contain some thimerosal.

The Board took a break at 10:31 a.m. and reconvened at 10:46 a.m.

6. STATE BOARD OF HEALTH COMMUNICATIONS PLAN

Ms. Davis introduced this agenda item by expressing appreciation for the work he has done over the six months since Timothy Grisham, Board staff was hired as the Board's Communications Consultant. Mr. Grisham described the proposed Communication Plan contained in member packets under Tab 06. He said a major goal is to create an awareness of the Board as a source of accurate information on public health issues. He explained there appears to be a need for a communication plan, media policy, and publications policy to avoid inconsistent actions as staff may change, especially as it has done with the Board's communication specialist in the past few years. He proposed increasing public outreach through the use of social media. He proposed adding a statement in the Board's media policy about being pro-active. He also proposed making Board information more searchable.

Member Kutz commented on consistent branding. Mr. Grisham responded that with a change in logo, agencies typically retain existing documents with the old logo. Member Grellner asked about public disclosure. Mr. Grisham responded that point-of-time posts can be captured. He also commented the use of humor tends to engage people. Ms. Davis said if a social media conversation appeared to reflect directly on Board committee activities, staff would engage the committee chair before responding. Diana Yu, Board Member, said the more outrageous a thing is you post, the more it seems to get retransmitted. Member Kutz said people seem to have replaced talking with each other with social media exchanges. Thomas Pendergrass, Board Member, cautioned against having staff send out information that appears to indicate the Board has made a decision. He said he sees value in the proposed policies, but needs to include a way to track disclosure to assure it reflects policy of the Board, not of individuals. Don Oliver, Board Member, pointed out there is a difference between policies and procedures. He said developing procedures tends to take longer. Donna Wright, Board Member, cautioned on members having public discussions that could be considered a meeting of the Board.

***Motion:** The Board approves the adoption of policy 2013-001 Publications Standards and Board Logo, 2013-002 Social Media, and 2005-002 Media Guidelines: Guidance for news media relations and reporter contacts as amended.*

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

7. DEPARTMENT OF HEALTH - HEALTH SYSTEM TRANSFORMATION

John Austin, Board Chair, introduced this agenda item about the Affordable Care Act, also known as "Obamacare." There were some technical difficulties starting the presentation, during which Board members expressed appreciation for Washington state's leadership in implementing health

reform. Sue Grinnell, Department of Health, said her presentation focused on why health reform is needed. She said tens of thousands of people in the state have either signed up for Medicaid expansion or subsidized health insurance through the health exchange. She said the medical system has historically been a fee for service system, but the system should move toward an outcome-based system. She talked about the three dimensions of health care: value of population health, better care, and lower cost. She mentioned the National Prevention Strategy is included in the law. She said our state has received six federal community transformation grants to address community public health issues. She said the Department would focus efforts on a community benefit-needs assessment and participate in accountable care policy development. She hoped savings in health care would be plowed into prevention. Her presentation can be found under Tab 07 of the meeting materials.

Member Pendergrass said this was exciting work. He said the conversation amongst health care these days is looking at where the patients are. Health care models of going to the patients, instead of the patients coming to you, works if you “own the premium.” Member Kutz said this is good public health work. He commented about measuring activities, such as immunizations or colonoscopies, that should reduce overall medical costs. Measuring these things will be easier as we move to electronic records.

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

8. BRIEFING—2013-15 BUDGET PROVISIO REGARDING SCHOOL ENVIRONMENTAL HEALTH AND SAFETY RULE

Ms. Davis provided an introduction to the agenda item including timing of Board meetings. Ned Therien, Board Staff provided a briefing on the history of the last school rule revision, including pointing out agenda materials in Board packets under Tab 08. In the late 1990s the Board began receiving testimony from individuals on indoor air quality issues in schools, then on drinking water issues. In 2003, the Board decided the school environmental health and safety rules should be updated. A CR-101 was filed in 2004. The Department of Health formed a committee of stakeholders, including school districts representatives, parents, teachers and local health staff. That group, called the School Rule Development Committee (SRDC), concluded its work in July 2005. Out of that work, the Department created a draft. It was distributed and many comments were received. Out of concerns about cost estimates, another stakeholder group was formed in 2008 by suggestion of several legislators. This group was called the School Rule Revision Team (SRRT), and it consisted of representatives from the same groups as the SRDC. The SRRT met six times in 2008. After those meetings, Department and Board staff modified the rule revision proposal. It went to the Board for hearings in July and September 2008. In October 2008, the Board delayed the decision on the rule to no later than June 2009. In early 2009, the Legislature created a budget proviso limiting implementation of new rules for school environmental health without funding. The proviso has been renewed in each subsequent budget since, including the 2013-15 budget. A new proviso was added this year to have the rule reviewed by the Joint Administrative Rules Review Committee (JARRC).

Mr. Therien said the Board has had rules for school environmental health and safety since as long ago as the 1960s and the changes it adopted in 2009 are updates. The changes reorganize the existing rules and add some new provisions. The new provisions include site assessment; drinking water testing; mold remediation; indoor air quality; reference to standards for playground equipment; laboratory and equipment safety measures; and grievance procedures. The rule is designed so that some of the more costly provisions would be phased in.

Ms. Davis described JARRC. She said the eight-person committee is made up of House and Senate members. Its primary charge is to review rules to determine whether they conform with the laws they are intended to implement, and to assure rules are adopted consistent with legal requirements (Administrative Procedures Act and Regulatory Fairness Act). The committee also examines whether an agency is using guidelines in lieu of rules. The new proviso specifically requires JARRC to review the school rule and make recommendations to the Legislature. It will likely review the rulemaking file and other materials before making its recommendations. It has not scheduled a meeting to do that, but since legislative session is coming quickly the Board needs to be aware of the proviso. The proviso does not set a review deadline.

