

WASHINGTON STATE BOARD OF HEALTH

Draft Minutes of the State Board of Health

November 9, 2020

Electronic meeting via GoToWebinar

State Board of Health members participating by phone:

Keith Grellner, RS, Chair

Thomas Pendergrass, MD, MSPH Vice-Chair

John Wiesman, DrPH, MPH

Fran Bessermin

Jill Wood

Stephen Kutz, BSN, MP

Vazaskia Crockrell

State Board of Health members absent:

Bob Lutz, MD, MPH

State Board of Health staff present:

Michelle Davis, Executive Director

Melanie Hisaw, Executive Assistant

Kelie Kahler, Communication Manager

Stuart Glasoe, Health Policy Advisor

Lindsay Herendeen, Health Policy Analyst

Samantha Pskowski, Health Policy Advisor

Kaitlyn Donahoe, Health Policy Advisor

Cait Lang-Perez, Health Policy Analyst

Guests and other participants:

Lilia Lopez, Assistant Attorney General

LinhPhung Huynh, Department of Health

Sierra Rotakhina, Department of Health

Alexandra Montaña, Department of Health

Chris Baumgartner, Department of Health

Neetha Mony, Department of Health

Julieann Simon, Department of Health

Keith Grellner, Chair, called the public meeting to order at 9:31 a.m. and read from a prepared statement (on file). He then detailed operating procedure and ground rules for conducting a virtual meeting, and asked board members to introduce themselves.

1. APPROVAL OF AGENDA

Motion: Approve November 9, 2020 agenda

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

2. ADOPTION OF OCTOBER 13, 2020 MEETING MINUTES

Motion: Approve the October 13, 2020 minutes

Motion/Second: Member Pendergrass/Member Crockrell. Approved unanimously.

3. ANNOUNCEMENTS AND BOARD BUSINESS

Michelle Davis, Board Executive Director greeted the Board and announced that Member Lutz would not be participating in the meeting. She directed Board members to materials in their packets under tab 3. She indicated that packet materials included meeting notes from recent environmental health and health promotion policy meetings, which focused on rule updates and preparation for the Board's November meeting.

Ms. Davis commented that the packet also included correspondence to Ms. Pajer of Informed Choice Washington regarding the Board's October decision related to her request for a technical advisory committee.

Ms. Davis said that staff had filed the CR-103 Order of Adoption for the vitamin E acetate, which the Board adopted in October. She said the permanent ban of vitamin E Acetate would go into effect November 15.

Ms. Davis announced that staff submitted the draft state health report for Governor's policy office review, and she anticipated the review will be complete in mid-November. She said that staff had also submitted the Environmental Justice Task force recommendations to the Governor's office.

Ms. Davis announced the Department of Health has allocated to the Board some of its Foundational Public Health Services dollars. She said the additional funds will enable her to redirect other Board GFS funds to retain Elise Rasmussen through June 30, 2021 to support legislatively mandated project policy work that the Legislature did not fund. Elise was most recently the project manager for the Environmental Justice Task Force. Ms. Davis said Elise has important expertise in environmental justice and health equity, critical issues that she anticipates will receive a significant amount of legislative interest during the 2021 legislative session. She said Elise will also help with community outreach and engagement, legislative bill analyses related to environmental justice and health equity and will provide other policy development support for the Board. Ms. Davis noted that without this additional FPHS funding, she would need to choose between losing needed capacity for regular Board policy development activities or not being able to adequately take on the new legislatively mandated project work.

Ms. Davis said the Board recently received multiple public records requests. Two requests pertain to the Keeping of Animals rule, one is for the Social Equity in Cannabis Task Force, and one is regarding vapor products and tobacco. She said staff are working to complete the work by the end of the year and collaborating with the Department of Health to fulfill the requests.

Ms. Davis indicated that the Board continues to receive comments and correspondence on agenda item 14. As of Friday, staff had identified 3 complaints. She said there may be additional complaints that came in over the weekend.

Ms. Davis reminded the Board that state offices would be closed on Wednesday, November 11, in observance of Veteran's Day. She thanked Veterans for their service.

4. DEPARTMENT OF HEALTH UPDATE AND NOVEL CORONAVIRUS (COVID-19)

John Wiesman, Secretary of Health, Board Member, gave Department of Health (DOH) updates including the Board's decision to expand Newborn Screening rules to include spinal muscular atrophy (SMA).

