

WASHINGTON STATE BOARD OF HEALTH

Final Minutes of the State Board of Health

October 12, 2022

Electronic meeting via ZOOM Webinar

State Board of Health members present:

Keith Grellner, RS, Chair

Kelly Oshiro, JD, Vice Chair

Stephen Kutz, BSN, MPH

Patty Hayes, RN MN

Umair A. Shah, MD, MPH

Melinda Flores

Socia Love-Thurman, MD

Tao Sheng Kwan-Gett, MD, MPH, Secretary's Designee

Temple Lentz, MOL

State Board of Health members absent:

Elisabeth Crawford

State Board of Health staff present:

Michelle Davis, Executive Director

Melanie Hisaw, Executive Assistant

Kelie Kahler, Communication Manager

Stuart Glasoe, Health Policy Advisor

Kaitlyn Donahoe, Health Policy Advisor

Nathaniel Thai, Communications

Coordinator

LinhPhung Huynh, Department of Health

Lindsay Herendeen, Health Policy Analyst

Cait Lang-Perez, Health Policy Analyst

Jo-Ann Huynh, Administrative Assistant

Hannah Haag, Community Outreach

Coordinator

Lilia Lopez, Assistant Attorney General

Guests and other participants:

Keith Grellner, Board Chair, called the public meeting to order at 9:03 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 October 12, 2022, agenda, as amended to add a discussion of the November 2022 Board Meeting.

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

2. ADOPTION OF AUGUST 10, 2022, MEETING MINUTES

Motion: Approve the August 10, 2022, minutes.

Motion/Second: Member Love-Thurman/Member Hayes. Approved unanimously

3. BOARD ANNOUNCEMENTS AND OTHER BUSINESS

Michelle Davis, Board Executive Director greeted the Board and directed Board members to materials in their packets on page 13.

Ms. Davis gave updates about staffing changes to the Board. She announced that the Governor reappointed Member Patty Hayes to the Board and shared her gratitude for Member Hayes' continued service and expertise. Ms. Davis then shared news of incoming Board staff: Molly Dinardo will be joining the Board as a new Policy Advisor on October 16; Miranda Calmjoy will be joining the Governor's Interagency Council on Health Disparities (Council) as a Health Impact Review Analyst in November; and Grace Cohen will be joining the Council as a Council Fellow through the Department of Health's Workforce Pathways Program. Ms. Davis also shared that Nathaniel Thai, Communications Coordinator, had taken a promotional opportunity with the Washington State Health Care Authority. She thanked Mr. Thai for his work and wished him the best.

Ms. Davis reported on a Local Board of Health training that she and Kaitlyn Donahoe, Board Policy Advisor, attended in September. She said the training was sponsored by the Washington State Association of Local Public Health Officials (WSALPHO) and funded by Foundational Public Health Services (FPHS) dollars. The training oriented new local board officials who joined after the passage of House Bill 1152, which expanded eligibility for local board membership to include non-elected officials. Ms. Davis served on a panel that provided an overview of the governmental public health system. She reported that she would continue to work with other members of the governmental public health system to develop trainings for these new members.

Ms. Davis discussed activities by the Health Impact Review (HIR) team. She said the team had recently provided presentations about their work to several organizations, including the Fred Hutchinson Cancer Center, the Environmental Justice Interagency Assessment Subcommittee, and the University of Washington Center for Anti-Racism and Community Health. Ms. Davis reported that the HIR team also recently presented to 85 attendees at the Legislative Staff Academy and that they would continue their outreach to the Legislature in preparation for the 2023 Legislative Session. Ms. Davis reminded members that the HIR team is currently working on a Health Impact Review at the request of Senator Liias for Senate Bill 5982 concerning alcohol concentration.

Ms. Davis reviewed the materials in the meeting packets (on file). The materials consisted of September meeting notes from the Policies, Procedures, and Bylaws and Environmental Health Committees; a withdrawal memo for an old Pre-notice Statement of Inquiry related to the Onsite Sewage System Rule; an Order of Adoption for the Keeping of Animals Rule, which was filed on September 15, 2022, and would be going into effect on October 16, 2022; and the State Health Report. She said OFM had requested clarification related to their recommendations around (1) flavored vaping products and (2) requiring insurers to cover the cost of healthcare utilized by

Washington communities, including Complementary and Alternative Medicine. Ms. Davis said she would be working with the Board Chair to develop responses.