John Wiesman, Secretary of Health asked what the next steps would be. Ms. Davis said she has contacted JARRC staff, and is awaiting direction. Once staff has more info, it will alert the Board. Chair Austin asked if it would be during session. Ms. Davis stated that JARRC typically meets during the interim, but members might be in town for committee assembly days. Member Yu asked if this had not come up as a JARRC requirement, would it have come back to the Board to extend the effective date. Ms. Davis stated that it would have to because the funding proviso is still in place. Chair Austin expressed concerned that it may be hard for JARRC to fully comprehend the intensity of the testimony provided the Board over many years. He said the Board heard really strong testimony, particularly by parents of children who felt their children were not protected by the existing rule. Member Pendergrass asked could a decision by the JARRC send us back to ground zero. Mr. Therien responded the Legislature would have to act on any JARRC recommendation for it to be other than a recommendation. Chair Austin asked if the McCleary ruling requiring more school funding would affect implementation of the rule. Mr. Therien said not specifically, but part of the funding required to meet the McCleary ruling would be for facility maintenance.

9. PUBLIC HEARING – NEWBORN SCREENING, CHAPTER 246-650 WAC

Tara Wolff, Board Staff, introduced this item by describing the materials behind Tab 09 in member packets. She said the only comments on the rule proposal were two letters of support. She reminded the Board that in June 2012 it supported the Severe Combined Immunodeficiency Disease (SCID) Advisory Committee recommendation to add this newborn screening requirement to the panel of newborn screening tests, with a contingency on securing funding. In May 2013, the Board filed a CR 101 to initiate rule making since the legislature approved an increase of the newborn screening fee to cover screening costs, and the Health Care Authority assured the Board it planned to cover the fee increase in their hospital reimbursement rebase. Mike Glass, director of the Newborn Screening Program at the Department of Health, gave a presentation explaining the proposed rule change, the process used to revise the rule, and comments received. For more detail, please see the power point presentation under tab 9. He said a stem cell transplant can cure the disease, but a child may develop a life-threatening illness before being diagnosed if they are not screened at birth. Early diagnosis can save lives. Member Yu asked how many children would likely be diagnosed with SCID in the state each year. Mr. Glass said the estimate is two children with full-blown SCID and six with partial.

Suzanne Skoda-Smith, MD, Seattle Childrens Hospital, testified full support for the rule.

Stacey Barnett testified she represented parents whose child was not diagnosed in time. She lost her son at six months old in 2009. He was infected with four agents and it was too late to try to save him with a transplant.

Heidi Janeway testified her son passed away at nine-months old from SCID. He received a bone marrow transplant, but not in time to save his life.

Secretary Wiesman said the Department was in full support of the rule proposal.

***Motion:** The Board approves the amendments to revise WAC 246-650-010 and WAC 246-650-020 as published in WSR 13-11-040. It also asks that WAC 246-650-030 be repealed, and that a CR-103 is filed to adopt the amendments to WAC 246-650-010 and WAC 246-650-020 and establish an effective date.*

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

10. RESCIND DELEGATION OF RULE-MAKING FOR NOTIFIABLE CONDITIONS, CHAPTER 246-101 WAC

Chair Austin introduced this agenda item by stating what previously seemed to be simple delegated rule-making has become more complicated and should have Board staff involvement. Mr. Therien explained that in June the Board delegated authority to the Department to change the term “boarding homes” to “assisted living facilities” in multiple rule chapters to match recent statutory changes. Since then, the Department recommended revising the definition of “elevated blood lead level” in one of those rule chapters (246-101) delegated to the Department. The problem is the Board delegated rule-making for the entire chapter to the Department in June as part of a group of rules, but that rule package will take a while to complete and staff would like to proceed with developing a proposal to revise the elevated blood lead level definition. This rule-making is not suitable for delegation. Therefore, staff recommends rescinding the rule delegation for chapter 246-101 WAC made in June. Member Pendergrass stated this issue seems to involve different rule changes. Mr. Therien clarified that the delegation was for the entire chapter, even though to make a simple change in a term in one section. That change and the blood lead level change involve the same definitions section of that chapter and could be a combined rule-making.

***Motion:** The Board rescinds its delegation of authority to the Department of Health made on June 13, 2013 to adopt revisions to chapter 246-101 to change the words “boarding homes” to “assisted living facilities” to assure consistency with Chapter 10 Laws of 2012 (SHB 2056).*

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

11. BOARD MEMBER COMMENTS

Member Yu reported attending the Washington State Medical Association Council of Delegates in Spokane and hearing Dr. Maxine Hayes lauded for her many years of exemplary service. Member Yu commented on the very emotional testimony heard today from the parents of SCID-affected children and noted they came from Oregon to testify. Member Pendergrass commented on the cost analysis for SCID testing and response not being positive, but the chance to save lives and help other children without full-blown SCID is well worth it.

Ms Davis announced the next Board meeting would be November 13 at the Red Lion Hotel at SeaTac airport.

ADJOURNMENT

John Austin, Board Chair, adjourned the meeting at 2:07 p.m.

WASHINGTON STATE BOARD OF HEALTH

A handwritten signature in black ink that reads "John Austin". The signature is written in a cursive style with a large initial "J".

John Austin, Chair