Secretary Wiesman said the Vital Records rulemaking for certificates and informational copies of birth and death records was completed June 2020. The Center for Health Statistics and Local Health Jurisdiction (LHJ) vital records offices are preparing for the new vital records law and rules to go into effect on January 21, 2021. Further work is in process for upgraded systems and vital records data.

Secretary Wiesman gave updates on School and Child Care Immunization reporting cycle for 2020-21 cycle. He said last year the DOH Office of Immunization and Child Profile changed the deadline for school reporting to December 1st and preschools/child-care centers to February 15. Due to planning for the COVID vaccine distribution and tracking, school reporting will need to be delayed until February or March 2021. Schools are still gathering information; this is just a delay in reporting to DOH.

He said that drinking water staff are collaborating with other state entities to provide safe water during the COVID pandemic. The Governor issued a moratorium preventing water service being shut off due to nonpayment of water utility bills. Staff continue to consider how to support water utilities and system operators with technical assistance and creative methods to ensure service.

Secretary Wiesman talked about Temporary Worker Housing (TWH) facilities challenges during the COVID-19 pandemic. One such challenge is balancing the need for essential services with the protection of essential workers. Agricultural workers are a vulnerable population, as most use bunk beds and common facilities and restrooms, regulated by DOH and Department of Labor and Industries (L&I). DOH has adopted 2 emergency rules and written various guidance documents to support the protection of workers and keep the industry operating.

Secretary Wiesman talked about the Wastewater Program and SARS-CoV-2 Wastewater Surveillance. He said DOH is using CDC grant funding through July 2021 to investigate the applicability and public health value of wastewater surveillance. DOH is partnering with wastewater treatment plants (WWTPs), LHJs, and tribes from around the state to form a workgroup and begin meeting by the end of 2020. The ask is for treatment plant participants to share their sample data with the CDC as part of the National Wastewater Surveillance System. He said DOH epidemiologists look at the data and develop a standard methodology and capacity to analyze for SARS-CoV-2 DNA fragments, and develop standard operating protocols.

Secretary Wiesman said DOH has submitted the Interim Plan for COVID-19 Vaccine to the CDC and have already received a technical review. This is a living document. DOH is starting provider enrollment for COVID-19 vaccine in a limited way with facilities who will most likely get vaccine in the initial phases (like hospitals). He said the timeline for getting the initial vaccine is unknown and that decision is being driven by science. He commented that initial vaccines will be for the adult population as the clinical trials are currently just for adults, and that it will be awhile before there is a vaccine available for children.

Secretary Wiesman shared a COVID-19 PowerPoint (see presentation on file). He commented on the rising cases and asked for people to please wear face coverings, watch distance and minimize social gatherings.

Chair Grellner said the Secretary's comments are consistent with what is occurring in Kitsap County. Seeing most of spread within households or lots of outbreaks among employers.

Thomas Pendergrass, Vice Chair complimented the breadth of work. He said that it appears we are doing better and our understanding has increased regarding treatments. He said he was worried about preliminary information by Pfizer and the lack of reviews. He noted the increased fatigue about masks and social distancing.

Secretary Wiesman said he understands and shared how folks can connect safely. He said people should bundle up and be outside when gathering, and supplement social interactions with facetime.

Vazaskia Crockrell, Board Member, said she is excited about Pfizer vaccine and reports of 90% efficacy, but questions on how it's distributed and wants to make sure providers are located in areas of highest needs for geographical equity. Also, she believes in data driven and intersectionality of Asian race, but what are we doing for outreach, education for being intentional? Finally, re: hospitalizations and crisis standards of care, do we have enough and how do we determine who has access? She has concerns especially around racial ethnic disparities.

Secretary Wiesman said are looking at social vulnerability in terms of social determinants of health. He acknowledged past atrocities, re: experimentation that have happened, so it's reassuring to see health care providers go first. For allocation of vaccines, they are looking at equity within the groups being prioritized. He commented that this topic probably deserves more conversation.

Secretary Wiesman said that workgroups continue to meet for crisis standards of care. He said additional ventilators have been purchased and hospitals have agreed to come together to work on capacity. He commented that we are learning how to manage better and we are asking the public to work with us to do everything around prevention.

Member Crockrell asked whether the state was going to update the Crisis Standards of Care. Secretary Wiesman said he'd investigate it.

