



**Final Minutes of the State Board of Health
October 11, 2017**

**Yakima Convention Center, Suites 300 & 400
10 N 8th Street, Yakima, WA 98901**

State Board of Health members present:

Keith Grellner, RS, Chair
Chris Frank, MD, PhD
The Honorable Jim Jeffords
James Sledge, DDS, FACD, FICD
Kristin Peterson, Assistant Secretary of Health
Systems Quality Assurance, Secretary's Designee

Thomas Pendergrass, MD, MSPH, Vice Chair
Fran Bessermin
Angel Reyna (by phone)

State Board of Health members absent:

Stephen Kutz, BSN, MP
The Honorable Kurt Hilt

State Board of Health staff present:

Michelle Davis, Executive Director
Melanie Hisaw, Executive Assistant
Kelie Kahler, Communications Manager
Sierra Rotakhina, Health Policy Advisor

Stuart Glasoe, Health Policy Advisor
Alexandra Montaño, Health Policy Analyst
Lilia Lopez, Assistant Attorney General

Guests and other participants:

Kelly Cooper, Department of Health
Tami Thompson, Department of Health
Lauren Jenks, Department of Health
Jun Naotsuka, Department of Health
Robin Read, Kittitas County Public Health
Candi Blackford, Kittitas County Public Health

Robin Firman, Public
Laurie Valeriano, Toxic-Free Future
Ryan Ibach, Yakima Health District
Andre Fresco, Yakima Health District
Jim Pendowski, Department of Ecology
Greg Caron, Department of Ecology

Keith Grellner, Board Chair, called the public meeting to order at 9:04a.m. He read from a prepared statement (on file).

1. APPROVAL OF AGENDA

Motion: Approve October 11, 2017 agenda

Motion/Second: Sledge/Pendergrass. Approved unanimously

2. ADOPTION OF AUGUST 9, 2017 MEETING MINUTES

Motion: Approve the August 9, 2017 minutes

Motion/Second: Bessermin/Pendergrass. Approved unanimously

3. BOARD ANNOUNCEMENTS AND OTHER BUSINESS

Michelle Davis, Board Executive Director welcomed the Board to Yakima. Ms. Davis announced that the Governor had appointed two new members to the Board, Dr. Chris Frank, representing local health officials and the Honorable Kurt Hilt, representing elected city officials who serve on local boards of health (biographies on file). Mr. Hilt was deployed to San Juan, Puerto Rico to provide hurricane relief and unable to attend the meeting. Ms. Davis invited Dr. Frank to introduce himself to the Board. She said that Member Reyna will participate in today's meeting by phone. Ms. Davis also indicated the Member Kutz was at the Centennial Accord, as was Board staff and tribal liaison, Christy Hoff.

She announced that Kathryn Steele, intern to the Board completed her internship, another student named Amy Glynn will be joining the staff in an internship, and that Ms. Lindsay Herendeen was the successful candidate for the Health Impact Review position. She starts on October 16. Ms. Davis announced that this would be Sierra's last meeting as staff to the Board, and commended her for her work as Board staff. She noted that the recruitment for Sierra's successor had closed. Staff are screening the candidates and hope to interview October 20.

Ms. Davis updated the Board on rules and reported that staff have drafted CR-101s the food truck petition and the update for the newborn screening rules for lysosomal disorders. Staff will file the documents soon.

Ms. Davis reported that she had served on a panel to review demonstration projects. The legislature funded provided \$1 million to the public health system as part of Foundational Public Health Services (FPHS). There were seven projects seeking more than \$2 million. The panel awarded three cross-jurisdictional projects that focused on communicable disease (CD). The successful projects are:

- Spokane Regional Health District (with Adams, Lincoln, Northeast Tri-, and Whitman counties) to create CD capacity among staff in rural local health jurisdictions. \$424,538
- Tacoma Pierce (with Cowlitz and Yakima health jurisdictions) to increase and standardize medical providers' access to current pertinent public health information and guidance to improve the control of CD. \$67,660
- Public Health Seattle King County will establish a statewide Tuberculosis (TB) response team for the state and will expand services offered by Washington State TB ECHO (Extension for Community Health Outcomes). TB ECHO is a multipoint video conference platform, which helps connect health care professionals collaborate to address TB. \$507,802.