Ms. Davis gave background on a budget request to be submitted to the Foundational Public Health Services (FPHS) Committee. She reported that she has worked with staff to identify current core and operational needs, given the shift over the past two years in public engagement with the Board's work, as well as increased expectations of the Board around community engagement by the Governor and Legislature. She stated that initial requests are due to the FPHS Steering Committee by October 28, 2022, and that she is currently developing more formal descriptions and estimates to share with the Board.

Ms. Davis announced that she had been selected as a recipient of the 2022 Washington State Public Health Leadership Award. She thanked Jaime Bodden, Managing Director of WSALPHO, for nominating her.

Chair Grellner congratulated Ms. Davis on her award and shared that Ms. Bodden will read her nomination statement at the end of the meeting.

4. **DEPARTMENT OF HEALTH UPDATE**

Umair A. Shah, Secretary of Health, congratulated Michelle on her award from the Washington State Public Health Association and thanked her for her support of the State Board of Health and the Department of Health (Department).

Secretary Shah and Dr. Tao Sheng Kwan-Gett, Chief Science Officer, provided updates on the following Department of Health efforts:

- The COVID-19 and Monkeypox (MPV) responses; and
- The transformational plan released several weeks ago.

Secretary Shah said that public health is a collective societal effort to assure the conditions in which people can be healthy, safe, and well. He emphasized the importance of the Department's cornerstone values of equity, innovation, and engagement. The underpinnings of the Department's transformational plan include centering equity; modernizing and using all technology available; and working with partners in the public health sector and beyond.

Dr. Kwan-Gett provided an update on the Department's MPV (Monkeypox) response. He said the MPV State Plan of Action includes a partner roundtable, 211 call line, outreach to health care providers, equitable vaccine distribution, support to tribes and local health jurisdictions, data dashboard, and exercising of public health's statutory authority to take disease control measures. He said data suggests the hard work we are doing is paying off—cases have been waning since August. However, it's too early to say the outbreak is over. Member Kwan-Gett said vaccination is one of the most important and powerful tools against MPV. Public health has worked to get adequate vaccine from the national strategic stockpile to people most at risk of infection and communities disproportionately impacted. Lastly, he said we need to continue reducing stigma against the LGBTQ population by combatting misinformation and homophobia.

Secretary Shah provided an update on the Department's COVID-19 response. He said the Department is continuing to meet its commitments under the 'WA Forward: Looking Ahead' plan, which provides guideposts for what public health is doing and what we are asking the public to do to protect everyone. The Department will continue with the plan through 2022 and then investigate whether/how we continue the plan into 2023.

Dr. Kwan-Gett spoke about hospitalizations in the state, which he said is an indication of virus activity. Dr. Kwan-Gett presented information about vaccine doses administered in Washington State, including information about the Bivalent Booster vaccine. He said the demand for Bivalent Booster vaccines is not as high as the Department would like, and the Department is working with local and tribal partners to increase outreach and education.

Secretary Shah stated that the Washington State of Emergency is ending on October 31, though this is not an indication that the COVID-19 pandemic is over. He stated there will also remain in place a Secretary of Health order for masking in health care settings and carceral settings. Secretary Shah also talked about flu/respiratory season and the Department is encouraging people to get the influenza vaccine.

Lastly, Secretary Shah discussed the Department's Transformational Plan and five priority areas, including health and wellness; health systems and workforce transformation; environmental health; emergency response and resilience; and global and one health. He also shared that the Department is working on responding to a legislative directive to create four regional health offices and on-boarding staff.

Chair Grellner asked about different strains that are starting to appear and are impacting health care system capacity. Secretary Shah stated that the pandemic has stressed staffing across the public health and health care system, and this continues to be a challenge. He said the Department has also been working with the Department of Social and Health Services and Health Care Authority around staffing challenges in long-term care settings. He stated the Department is also working with the Washington Medical Coordination Center (WMCC) about transitions and diversions. He stated that federal support not directly related to COVID-19 is not readily available. He suggested that the Board of Health invite Dr. Mitchell from WMCC to provide perspective on impacts across the health care system (e.g., small versus large, rural versus urban, etc.). Dr. Kwan-Gett said that we are seeing similar structural problems across Washington and the country, and that it will require coordination to find solutions.

