



**Final Minutes of the State Board of Health
August 13, 2014**

John A Cherberg-SHR3, 304 15th Ave SE, Olympia, WA 98501

State Board of Health members present:

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

Donald Oliver
Thomas Pendergrass, MD, MSPH
Dennis Worsham, Secretary's Designee
Diana T. Yu, MD, MSPH

State Board of Health members absent:

James Sledge, DDS, FACD, FICD
The Honorable Donna Wright

State Board of Health staff present:

Michelle Davis, Executive Director
Melanie Hisaw, Executive Assistant
Timothy Grisham, Communications Consultant

Mike McNickle, Health Policy Analyst
Tara Wolff, Health Policy Analyst
Lilia Lopez, Assistant Attorney General

Guests and other participants:

Karin Neidt, Department of Health
Andrew Sardella, Department of Health
Kristin Bettridge, Department of Health
Tami Thompson, Department of Health
Luisa Parada Estrada, Department of Health
Elyse Jameyson, University of Washington
Audrey Levine, Midwives' Assoc of WA State
Amber Ulvenes, Midwives' Assoc of WA State (MAWS)
Valerie Sasson, Midwives' Assoc of WA State (MAWS)

Barry Ellis, Self
Cheryl Christian, Department of Labor & Industries
Jeff Killip, Department of Labor & Industries
Susan Norton, Seattle Children's Hospital
Laura Steinmetz, Seattle Children's Hospital
Kristina Wendorf, Parent
Emily Stephens, Midwives' Assoc of WA State
Rachael Cook, Midwives' Assoc of WA State (MAWS)

John Austin, Board Chair, called the public meeting to order at 9:31 a.m. and read from a prepared statement (on file).

1. APPROVAL OF AGENDA

Motion: Approve August 13, 2014 agenda

Motion/Second: Austin/Pendergrass Approved unanimously

2. ADOPTION OF MONTH DAY, YEAR MEETING MINUTES

Motion: Approve the June 11, 2014 minutes

Motion/Second: Kutz/Worsham Approved unanimously

3. BOARD ANNOUNCEMENTS AND OTHER BUSINESS

Michelle Davis, Executive Director, welcomed the Board back to Olympia. Ms. Davis announced that Dr. Yu and Ms. Donna Wright have been reappointed to the Board and thanked them for their service.

Ms. Davis described the correspondence under Tab 3, including a letter from Allene Mares of the Washington State Department of Health regarding questions about the Department's request for rulemaking for Chapter 246-680 WAC Prenatal Tests—Congenital And Heritable Disorders. The Board also received correspondence from Representatives Morrell and Jinkins requesting the Board add Critical Congenital Heart Disease screening to Washington's newborn screening panel. Ms. Davis indicated that the Board received a fourth piece of correspondence that will be reviewed under Tab 5.

Ms. Davis announced that Mike McNickle would be leaving Board staff effective August 15 to pursue an opportunity in Oregon. A recruitment for Mr. McNickle's replacement is underway.

Ms. Davis announced that the Governor's staff completed their review of the State Health Report in July. Staff submitted the report to the Governor and appropriate committees of the Legislature.

Ms. Davis said staff is finishing the Health Impact Review (HIR) for Senator Ranker on SSB 6554, concerning life alert services. Due to limited literary evidence on the topic, Sierra Rotakhina has connected with over 25 experts in the field and state agencies. Ms. Davis thanked Board Member Fran Bessermin for her contributions to the review, which reflected her work with older adults. Board and Council members will have the opportunity to review by the end of August. She said Representative Santos has requested a review of amendment 910 of E2SSB 6552, addressing the 24 credit requirement. Board staff is also working to develop stronger criteria to rank the strength-of-evidences for HIRs, and is partnering with the UW School of Public Health Community Oriented Public Health Practice (COPHP) program to pilot the criteria by the 2015 legislative session. Christy Hoff and Sierra presented to the Educational Opportunity Gap Oversight and Accountability Committee (EOGOAC) mid-July. They briefly described the findings from the HIR of 1680 (ed. opportunity gap bill), and focused on the Council's work and recommendations in relation to education as well as the connections between health and education.