Ms. Davis welcomed Mr. Andre Fresco, Administrator for the Yakima Health District.

4. DEPARTMENT OF HEALTH UPDATE

Kristin Peterson, Assistant Secretary of Health Systems Quality Assurance, Secretary's Designee, announced that 22 bats tested positive for rabies, which is higher than previous years. Most of the rabid bats were from parks. Member Peterson said that the Department's investigative report on anencephaly is complete and is on the Department's website. The report concludes that although the number of cases has increased, the cause is still unknown. The Department is working with many partners to share information on the importance of folic acid. The Department continues to track the mumps outbreak. To date, there have been 891 cases of mumps with the highest number of cases in Spokane and King Counties, and 86 percent of the cases were up to date with their immunizations. Local health officers met to discuss exclusions and updated recommendations. The

Department posted the recommendations to its website. Member Peterson announced that the Department started rulemaking on opioid prescribing and held a hearing in Tumwater earlier this month. Additional hearings are scheduled for Spokane (October 19) and Yakima (November). Member Peterson shared that the Department received \$3 million to work on reducing children's exposure to lead. The Department plans to test 500 schools with the highest priority being elementary schools that have not had a test in the last 3 years. The Department held the public hearing on reclaimed water rules last week. Member Peterson reminded the Board of its role in looking at waivers for reuse. Member Peterson announced that the Association of State and Territorial Health Officials selected Secretary Weisman as the president of the organization.

Thomas Pendergrass, Vice Chair noted that folic acid supplementation in maize is an important means of preventing birth defects. He also commented on the use of quarantine in outbreak situations and the issue of pain management in fighting the opioid epidemic.

Chris Frank, Board Member noted his involvement in the local health officer conversation, and the differences in this outbreak as compared to past outbreaks. He asked if the percentage of rabies-infected bats increased because the testing capacity has increased. Member Peterson responded that the number of bats tested was higher this year, and could not comment on whether there is a change in the percentage of infected animals.

5. YAKIMA HEALTH DISTRICT PRESENTATION

Andre Fresco, Administrator, Yakima Health District thanked the Board for being in Yakima and began by providing the Board with a brief overview of the history of the Yakima Health District (District). Mr. Fresco discussed the challenges that face the community including access to care and components related to the social determinants of health. He described the wide variety of work that the health district does to respond to the diverse needs of community members. One of the challenges of working in a rural setting is finding ways that the community will be able to access services and programs and how the health district can quickly provide information to the community in the case of an emergency.

James Sledge, Board Member commended Mr. Fresco and the District for its work on oral health. Vice Chair Pendergrass asked about District staff capacity, and Mr. Fresco indicated that the District employs 30 staff. He then described the emergency preparedness work that is underway in order to strengthen relationships with partner agencies and prepare for a disaster. Jim Jeffords, Board Member asked Mr. Fresco to describe the makeup of the health district board. Member Frank commented on the anencephaly report and asked about the approach for providing information about folic acid. Chair Grellner asked if the mobile needle exchange program also provides counseling and additional services. Mr. Fresco indicated that this work is of great interest and requires strong partnerships that they are always working to create.

The Board took a break at 10:32a.m., and reconvened at 10:50 a.m.

6. PUBLIC COMMENT

Laurie Valeriano, Executive Director, Toxic-Free Future, said her organization submitted the rule petition, and that it supports the PFAS motion in the Board's materials. Toxic-Free Future supports the Department's recommendation and its efforts to understand this issue. Ms. Valeriano provided a petition addressed to Secretary Wiesman with 500 supporting signatures. She recommended new

standards to ensure safety. Ms. Valeriano urged a comprehensive look at the chemicals and recommended prevention as the most cost effective and successful measure.