5. PUBLIC COMMENT

Sue Coffman, resident of Clallam County, parent, and grandparent. Ms. Coffman stated her opposition to the COVID-19 vaccine, sharing her comments and sources on the harmful effects. She said parents have the ultimate right over children, the vaccine is not the only answer and to stop censoring science.

Margaret Nartea, agreed with the previous commenter, speaking against the COVID-19 vaccinations and sharing her comments on harmful effects. She said children have

robust immune systems, they are the least affected group, and she is on all the meetings watching.

Mallory Baker, pediatric audiologist, and founder of the CMV project, shared additional facts for cCMV consideration. She said cCMV is a leading cause of hearing loss in newborn children, saying it affects 1.4 in every 100 infants. She said cCMV is not limited to just hearing loss and there are more forms of effective treatment for early intervention.

Lisa Templeton, testifying on behalf of Informed Choice Washington (ICW), spoke against the COVID-19 vaccination, saying the analysis in Florida shows an 84% increase in males of cardiac death from vaccines. Ms. Templeton talked about the harm of the shots and the legal implication for damage claims for institutions that failed to obtain informed consent.

Amber Moffitt, from Skagit County, said she is a data nerd and worked in health care. She talked about the report that DOH gives on COVID cases, hospitalizations, and death, saying she has followed it closely since February 2021. She said the problem is the overall conglomeration of data to current data. She said as COVID has shifted, the data in the report has become increasingly less of value. She talked about the numbers being off, and she has created her own excel spreadsheet and tracks to see if the safety and efficacy is true.

Patricia Bailey, spoke against the COVID-19 vaccination, and talked about CDC released data. She said requiring vaccinations with a track record is very unwise to public health agencies and she gave the website for information at Icandecide.org.

Natalie Chavez, spoke against the COVID-19 vaccination, saying the Florida surgeon general released an analysis last week showing an increase of cardiac arrest for males under 40 years of age. She talked about harmful effects of the COVID vaccine, saying they were made quickly, and that Pfizer never tested the vaccine to see if it stopped transmission. She said the global campaign was built on a lie and she shared the website oraclefilms.com.

Chair closed public comment at 10:29 am.

6. **HEALTH IMPACT REVIEW—INTRODUCTION AND FISCAL YEAR 2022 UPDATE**

Cait Lang-Perez, Board Staff, began the presentation on Health Impact Reviews (HIRs) by providing a brief overview of the State Board of Health's history and the Board's statutory authority to conduct HIRs in collaboration with the Governor's Interagency Council on Health Disparities. She explained that HIRs provide state legislators and the governor objective, non-partisan, evidence-based analyses to help policymakers determine the impact of proposed legislative or budgetary changes on health and equity. Ms. Lang-Perez then reviewed the HIR process and how it centers equity.

Lindsay Herendeen, Board Staff, discussed the methods used to gather and analyze evidence with an equity lens. She then reviewed the team's portfolio of 112 completed HIRs from FY2014 to FY2022. She discussed how HIRs have informed legislators'

policy decisions. For example, Ms. Herendeen shared that during the 2022 legislative session, two requesters used HIR findings to support budget provisos and shape policy recommendations. Additionally, she also provided an example of how HIR findings have been used outside of the legislative process by agency staff to inform other policy work. She described how Health Benefit Exchange used the HIR findings specific to House Bill 1191 to inform the agency's recently submitted Section 1332 State Innovation Waiver to the federal government (pending).

Ms. Lang-Perez and Ms. Herendeen thanked the board and made themselves available to answer any questions.

Dr. Kwan-Gett said the HIR was helpful in thinking about next steps after the bill died.

Member Kutz stated that he always finds conversations around HIRs helpful and noted that they have also been used in decision making processes in communities.

Dr. Kwan-Gett thanked Ms. Lang-Perez and Ms. Herendeen. He noted that policy is important in health and that he is grateful that they are doing data and equity driven work.