Stephen Kutz, Board Member, commented on the need to emphasize that when people aren't following the right protocols, they aren't only putting their lives at risk, but others too.

Secretary Wiesman agreed.

- 5. PUBLIC COMMENT—** (started at 10:31 a.m. vs 10:20 a.m.) (Note: Public Comment on Item 6, Rules Hearing for Handling of Human Remains, Chapter 246-500 WAC will begin at 10:45 a.m.)

Maria Howard, member of the public, she said she supported of Dr. Lutz and said she spoke on behalf of more than 200 people that have signed the petition regarding Spokane Health District Administrator (SRHD) Amelia Clark violated RCW 70.05.120. She said she had concern about the November 5 local board of health meeting. She said there was a willful disregard for truth and it was clear to her that some board members failed in public health duty and failed the community. She asked why the local board of health allowed an administrator to advise on medical decisions. She said the law explains the Health Officer has the right to advise. She said that Dr. Lutz was censored by Amelia Clark. She asked that the Board investigate Ms. Clark and hold SRHD responsible.

Shelly Burt, member of the public, said she's been in her child's life since age 3, her child has a severe learning disability and can't wear a mask. She said their doctor signed a mask exemption good for 30 days, and she said their doctor added language to include working to acclimate child to mask wearing. She said the school didn't consent with parents and she said the school went against all doctor's orders and opinions and masked her child for 5.5 hours. She said that now her child has severe anxiety and had to transfer to a new school and new teacher. She said they lost trust of schools and are frustrated. She asked how can she get him back to school?

Dr. Pam Kohlmeier, member of the public, said she was speaking as concerned citizen regarding the firing of Dr. Lutz. She said the process was flawed and violated due process and multiple state statutes. She said the community is paying the price of this transgression, during a pandemic. She said she shares the concerns voiced by Dr. Howard, and she said together they serve on three committees, two address COVID-19 crisis triage and one devoted to local health district ethics. She said the process of firing Dr. Lutz was neither ethical nor legal. She said Dr. Lutz was entitled to due process through the Administrative Procedure Act, RCW 34.05, specifically section 434 and 449 where he should have been given 7 days' notice and an opportunity to provide evidence and witnesses in the hearing regarding his termination. She said the Health Administrator violated RCW 70.05.120 and Administrator Clark fired Dr. Lutz before the requisite process. She said Spokane Board of Health member Breean Beggs did not support the firing of Dr. Lutz and noted on the record that the board had only given Administrator Clark authority to undergo a corrective action with Dr. Lutz at the time, but not to fire him. She said the entire process was flawed and not properly vetted for an interim replacement. She said that red flags are embedded in these events, justice requires an investigation, and she requested this by the State Board of Health.

Betsy Howe, member of the public, said her concern is that new laws are not being fully acknowledged in the rule revision. She said she was excited about new law, RCW 5503. But now looking at rules with topographical and soil clauses that would eliminate septic systems from many homes. She said looking at equity and inequity, rural families served by septic's and urban families have sewers. She said COOMWA will continue to work through the revision process and continue to provide updates of their concerns.

Kim McMillin, member of the public, said she had two points of comment. First, she said she supports the comments today about the firing of Dr. Lutz. She said she was dismayed, angered and shocked. She said she hoped the State Board of Health will

take this matter seriously and clean up the mess, especially during a pandemic when people are dying. She said her second comment was regarding the enforcement and monitoring of public venues around COVID. She said she is shocked at what she's seeing with restaurants and grocery stores and seeing 10% of people not masked. She asked if anyone watching for this and can masks be enforced? She said at her chiropractor there were face shields but no masking. She asked if the Board is getting serious to shut things down so we can get through the pandemic. She said Japan, South Korea, Europe are all taking measures to stop the pandemic. She asked if we can be an example.

Jean Mendoza, member of the public, thanked the Board for clarity in WAC 246-203-130. She said the laws governing livestock are not intended for human beings. She said if RCW 90.64 impairs human health, then that statute needs to be revised.

Susie Olson Corgan, member of the public, said she has child with autism and other disorders and said there is extreme discrimination against children with disabilities. She said she understands we believe masks are the answer and her child cannot leave the house. She said the Pfizer vaccine reports promising efficacy, and she asked for data. She said reasons for hesitancy with the Gates Foundation and flawed COVID-19 reports, and she said she urged for transparency through this process.