7. UPDATE—STRATEGIES TO PROMOTE EQUITY IN ORAL HEALTH

Member Sledge reminded the Board that it has adopted oral health strategies and has activities in the strategic plan related to oral health and introduced Emily Firman and Laura Flores Cantrell, Arcora Foundation (formerly WA Dental Service Foundation). Ms. Firman expressed her appreciation to Member Sledge and the Board for their work to advance oral health. She thanked the Board for its leadership and mentorship. Ms. Firman and Ms. Flores Cantrell shared current oral health data and strategies for promoting oral health equity in Washington (materials on file).

Vice Chair Pendergrass asked about cultural factors that contribute to oral health inequities. Ms. Flores Cantrell discussed how historical trauma and complexities of different cultures affects health. Vice Chair Pendergrass asked the presenters for understanding how to address the concerns of folks that have negative affects with fluoridation. Ms. Firman shared that water is a public resource and the majority of the population cannot choose to purchase fluoridated water. The 70-year body of evidence remains that fluoridation is at safe levels. Discussion about water fluoridation and its important public health benefits as well as the fact that some individuals may have sensitives to fluoridated water. Vice Chair Pendergrass concurred with Ms. Firman's statement that our challenge is how do we do the best for the most people and still acknowledge others with concerns.

Vice Chair Pendergrass asked about scope of practice issue. Ms. Flores Cantrell said that in Washington the scope of practice for dental aid and mid-level providers and therapists was limited to tribal communities by the legislature. Advocates may continue to address the legislature about extending the scope outside tribal communities. States that have had a broader scope of practice, such as Minnesota, have had great results. Vice Chair Pendergrass said these are examples of complexities that the Board faces when addressing new policies. Ms. Cantrell said she would like to work with the Board on these issues. Member Sledge said that it is imperative that dentists recognize that oral health is more than the dental world and they consider measures of greater good.

Member Frank commended Arcora for their outreach about varnishes to primary care physicians. He said there could be a lot of pressure by Medicaid not to provide in person visits in certain areas, but pediatric well-child care is not one of them. It looks like most measures will include well-child visits and provider payments. Member Frank asked about other barriers that might occur for primary care doctors expanding services. He recognizes the public's trust in their primary care providers, and areas with unmet access to care such as fluoride varnishes and sealants. Ms. Firman said they would consider these comments, specific to value based payments. She is happy to connect with people and resources at Arcora. She said the organization is focusing to re-educate about billing, training and assistance to help people understand the payment process in oral health care systems.

8. REQUEST FOR VARIANCE TO RECREATIONAL WATER CONTACT FACILITIES RULES—WAC 246-262-070 SPECIFIC DESIGN, CONSTRUCTION, AND EQUIPMENT (MeI)

Stuart Glasoe, Board Staff explained that the Board received a letter from Tacoma Metro Parks requesting a variance to standards in WAC 246-262-070. This section addresses standards for design, construction, and equipment in the Board's rules for Recreational Water Contact Facilities. Section 160 of the rules authorizes the Board to grant variances for recreational water contact facilities as long as evidence shows that health and safety are adequately protected.

Tacoma Metro Parks sent a letter to the Board on October 2, 2017 requesting the variance. Mr. Glasoe explained that the request was for a proposed waterslide at a swimming pool at Eastside Tacoma Community Center. The plans included a waterslide that curves then straightens. For such a slide, design standards in the Board's rules require the end flume to be straight for a minimum of ten feet. Companion ASTM standards that health staff also rely on in plan review require a minimum straight length of eight feet. The proposed waterslide in the pool plan is straight for just under seven feet due to spatial restrictions of the site.

Mr. Glasoe introduced Jun Naotsuka, Manager of the Department of Health's Water Recreation Program, who conducted the technical analysis of the research data and computer models submitted by the pool designer to understand the effects of the proposed waterslide and to determine rider safety.

The Department's safety analysis concluded that the protective factors of the waterslide's overall design adequately compensate for the shorter flume length to ensure rider safety. The Department recommended approving the variance. The Department also recommended that Tacoma Metro Parks work with its designer to conduct additional testing with actual riders of different sizes prior to commissioning the slide if the Board approves the variance. The "special testing" specifications are spelled out in ASTM F2376-13 (9.4). Mr. Glasoe pointed out that Tacoma Metro Parks' letter to the Board indicated it is amenable to the additional testing if the Board approves the variance.