Ms. Davis reported that Tara Wolff convened a group of state agency oral health experts to better understand the work state agencies are doing to promote and improve oral health and to learn how their work may fit with the Board's recommendations to improve oral health. Board members Austin and Sledge participated in the workshop. Staff plans to present a meeting summary of agency oral health activity and agency recommendations at an upcoming meeting.

4. DEPARTMENT OF HEALTH UPDATE

Dennis Worsham, Secretary's Designee discussed the budget process and he introduced Kristin Bettridge to discuss the budget in detail.

Kristen Bettridge, DOH Staff then discussed the budget process that has occurred to date. Ms. Bettridge discussed the revenue picture for the Department in detail. Ms. Bettridge discussed the past and current issues facing the Department's budget. She mentioned that all state agencies have to propose a 15% budget reduction for the biennium. The Department used a priority-based process to help define what cuts will be needed.

Designee Worsham discussed some of the stakeholder work that was conducted to receive input on the budget. Designee Worsham said two programs will likely suffer major cuts – HIV and Family Planning. He then described the process for rating/categorizing programs for budgeting purposes in detail. Some of the department's ranking considerations included foundational health services,

Governor's priorities under Results Washington, and the Department's strategic plan goals. Designee Worsham provided a list of the department's proposed budget reductions to the Board.

Tom Pendergrass, Board Member asked which programs would be shut down and which would be cut significantly through this process that would affect communities. Designee Worsham then asked Ms. Bettridge to explain the list of cuts. Ms. Bettridge said that it appears none of the programs listed would be cut entirely. Member Pendergrass then asked whether Death with Dignity and AHEC would be cut entirely. Designee Worsham said the Death with Dignity program would be, but expected the department would receive push back on this cut. AHEC would not be fully cut; the foundational pieces of AHEC would remain in place. Member Pendergrass then said that AHEC is one of the major ways providers are trained, and it would cost more to change it to something else instead of using AHEC.

Diana Yu, Board Member then asked about the health equity criteria used for the budgeting process. Designee Worsham described how a health equity lens was applied early in the process, to identify potential impacts of reductions on health disparities. Member Yu mentioned the impact of reductions in family planning dollars on those who families that have no money. Designee Worsham mentioned a buy back opportunity that agencies will have through the budget process. Stephen Kutz, Board Member then commented that the budget is cut beyond the muscle and fat and into the bone.

Designee Worsham then gave information regarding West Nile Virus. The Department is monitoring the virus and mosquitos have tested positive for the virus in Eastern Washington, and one person has been diagnosed with West Nile; another is a presumptive positive. Designee Worsham also discussed the Ebola outbreak in Africa and some of the issues associated with the outbreak.

5. CLANDESTINE DRUG LAB COMPLAINT

Chair Austin introduced the next agenda item, and then recused himself due to the nature and location of the complaint. Keith Grellner, Vice Chair then introduced Michelle Davis to discuss the complaint. Ms. Davis introduced the complaint received by the Board from Barry Ellis. Ms. Davis paraphrased the briefing that is located in the Board packet. Mr. Ellis has requested the Board investigate Jefferson County Public Health actions regarding an alleged methamphetamine lab. Mr. Ellis alleges that Jefferson County Public Health did not carry out its legal obligation to investigate the rental home he was living in during the 2011-2012 timeframe for past manufacturing of methamphetamine. The complaint and evidence supporting Mr. Ellis' case are available in the Board packet. Ms. Davis described the Board's response to a complaint received about a County's onsite sewage program in the mid-1990's.

Motion: *The Board directs staff to work with the Department of Health and other agencies to conduct a preliminary investigation under RCW 70.05.120 to determine whether JCPH met the requirements of RCW 64.44 and Chapter 246-205 WAC regarding methamphetamine labs.*

Motion/Second: *Diana Yu/Don Oliver Approved unanimously*

The Board took a break at 10:26 a.m. and reconvened at 10:52 a.m.