Member Hayes added her compliments and acknowledged all the work staff have done to improve the HIR process over the years. She expressed gratitude that staff point out data issues, especially when there are missing data. Member Hayes went on to highlight the importance of looking for and identifying unintended consequences. She shared the previously implemented public health policy example of menu labeling. Public health professionals believed that by listing calories on menus people would use this information to change their decision-making. Member Hayes noted that this policy intervention missed the mark in terms of recognizing and addressing social determinants of health including, healthy food availability and the economic dimensions of people's decision making. She stated that if an HIR had been done on that policy proposal, it could have shaped how public health went about that addressing that identified need.

In closing, Chair Grellner recognized HIR staff's commitment to serving as non-partisan staff and building a reputation for providing quality evidence for decision-makers.

The Board took a break at 10:50 a.m. and reconvened at 11:00 a.m.

7. **EMERGENCY RULEMAKING – ON-SITE SEWAGE SYSTEMS, WAC 246-272A-0110, PROPRIETARY TREATMENT PRODUCTS AND SUPPLY CHAIN SHORTAGES**

Dr. Kwan-Gett introduced the Department of Health's request for the second emergency rule for on-site sewage systems. He explained that the Board adopted the original emergency rule in June allowing use of replacement parts for on-site sewage system proprietary treatment products during supply chain shortages, comparing it to use of generic parts in place of original manufacturer parts for vehicle maintenance. He noted impending expiration of the first emergency rule.

Jeremy Simmons, Department of Health revisited the need for the emergency rule and implementation of the first emergency rule. He explained that proprietary on-site sewage systems must be tested and approved for use in Washington, and the systems are commonly used on sensitive sites not well suited to conventional systems. Board rules require replacement parts to be identical to the approved system to ensure effective sewage treatment. Supply chain shortages and recent closure of Salcor—manufacturer of a widely used ultraviolet disinfection bulb—have created problems for system maintenance, new construction, and inspection of systems for home sales. He briefly described the Department's process, efforts, and results implementing the first emergency rule. He said six companies use Salcor bulbs in 37 different registered products. To date four companies have submitted and received approval of replacement-part proposals for 24 registered products, covering 65% of the products and thousands of systems across the state. He said the replacement bulbs are in other approved systems and function nearly identically, so there is high confidence they will perform well. Mr. Simmons said repairs began almost immediately following the approvals, helping to ensure effective treatment. He noted the need to extend the first 120-day emergency rule and shared a couple ideas on possible changes to the approach in the permanent on-site sewage system rulemaking.

Member Kutz asked for confirmation that these higher technology systems are often located in more fragile environments and if they fail have a higher propensity for negative impacts. Mr. Simmons said yes, explaining that conventional systems are more commonly used on sites with ample soils and good separation distances, and higher technology systems are used in more fragile or constrained building environments. Member Kutz said this is critical that we keep these systems functioning, and then asked if we are constrained by time for how long we can do an emergency rule extension. Michelle Davis, Board Executive Director explained that emergency rules are effective for 120 days. Technically we don't extend an emergency rule—we have to adopt a new emergency rule at the end of an expiring emergency rule if we want to keep those emergency protections in place. If we want to have multiple emergency rules, we also need to show that we are making progress to add this change to the permanent rules that are currently under development. Chair Grellner said he is glad we are working on this issue in the permanent rulemaking, referred to it as continuous quality improvement as things change, and said something like this provision in the new rule is good direction and he supports it.

Recommended Board Actions:

The Board may wish to consider and amend, if necessary, the following motion:

Motion: The Board directs staff to file a second CR-103E, Emergency Rulemaking Order, to amend WAC 246-272A-0110 within chapter 246-272A WAC to help ensure on-site sewage system proprietary treatment products continue to function properly without negatively impacting treatment, operation, or maintenance during supply chain shortages.

Motion/Second: Member Oshiro/Member Hayes. Approved unanimously

8. BRIEFING – NEWBORN SCREENING AND EARLY HEARING DETECTION, DIAGNOSIS, AND INTERVENTION PROGRAMS

Kelly Oshiro, Board Vice Chair, said that in preparation to hear the recommendation from the technical advisory committee (TAC) on congenital cytomegalovirus (cCMV), Department of Health staff will provide an overview of the Newborn Screening Program as well as the Early Hearing Detection, Diagnosis, and Intervention (EHDDI) Program.