Bernadette Pajer, member of the public, said positive PCR test does not constitute a case. She said she's concerned about ventilators. She said she has sent information of treatments to DOH, BOH and the Secretary. She said ICW has requested the state to address underlying susceptibility and treatments and the Board denied their petition to bring experts together. She said that studies show seniors and people of color can have an insufficient level of Vitamin D. She asked to make Vitamin D accessible.

Suzie Saunders, member of the public, asked the Board to call a hearing to see if Amelia Clark is guilty of violating state law. She said staff witnessed and were blindsided when Amelia Clark fired Dr. Lutz without a required board meeting, and she violated state law. She said Ms. Saunders stated that Spokane Community and SRHD went without a Health Officer for over a week during a pandemic. She said their staff and the community expect more and the State Board of Health has the ability to remove a Health Officer or Administrator that violates state law. She asked the Board to remove Amelia Clark.

Kim Thorburn, member of the public, said she served on the Spokane Regional Health District board of health for nearly a 10-years and was fired without cause when county commissioner Todd Mielke said it was time to take in new direction. She said she is active on many public health groups and unfortunately had a poor relationship with the local board. She said there were complaints such as mandatory vaccination to EA refugees. She said now in a global pandemic this requires state intervention. She said in a 4-hour meeting, Amelia Clark presented supposed cause for firing Dr. Lutz, which led to a lack of a public health officer for a week. She said several influenza vaccine clinics had to be eliminated. She said the person appointed as interim health officer does not possess qualifications of health officer. She said the reasons presented for firing Dr. Lutz are very similar to her conflicts she had with the board and Amelia Clark

needs to be dismissed. She said the Spokane board of health needs to be restructured with members that have the best in mind for Spokane.

Public Comment Closed at 11:08am. Chair Grellner encouraged those who did not have the opportunity to comment to share their comments in writing, and it will be included in the board packet materials.

6. RULES HEARING—HANDLING OF HUMAN REMAINS, CHAPTER 246-500 WAC
(started at 11:08am)

Stephen Kutz, Board Member, gave background on the proposed new rule, Member Kutz was on mute, so Chair Grellner gave the background (see memo on file).

Cait Lang-Perez and Samantha Pskowski, Board Staff, provided a summary of the proposed changes to the rule, shared comments that were received during the public comment period, and provided staff recommendations (see Tab 6 on file).

Member Kutz thanked staff and said some parts of the rule are not under purview.

Vice Chair Pendergrass asked about implants such as hips and asked if some were available for transport. Ms. Pskowski said not all implants and the two new types of reduction follow current standards. Vice Chair Pendergrass said the concern is international travel can sometimes be complicated.

Ms. Pskowski presented a PPT (see materials on file, Tab 6d) and said following the presentation will be a public hearing on the rule to discuss the proposed changes.

Chair Grellner opened the meeting for public comment and read from a prepared statement (on file). The hearing began at 10:45 a.m.

Katrina Spade, founder and CEO of Recompose, said this is an ecological death care option, and they are proud that WA State is the first state to provide these options. She thanked the Board for its collaborative spirit in developing the rules. Ms. Spade stated Recompose believes that testing for heavy metals falls below EPA's limit. She commented on Board staff recommendation that testing be done by a third party, and suggested that in-house testing be allowed as long as it's approved by a third party. She said this would help lessen the financial burden for small business. She reiterated her appreciation to the board for their hard work in this process.

Member Kutz asked questions about contaminants, cumulative contaminants and heavy metals, and whether there was literature that might help the Board understand whether ongoing testing was necessary.

Ms. Pskowski said because this is a new process, there's not any literature for natural organic reduction. They were able to get some for large animals. Heavy metals are not coming from animals but more from feed stocks and other sources. Ms. Pskowski said because this is a soil product, we anticipate it could be used in gardens and we want to make sure as much caution is taken as possible.

Member Kutz stated we just want the Board to know that the rule does not include guidelines for tracking of where the remains go.

Member Crockrell commended staff on their thoroughness of work and engagement with community. She motioned her support.

Vice Chair Pendergrass said he supported the current language.

Motion: The Board adopts the proposed amendments to Chapter 246-500 WAC as published in WSR-20-19-144, with the revisions agreed upon at today's meeting, if any, and directs staff to file a CR-103 and establish an effective date.