6. UPDATE: UNIVERSAL NEWBORN HEARING SCREENING

Member Yu introduced Debra Doyle and Karin Neidt from the Department regarding the Universal Newborn Hearing Screening program. Tara Wolff, Board staff briefly outlined the regulatory framework for newborn screening programs and explained the hearing screening is not included in the required newborn screening panel. Debra Doyle, Department of Health gave a presentation about the Universal Newborn Hearing Screening program that is included in the Board packet. Ms. Doyle provided an overview of how and why universal screening is performed, data on how well Washington is achieving its goals, and some of the challenges to ensuring all infants are screened and receive recommended services. Ms. Doyle introduced Ms. Neidt who is the program manager for Early Hearing Loss Detection, Diagnosis, and Intervention (EHDDI).

Member Kutz explained that he had a series of questions, and asked about the statistics provided in the presentation. He also asked about how hearing screening equipment and training is provided to midwives. Karin Neidt, Department of Health explained that over the past few years, the program used a request for proposal process to make screening equipment available to a small number of midwives providing out-of-hospital births. However, the equipment is somewhat expensive so not all midwives have it and some parents must take their infants to hospitals for their hearing screening. Ms. Neidt also described the efforts the Department is making to expand the program through midwives statewide. Member Kutz then asked whether health care providers are notified through the EHDDI program. Member Kutz asked how many births are Medicaid births. Ms. Neidt said about half are Medicaid births.

Member Yu asked if high risk factors were a good predictor of hearing loss. Ms. Doyle said only 25% of the children with hearing loss had a risk factor noted. Member Kutz asked if there was a place a provider could find out if the child had been screened for hearing loss. Ms. Doyle said she is optimistic that in time the results of screening can readily be shared from hospitals to the Department and to pediatrician's EMR using health information exchange. However, that is not yet available. In the meantime, clinicians can contact the EHDDI Program toll free or via email and request the results.

Chair Austin asked how many kids make it to middle school without knowing they have hearing loss. Ms. Doyle said she did not know. Member Pendergrass then asked Dr. Norton from the audience if she knew the answer. Dr. Susan Norton, Seattle Children's Hospital said that there are instances where this can occur. Dr. Norton stated hearing screening is required for school children in several grades so unless the hearing loss was very gradual or a result of trauma, it would be unusual to get to middle school without hearing loss detected.

7. PUBLIC TESTIMONY

Barry Ellis, Citizen discussed the complaint he submitted to the Board regarding Jefferson County Public Health's handling of a complaint he filed regarding methamphetamine in a home he rented.

Dr. Susan Norton, Seattle Children's Hospital commended the work the Department has been doing with Newborn Hearing Screening. Dr. Norton suggested that the Board mandate the Newborn Hearing Screening as part of the newborn screening panel of conditions.

Kristina Wendorf, Citizen discussed her experience with newborn hearing screening. Ms. Wendorf is a parent of a child with a hearing loss. She gave examples of how she and her family had benefited

from the Department's Early Hearing Loss Detection, Diagnosis, and Intervention. Ms. Wendorf encouraged the Department to keep providing these essential services.

The Board recessed for lunch at 11:38 a.m. and reconvened at 1:00 p.m.

8. Rule Review Update

Member Grellner introduced Mike McNickle to discuss rule reviews that have been conducted thus far. Member Grellner explained that the rule review is required by RCW 43.70.041 every five years. As part of this process, the Board directed staff to conduct reviews of pertinent chapters at its June meeting. Mike McNickle, Board Staff discussed the rule reviews completed thus far: Chapter 246-203-020 WAC, Spitting; Chapter 246-203-180 WAC, Piggeries; Chapter 246-203-200 WAC, Disease producing organisms for rodent extermination forbidden; and Chapter 246-203-500 WAC, Human remains. The rule reviews are included in the Board materials. Mr. McNickle discussed the process of the review. Board staff emailed EH Directors, PH Officers, and other stakeholders. Based on feedback from commenters recommendations were made regarding possible changes and/or updates to the rules.