John Thompson, Department of Health, provided an overview of the Department's newborn screening program, public health rationale, and process for screening. He stated that every baby born in Washington State receives a newborn screening, and that the Department processes approximately 12 million newborn screening tests per year, identifying about 200 infants with heritable conditions and 170 infants with early hearing loss.

Karin Neidt, Department of Health, provided an overview of the Department's EHDDI program, hearing screening process, and early intervention strategies. She shared that all infants receive a hearing screening either in hospital or before a baby turns one month old.

Steve Kutz, Board Member, asked if there are methods to monitor and follow up on babies born outside of hospital settings, such as home births, where screening may not occur? Dr. Thompson and Ms. Neidt responded that there is a matching process with birth certificate reporting and follow-up with primary care physicians to ensure babies are screened as soon as possible.

9. BRIEFING – TECHNICAL ADVISORY COMMITTEE RECOMMENDATION: CONGENITAL CYTOMEGALOVIRUS (cCMV)

Kelly Oshiro, Board Vice Chair, introduced the work of the cCMV Technical Advisory Committee (TAC) that met on September 21, 2022, to consider including the condition in the state's newborn screening panel.

Kaitlyn Donahoe, Board Staff, gave a brief overview and background on the Board's authority to adopt rules for newborn screening and the process used to evaluate candidate conditions (see materials on file).

Caitlin Maloney, Department of Health, provided an overview of cCMV, including modes of transmission, symptoms and long-term health issues, and efficacy of screening methods. Ms. Maloney said that 1 in 200 babies are born with cCMV each year.

Ms. Donahoe described the composition of the cCMV TAC, including representation from public health, advocates, state ethnic commissions, insurance, health care providers, and others. She discussed the guiding principles and criteria in which the TAC evaluated cCMV against. Ms. Donahoe stated the TAC received presentations from subject matter experts and heard from an impacted family to help evaluate the condition and make recommendations. She provided an overview of the TAC's votes and comments for each criterion and said the TAC's overall recommendation to the Board is not to add cCMV to the newborn screening panel at this time and to revisit the condition in three years.

John Thompson, Department of Health, discussed the cost-benefit analysis conducted by Ms. Maloney and him, which garnered rich discussion by the TAC. He said the cost-benefit ratio for cCMV was 0.35, which means for every dollar spent, there is 35 cents worth of benefit derived. Dr. Thompson highlighted the limitations of the analysis and discussed factors that aren't quantifiable, such as family stress.

Dr. Kwan-Gett, TAC Co-chair, said it was a thoughtful TAC that took their charge seriously and had discussions on topics where there isn't much data.

Vice Chair Oshiro, TAC Co-chair said this particular newborn screening proposal seems more complex than past candidate conditions.

Patty Hayes, Board Member, commended staff on the presentation and said this is a complex issue. She asked for clarification regarding the screening sensitivity for cCMV using blood specimens and asked about the three-year timeline to revisit the condition.

Dr. Thompson said the sensitivity, or the ability for the test to correctly identify babies for cCMV, is 75%. He said in comparison, cystic fibrosis was about 92-93% and other conditions are around the 96-97% realm. Dr. Thompson said not all tests are created equal and there's a chance for a false negative.

Ms. Donahoe said the three-year timeline allows staff to identify and understand emerging data regarding antiviral therapies. Dr. Thompson discussed the other states currently screening for cCMV, noting that 6-8 states are conducting targeted screening and Minnesota is the only state that has initiated universal screening. He added that we should be able to see data and publications for those results in a few years.

Socia Love-Thurman, Board Member, asked about urine testing if a baby does not pass their second hearing screen. Karin Neidt, Department Staff, said urine testing isn't necessarily happening statewide, though some hospitals and audiology clinics will run PCR tests as a best practice.

Steve Kutz, Board Member, asked for clarification regarding the use of blood spot samples. Dr. Thompson said the original blood spot is used for additional or confirmatory testing.

Motion: The Board determines that congenital cytomegalovirus (cCMV) should not be considered for addition to the newborn screening panel at this time and moves to reevaluate the condition in three years as a candidate for mandatory newborn screening in Washington state.