Motion/Second: Member Kutz/Member Pendergrass. Approved unanimously.

The Board did not take a break at 11:15 a.m.

Chair Grellner proposed breaking for lunch until 1:00 p.m., then reconvening with Agenda Item #12, possible action and move to Agenda Item #7. Vice Chair Pendergrass and Member Wiesman discussed the schedule after a lunch break.

Motion: The Board adopts an amended schedule to take lunch from 11:56am to 12:30pm, and resume with Agenda Item #8.

Motion/Second: Member Kutz/Member Bessermin. Approved unanimously.

The Board took a lunch break at 11:56 a.m. and reconvened at 12:30 p.m. After lunch they took up Agenda Item #8.

- 7. COVID-19 REPORTING EMERGENCY RULE** (moved to after Item #9, at 1:09pm)
Secretary Wiesman said in October he discussed the challenges DOH has faced implementing the emergency rule for providers to report race and ethnicity information on COVID-19 cases. He said the emergency rule includes all of the data elements required by HHS and CDC and included requirements to report additional data elements including patient's emergency contact phone number, patient's preferred language, and more granular race and ethnicity data.

He said the Board adopted the emergency rule on July 31, 2020 and will expire on November 28, 2020. He said due to unforeseen staffing changes at DOH, as well as existing system limitations, the agency was unable to fully implement all of the requirements in the emergency rule.

Member Wiesman said DOH could not ask the regulated community to report data that the systems could not collect at this time. Based on this discussion, the Board and Department asked staff to work together and refine the rule language in the existing emergency rule to remove the additional reporting elements and align the next iteration of the rule more closely with only the HHS requirements.

Member Wiesman said he recommended the Board adopt this 2nd emergency rule for Covid-19 notifiable conditions with the revised language.

Kaitlyn Donahoe, Policy Advisor for the Board, briefed the Board on the emergency rule.

Member Kutz asked about tribal affiliation and talked about the disparities that have appeared in some populations, but not sure whether that is the case now.

Vice Chair Pendergrass said whether it's HL7 or the Census, these are places where a large group of people are put into categories.

Motion: The Board adopts a second emergency rule to extend the designation COVID-19 as a notifiable condition and require health care providers, health care facilities, laboratories, and local health jurisdictions to report demographic and other essential data for COVID-19 cases in accordance with the CARES Act and subsequent HHS guidance. The Board directs staff to file a second CR-103E to extend WAC 246-101-017 without lapse, effective on November 29, 2020.

Motion/Second: Member Kutz/Member Bessermin. Approved. Member Crockrell Abstained.

8. UPDATE—KEEPING OF ANIMALS, WAC 246-203-130

Chair Grellner introduced the topic, noting that this is a draft rule, not a proposed rule for Board action today. Stuart Glasoe, Board Staff provided brief background on the rulemaking since 2009; summarized feedback on the public review draft circulated earlier this year and key changes that produced the current version; and closed with a few general comments before opening the topic for Board discussion and questions.

Fran Bessermin, Board Member, thanked Mr. Glasoe for the work and noted the longstanding effort.

Member Crockrell also acknowledged the work, said it is time to move forward, and noted that there will be more opportunity for public input.

Jill Wood, Board Member said she thinks the draft hits the sweet spot and said she appreciates the simplicity and intention of the rule.

Member Kutz noted that the rule cannot take care of all farm animal problems. He said it has some teeth where needed and said he appreciates the simplicity of the draft rule.

Chair Grellner asked Mr. Glasoe about next steps if the Board chooses to move forward. Mr. Glasoe provided an overview of next steps including the necessary rule analyses and further public review and comment on the rule. He added that the earliest the filing may be ready for a hearing and consideration by the Board would be spring, more likely summer.

Vice Chair Pendergrass joined others to say he liked the simple, direct language of the draft rule and noted the complexities around this issue.

Motion: The Board directs staff to finalize draft revisions to WAC 246-203-130, Keeping of Animals, based on today's discussion and begin developing a CR-102, Proposed Rulemaking and any required analyses for filing with the Code Reviser.

Motion/Second: Pendergrass/Crockrell. Approved unanimously.

9. BRIEFING—PRENATAL TESTS—CONGENITAL AND HERITABLE DISORDERS, CHAPTER 246-680 WAC (followed item #8 at 12:56pm)

Vice Chair Pendergrass gave background on screening and diagnostic testing (see materials Tab9a on file), and invited Samantha Pskowski, Policy Advisor to the Board, to provide an update on the rule timeline, details on the proposed changes, and share next steps (see presentation on file, Tab9d).