Mr. McNickle stated that the spitting rule dates to about 1896 to control tuberculosis, since then scientific evidence has eliminated it as a cause – the rule, as it exists, is an etiquette rule and not a public health rule.

Mr. McNickle stated local health officials feel they have no control over piggeries, and that regulation falls under animal keeping.

Mr. McNickle then gave information on the rodent extermination rule. Mr. McNickle stated stakeholders didn't know it existed, but thought it was a good idea.

Mr. McNickle stated that Ned Therien, Board Staff, Retired reviewed the human remains rule prior to his retirement and recommended that the rule remain as is. Mr. McNickle stated that Mr. Therien got tribal input on the rule review. Member Yu stated that local health uses the rule quite a bit for burial transfer and that in light of the recent Ebola outbreak that keeping the rule would be a good idea.

Chair Austin asked if there was a wider rule for production of disease producing organisms in regards to the rodent rule. Member Yu stated that it is an interesting question because biological control of disease has been proven to be bad in many cases. Chair Austin asked if spitting could be applied as assault. Mr. McNickle stated that in that case the act would be treated as assault, not a public health violation but a legal violation.

Lilia Lopez, Assistant Attorney General stated that the wording on one of the rule reviews asked if it is necessary to comply with statutory authority, and if you select yes then it would need to be retained, otherwise it could be repealed.

Ms. Davis stated that no board action at this time, but staff would be pulling rules reviews in as completed to maximize time and capacity issues. Member Yu asked how does the Board repeal spitting rule. Ms. Davis explained that the process would be a standard rulemaking process with a full repeal rather than an amendment.

9. Recognizing Board Member Contributions

Chair Austin, Board Draft Resolution 14-01 included in the Board packet. Members expressed their gratitude for his service to the Board and his contributions to the State of Washington. Don Oliver, Board Member then expressed his appreciation to the members of the Board.

***Motion:** Motion to adopt the resolution as drafted.*

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

10. Hearing: Chapter 246-650 WAC Newborn Screening (Chapter 18, Laws of 2014)

Member Yu introduced the newborn screening rule and explained that it needs to be updated to reflect legislative revisions from the 2014 session (SHB 2544). Member Yu introduced Tara Wolff. Member Yu explained the since the rule revision proposed adopting statutory changes without material change it was possible to use abbreviated rule making exception for the rule revision. Ms. Wolff introduced Lain Knowles from the Department.

Lain Knowles, Department of Health walked the Board through the rule revision covering the background leading to the rule change, the proposed rule language, a summary of comments received, and recommended Board action. Member Grellner asked what the thought was behind the “sunset date”. Mr. Knowles said he did not know, that it was a legislative provision. Member Pendergrass asked about reporting timeframes by condition. Mr. Knowles said the intent was to report without identifying the newborn or the provider and some of the conditions are so rare, it would not be possible to report by condition without being able to identify either the patient or the provider. Member Pendergrass asked whether the date tracking required in the rule created new data management issues. Mr. Knowles said it was not adding much of a workload and the program has made the procedural changes needed to capture the additional data. Member Pendergrass noted that there was a sense of urgency in the new language about reporting the information to the parents. Mr. Knowles said that there is a range of criticality, depending on the condition. Member Yu asked if the payment issues are included in the rule. Tami Thompson, Department of Health said the fee issues are under the department authority and rule, and do not fall under the Board’s authority. Mr. Knowles indicated a comment that expressed concern about denial of tests and storage of specimens. He said that parents can deny tests, and that specimens are stored for 21 years and then destroyed as required by statute. Chair Austin asked how many parents refuse the screening. Audience member, Deb Doyle, DOH said it was less than 1 percent. Mr. Knowles identified a comment of concern from the hospital association regarding the word “promptly.” The proposed rule reflects the statute. Mr. Knowles provided some alternate language for the Board’s consideration. Chair Austin asked whether the rule change regarding reporting times in days or weeks versus hours is a legal issue. Lilia Lopez said the statute does not set a time range. Chair Austin invited public testimony on the proposed rules.