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

Member Hayes, Member Kutz, and Member Love-Thurman discussed the timing to revisit this condition and the available data, noting that three years may not provide enough time to fully reconsider cCMV, but that more data could be available to inform future action.

Keith Grellner, Board Chair, said if there is a dramatic change with data before three years, that would not prevent the board from considering it earlier. Michelle Davis, Executive Director, confirmed the Board can review actions if we receive compelling information before that three-year timeline. Chair Grellner said he appreciates the in-depth analysis by the TAC members.

10. NOVEMBER 2022 BOARD MEETING DISCUSSION (ADDED IN AMENDED AGENDA MOTION)

Michelle Davis, Board Executive Director, said the purpose of this item was to seek direction from the Board regarding the decision it made in May 2022 to meet virtually in response to the state and federal emergency, whichever is longer. She said the Governor's state of emergency will expire on October 31 and noted that the Board would hold its next regularly scheduled meeting on November 9. She said the federal emergency remains in effect and acknowledged some members have expressed wanting to meet in person.

Dr. Kwan-Gett commented that it wasn't clear where we will be in November. He said he would be surprised if the pandemic significantly decreased and commented that we are entering into the winter months and waning immunity. He said new subvariants are on the horizon and could cause another wave.

Chair Grellner questioned whether the team was set up with masks, hand sanitizer, signage, etc. Ms. Davis said the team was still working through those details. She said appropriate meeting space was currently unavailable, and it wasn't clear whether the meeting equipment was adequate. She said that many agencies are not hosting public meetings yet. She said that Labor and Industries may have a room with connectivity and bandwidth for hybrid, but the room is only available on Nov 18. She reminded the Board that we cannot require the public to mask.

Lilia Lopez, Assistant Attorney General said another option under the updated OPMA, is to allow board members to meet in person and limit in person public attendance.

Chair Grellner said as much as he's ready to meet in person, it is important for these meetings to be managed in a fashion that makes it easy for the public to view and attend as needed. He shared concern about facility adequacy and availability. He said that November is last meeting scheduled for the year. He said we are not sure at this point, for continuity purposes, and we don't want to exclude the public even though we can do it. He said presuming the federal emergency is in place, the Board should plan to meet virtually in November, and all we can do is act on what we know at this time.

Patty Hayes, Board Member, concurred with the Chair.

Ms. Davis said staff will plan for a virtual meeting on November 9, and will prepare for hybrid meetings when the federal emergency order is lifted. She said the Governor's Office should receive a 60-day notice from HHS regarding the end of the federal emergency.

11. BOARD MEMBER COMMENTS

Keith Grellner, Board Chair, opened this section by inviting Jaime Bodden, Washington State Association of Local Public Health Officials, to help recognize Ms. Davis, who received the WSPHA's 2022 Award for Public Health Leadership.

Ms. Bodden said that it was an honor to nominate Ms. Davis and to give her the recognition she deserves for her work. She thanked Ms. Davis for the work she has done as a partner for local public health jurisdictions and read from the nomination form she submitted for Ms. Davis. Ms. Bodden shared that Ms. Davis has steered the Board through several challenging Board actions both before and during the COVID-19 pandemic, and that she has elevated the practice of conducting Health Impact Reviews with the State Legislature as a part of the bill review process. Ms. Bodden also recounted the way Ms. Davis supported Board members and staff as they fielded high volumes of public comments, intense protests, and threats while the Board made recommendations around school-mandate requirements for the COVID-19 vaccination this past year. She stated that despite everything, Ms. Davis worked to ensure that the Technical Advisory Committee for this task was inclusive, transparent, and science driven, while also considering social context. Ms. Bodden also remarked on Ms. Davis' compassion, empathy, focus on equity, steadfastness in her work, and love for public health. She congratulated Ms. Davis on receiving the award and thanked her for her work.

Member Hayes and other Board members applauded on camera for Ms. Davis.

Chair Grellner called for other Board member comments. He then thanked Ms. Davis, Ms. Bodden, and Board members and staff.

ADJOURNMENT

Keith Grellner, Board Chair, adjourned the meeting at 12:48 p.m.

WASHINGTON STATE BOARD OF HEALTH

Keith Grellner, Chair

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