Vice Chair Pendergrass said we are trying to bring our Prenatal testing into the 21st century. He commended Ms. Pskowski on her fantastic policy work.

10. UPDATE—NOTIFIABLE CONDITIONS, CHAPTER 246-101 WAC (followed item #7, at 1:45pm) Stephen Kutz, Board Member, shared background and summary on the rule (see materials on file), and invited staff to provide their recommendation on the next steps for the Notifiable Conditions rulemaking project.

Member Kutz mentioned the difficulty of changing systems and asked Secretary Wiesman how long implementation might take. He added that if we are ready by the March Board meeting, if it is possible to put a deadline in the rule?

Secretary Wiesman said there's not necessarily a timeline and they are not implying a couple years. He said that technology will drive implementation, and is hoping for the end of 2021, but said he would defer to staff. He commented that there are significant IT challenges to expand data fields for notifiable conditions such as National IT standard compliance that don't yet have data systems built in. He said there are at least nine DOH IT systems to update including Electronic lab flat file (optional way for lab partners to send lab results for COVID only, SHELDIN (holds HIV/STD data) and CREST (contract tracing system). He said this will take us a lot of time, especially with all the priority COVID IT work. He said we need to continue to partner and collaborate with community leaders, labs, IT specialists, and other subject matter experts to realize incremental progress.

Kaitlyn Donahoe, Board Staff, invited DOH subject matter experts to help answer potential questions.

Sierra Rotakhina, Department of Health, said it would take 2 years for electronic records. At same time DOH could be updating our records for gender identify and sexual orientation status. She said there could be a delay for some of the data components. She introduced Chris Baumgartner on the line to answer technical details.

Chris Baumgartner, Department of Health, said he thought the Department could accommodate that by late 2021, but we need to consider the national framework and national standards where they build their systems.

Member Crockrell asked when the next time would be for this rule to opened up to be really intentional about collection of this important data, sexual orientation, gender, etc.

Ms. Davis said a rule must be in effect for the Board to amend it. She said the goal is to have race and ethnicity and language for the Board's consideration in March. She said that if the rule goes into effect late 2021, any new additions could be considered after that. She said staff need some more clarity around other categories. She commented on the need to look to other states and the uncertainty about the best place to collect this information.

Secretary Wiesman said he'd like to see it be a priority, although he won't be the Secretary at that point.

Member Kutz said as we finalize the rule, can we put in the intent.

Ms. Davis mentioned she was uncertain whether new funds might be necessary to move this forward. She commented on the need to balance priorities and better understand how we might define disability, gender identification and sexual orientation.

Secretary Wiesman asked staff to please summarize once again, the bottom line.

Ms. Rotakhina suggested to delay the hearing 5-7months, this needs to be community informed. Mr. Baumgartner said he estimated another 12 months for technical changes to the system, and a lot depends on COVID occupying resources and attention. He said the technical way isn't built into many current HL7 systems and these are the challenges.

Ms. Rotakhina estimated if information is collected from case investigation, it wouldn't add time, but we still need time for rule language.

Vice Chair Pendergrass asked who would collect the information? He said that huge national and international testing organizations are players. He is concerned that re-writing involves many things we need to do sooner than later.

Chair Grellner summarized the system constraints.

Motion: The Board directs staff to continue working with subject matter and community experts, local health jurisdictions, and the regulated community in order to help staff develop language to include disaggregated race, ethnicity, and language as reportable data components in the Notifiable Conditions rule. The Board directs staff to withdraw the Supplemental CR-102 filed as WSR 20-13-062 in anticipation of filing a new CR-102 to incorporate the additional reportable data components following Board review of the proposed revisions.

Motion/Second: Member Bessermin/Vice Chair Pendergrass. Approved unanimously.

Chair Grellner said that as an Administrator of local public health district, systems that are not set up to collect data borders on the impossible and affects future actions down the road. Having been an agency that at one time made that mistake, requiring information with no way to report it, resulted in stacks and stacks of paper waiting to be input later. Based on the information we have in front of us, recommendation from staff is a good one and he intends to support.