Valerie Sasson, Licensed Midwife and President of Washington Midwives’ Association of WA (MAWS) stated a concern that there is an economic issue for midwives associated with this rule change. She recognized that the Board has no authority over these fees, but wanted to share her associations concerns about impact.

Designee Worsham said that the Department would be working with midwives to find a way to move forward on a plan for how to pay for this. There needs to be a fee, but the department is delaying that until January 1, 2015.

Motion: *The Board adopts revisions to Chapter 246-650 WAC as proposed in WSR 14-14-066 along with the following language edit to 246-650-040(2)(c) “The time taken by the health care providers to notify parents and guardians after being notified by department about infant screening tests that indicate a suspicion of an abnormality that requires further diagnostic evaluation. Notification times will be summarized and reported in increments of days.” As proposed in the comment letter from WSHA to better explain the term “prompt”.*

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

11. Review of Board Administrative policies

Ms. Davis explained that periodically Board staff reviews and recommends updates to Board administrative policies. She directed the Board’s attention to Tab 11 and identified two policies that were reviewed this summer, 2001-001 Considering Delegation of Rules to the Department of Health and 2005-001 Responding to Petitions for Rule-making. She recommends that the Board consider changes to the policies that recognize the Board’s ability to call special meetings in order to address issues in a timely manner and to assure that the policies align with the intent of the Open Public Meetings Act, RCW 43.20.050. Ms. Davis described the recommended changes to both policies.

Member Yu asked about the RCW that governs petitions. Lilia Lopez said that it the statute does cover written petitions through OFM. Member Kutz stated that it is a good idea to be clear about what petition is for. Ms. Lopez said that you can work something in for that issue on the policy. Ms. Davis read the OFM rules on petitions.

Motion: *The Board adopts the recommended revisions to the following Board policies and procedures submitted on August 13, 2014:*

- *2000-001 Considering Delegation of Rules to Department of Health*
- *2005-001 Responding to Petitions for Rule Making*

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

12. BOARD MEMBER COMMENTS

Member Kutz met with the CDC to look at e-cigarettes and other work and took a tour of the biosafety level four and emergency operations facilities. He also asked the CDC about emerging TB drugs and other issues about TB.

Member Pendergrass discussed Pediatric Grand Rounds at Children’s that he recently took part in with the CDC and discussed his thoughts about his experiences with the CDC.

Member Grellner discussed the Horseshoe Lake illness outbreak in Kitsap County. Over 300 people came down with Norovirus. He said CDC contacted the county to help filter viruses in surface water.

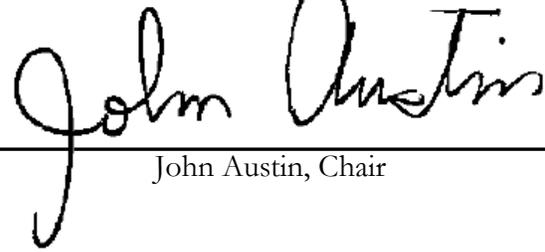
Member Yu mentioned that she attended the national Tuberculosis controllers meeting in June. There is still not a perfect way to diagnose TB, and it remains a threat. She reminded the Board that travelers (domestic and foreign) bring many diseases into the US.

Executive Director Davis announced that the next Board meeting will be held in Spokane. She plans to reach out to the local board of health. She mentioned the Joint Conference on Health will be held October 12-14, one of the themes will be health equity. Board staff will be presenting their health impact review work.

ADJOURNMENT

John Austin, Board Chair, adjourned the meeting at 2:39 p.m.

WASHINGTON STATE BOARD OF HEALTH



John Austin, Chair