11. 2021 LEGISLATIVE STATEMENT

Michelle Davis, Board Executive Director, said that in January she would be asking the Board to approve an updated legislative statement (materials on file). She said before then she'd send a draft update to board members for their review and comment. She described possible updates to the statement based on 2020 legislative action and staff recommendations.

She said that legislative session starts on January 11, 2021. Being an odd year, it will be a 105-day session. She reminded the Board of the recommendations of the State Health Report, which included FPHS, vapor products, funding for the Office of Equity, and removal of the budget proviso for school rules relating to air quality. She said she welcomed board member feedback and said she would bring a draft statement for the Board's consideration at its January meeting.

Member Kutz said he didn't see a priority that should drop off. Ms. Davis said the document needs some updates to reflect changes from last legislative session and she thanked him for the feedback.

12. 2021 PROPOSED MEETING SCHEDULE

Michelle Davis, Executive Director, presented the proposed 2021 meeting schedule (materials on file, Tab 12a) for the Board's approval. She noted that Board staff have planned for all meetings through 2021 to be held virtually based on the Governor's Stay Home, Stay Healthy order. Ms. Davis said that the Board may amend the 2021 meeting schedule to reflect an in-person meeting if there is a change in the Governor's directive.

Chair Grellner requested staff to send calendar invites to Board members for the approved dates.

Motion: The Board approves the proposed 2021 meeting schedule.

Motion/Second: Member Kutz/Member Bessermin. Approved unanimously.

13. BOARD MEMBER RECOGNITION

Chair Grellner read Resolution 2020-01 (materials on file, Tab 13a), recognizing and thanking Secretary Wiesman for his dedicated and outstanding service to the citizens of Washington State.

Chair Grellner commented that it is with mixed emotions to present the resolution, and that Secretary Wiesman has been a peer and personal mentor.

Member Kutz said that Secretary Wiesman has made such a difference in the state in the time that he has been in the Secretary of Health position, and that he can only imagine what Secretary Wiesman would have done had he stayed longer.

Secretary Wiesman thanked Board members and said it has been a pleasure to serve alongside them and serve the people of Washington state. He said that the state is on

strong footing, as he stood on the shoulder of many great people before him, and that there is a positive future ahead.

Motion: The Board adopts Resolution 2020-01.

Motion/Second: Vice Chair Pendergrass/Member Bessermin. Approved unanimously.

14. SPOKANE REGIONAL HEALTH DISTRICT COMPLAINT

Chair Grellner provided background on the State Board of Health's duties regarding investigation of complaints against local health officers and administrators, and shared that the Board has recently received several complaints. He explained that most complaints are against Spokane Regional Health District (SRHD) Administrator Amelia Clark, alleging Ms. Clark inappropriately dismissed Dr. Lutz in his capacity as a local health officer per the statutory requirements of the local health jurisdiction. Chair Grellner noted the other complaint received is related to the appointment and qualifications of SRHD's interim health officer.

Michelle Davis, Executive Director, read from a letter received during the Board meeting from the SRHD's general counsel (materials on file, Tab 14h). She directed Board members to the cover memo and policy regarding investigations (materials on file, Tabs 14a, 14e, and 14f).

Chair Grellner noted that Dr. Lutz is a member of the State Board of Health, and that Board members know and have a working relationship with Dr. Lutz. He said that this can put the Board in a somewhat awkward position with respect to this matter. Chair Grellner invited Board members to ask Lilia Lopez, Assistant Attorney General, questions prior to considering options for action in response to the complaints.

Vice Chair Pendergrass asked if the complaints against Ms. Clark are moot given that SRHD held a hearing and terminated Dr. Lutz.

Ms. Lopez responded that the Board can consider whether SRHD and the local health administrator violated the requirements in the Washington Administrative Code (WAC) or whether the local board of health resolved the matter. She said the Board may also direct that a preliminary investigation be undertaken. Ms. Lopez noted that the Board does not have the authority to undermine action taken by local health jurisdictions.

Member Crockrell asked Ms. Lopez to confirm that the Board cannot reinstate Dr. Lutz in his position as local health officer.

Ms. Lopez confirmed that any investigation would be limited to Ms. Clark's handling of the termination. She said that Board may elect to remove Ms. Clark from her position as an administrator, if deemed appropriate, but the Board cannot reinstate Dr. Lutz or reverse any decisions by the local board.

Chair Grellner asked if there are any Board members that feel they need to recuse themselves from this discussion.

Secretary Wiesman said that he does not feel that he needs to recuse himself but acknowledges that he is very familiar with both individuals.

Ms. Lopez noted that the Legislature enacted the complaint and investigation process for the State Board to address issues such as these, and that the body of the Board is made up of both state and local health officials, implying awareness of the relationships between individuals who serve on state and local boards of health.

Secretary Wiesman said that he feels comfortable with moving forward.

Ms. Davis stated that the Board has continued to receive many comments from the public regarding this issue and the Board has not yet had the opportunity to adequately read and process these comments. She said staff would provide all comments to the Board.

Member Kutz stated his support for opening a preliminary investigation on this topic.

Secretary Wiesman commented that the pandemic has been incredibly challenging for many individuals, particularly those who work in public health and those who have been affected by COVID. He said he appreciates that those who have concerns are bringing them forward, and as the Secretary of Health, he is concerned with the pressures that health administrators and officials might receive from communities, elected officials, and others regarding decision making that isn't in the best interest of science. Secretary Wiesman reiterated the need to respect the system that allows independent local boards of health to govern locally and voiced his concern with how these actions transpired. He said that he supports the Board conducting a preliminary investigation to learn all the facts and provide transparency to the community. Secretary Wiesman also noted that it may be in the best interest to hire an outside investigator to conduct the investigation and said he would work with the Department of Health and Office of Financial Management to ensure there are resources for the work.

Vice Chair Pendergrass, Member Crockrell, and Member Bessermin supported conducting a preliminary investigation. They agreed with Secretary Wiesman's suggestion of an independent investigator to conduct the investigation.

Member Kutz commented that he hopes the investigator has a public health background to understand the context and what related public health issues led up to the termination.

Ms. Lopez reminded Board members that the Board's authority is limited to the scope of the administrator's actions and not with the local board of health.

Member Wood stated her support for moving forward with an investigation. She said that it is the Board's obligation and responsibility to move forward with an investigation in whatever way is most optimal, whether that be an internal or external investigator.

Chair Grellner said that he supports all comments heard in this discussion, thinks that an independent investigator is warranted, and appreciates Secretary Wiesman's offer to help find the funds to do so.

Motion: The Board determines that a preliminary investigation is warranted and directs staff to conduct a preliminary investigation under RCW 70.05.120 and report their findings to the Board.

Motion/Second: Member Bessermin/Member Kutz. Approved unanimously.

15. BOARD MEMBER COMMENTS

Chair Grellner asked Board members for any final comments.

Vice Chair Pendergrass said he's been blessed to work with Secretary Wiesman. He complimented board and department staff on the Notifiable Conditions Rule report, saying it is truly outstanding work.

Secretary Wiesman thanked Chair Grellner for his leadership on the board along with Michelle Davis on wide variety of issues. He gave a shout out to SBOH staff for the high quality of impressive work in challenging times. He gave a shout out to DOH staff who assist with the work as well. He is imploring everyone out there that we are in a pandemic, cases in Washington are quickly rising, and he's personally asking to please take personal responsibility and as a reminder we can feel well and healthy and still be infected and transmit to others. We want to save lives and make sure our essential workers can do so safely. He appreciates all that is being done. He knows that patience is wearing thin, hitting us at all angles, which calls for all of us to pull together.

Chair Grellner commented there are provisions for those when wearing a mask is a challenge. The bottom line is we are in a pandemic, this is a very contagious disease, we're learning more every day and we don't know everything about it. One of his peers was recently deployed to El Paso, Texas. He said to please google and see what can happen when there are weaknesses to our overall response.

Chair Grellner said, 1) To prevent disease, this is our legal charge by the state. 2) when we don't have the communities help to control the spread of the disease, people lose their lives. What we're seeing is this disease can randomly select some people and wreak havoc on their lives. We need to make sure we have medical capacity so that those that need the help can receive it. We are desperately trying to avoid seeing what we are in some of these communities, where people have died that didn't need to die due to limited medical capacity.

Chair Grellner again thanked Secretary Wiesman, wished him best and said he looks forward to possibly hearing from him in the future.

Motion to Adjourn: Member Crockrell/Member Kutz. Approved unanimously.

ADJOURNMENT

Keith Grellner, Board Chair, adjourned the meeting at 3:37 p.m.

WASHINGTON STATE BOARD OF HEALTH

Keith Grellner, Chair

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