Member Bessermin questioned how varying weights of children might affect the tests. Mr. Glasoe said the testing would include people ranging from 100 to 300 pounds. Vice Chair Pendergrass asked if the variance was a way to gather data to look at flume length in the whole code. Mr. Glasoe said the rule update is underway and it is possible the testing can inform both rule making and this variance request. Vice Chair Pendergrass expressed concern with the open-ended testing, asking if it would be ongoing or one-time testing. Mr. Naotsuka clarified that it would be one-time testing, and the testing would help determine if disorientation occurs for riders. Vice Chair Pendergrass said testing on a limited scale might not give a full picture of the risks that may become evident after.

Chair Grellner asked if the slide is a custom design why is location constrained for space moving the slide back or using a longer flume. Mr. Naotsuka said the space has limited deck space for the slide but could not explain the design constraint influencing the flume length. Chair Grellner asked if there is data showing the two-foot difference in the two standards makes a difference orienting riders, or are we dealing with arbitrary standards? Mr. Naotsuka said he did not have information on the rationale behind the two standards.

Lilia Lopez, Board Assistant Attorney General restated code language on the Board's variance authority and asked if the motion regarding the outcome of the testing needed anything added to it. Chair Grellner clarified such as a modification, removal, or rejection of the waiver. Member Bessermin said she would have a tough time supporting a variance without the Board reviewing the testing results. Board members continued discussion regarding timing of the variance and testing, data on different flume lengths, and slide design. Vice Chair Pendergrass moved to table the item until the next meeting to gather more information on flume length and rider speed and safety.

***Motion:** Table the item pending more information on flume length and rider speed and safety until the Boards meeting on November 8 in Port Angeles.*

Motion/Second: Tom Pendergrass/Fran Besserman. Approved unanimously

The Board recessed for lunch at 12:10 p.m. and reconvened at 1:00 p.m.

9. BRIEFING — PER- AND POLYFLUOROALKYL SUBSTANCES (PFAS) (Sierra)

Member Peterson introduced Lauren Jenks, Department of Health. Ms. Jenks presentation described the class of chemicals known as poly- and perfluoroalkyl substances (PFAS) briefly covering the history, widespread use and unique characteristics of the chemicals. She explained that the main exposure pathways are food, drinking water, and indoor dust/air. Groundwater contamination in Washington is mainly associated with use of fire-fighting foam. She said studies indicate most PFAS chemicals are not acutely toxic but they do build up and can cause a number of health problems. Ms. Jenks said almost everyone has PFAS chemicals in their blood, and PFAS levels have dropped significantly with the phasing out of certain compounds in manufacturing.

Ms. Jenks explained that testing in Washington detected high levels of PFAS in Issaquah, and near military airfields at Naval Air Station Whidbey Island, Fairchild Air Force Base, and Joint Base Lewis McChord. She said Airway Heights near Fairchild Air Force Based switched to a clean water source after testing discovered high levels of PFAS. Ms. Jenks said other areas with potentially high risk include other military sites, fire training centers, and airports. Member Frank asked about contaminant levels. Ms. Jenks said EPA's health advisory level is 70 parts per trillion (ppt); Airway heights is about 2,000 pp; up to 5,000 ppt in nearby private wells; about 100 ppt in Issaquah; and some wells at about 1,000 ppt on Whidbey Island but most much lower. Ms. Jenks explained the reasoning behind EPA's lifetime advisory level of 70 ppt—including the assumption that 20 percent of exposure comes from drinking water—and compared it with other established PFAS advisory levels. She described the chemical structure of different PFAS and noted how this should inform work on a PFAS standard. Next steps include voluntary drinking water testing for PFAS, continued work with Ecology on the PFAS chemical action plan, and work on a drinking water PFAS standard if the Board initiates rule making.

Vice Chair Pendergrass talked about the widespread use of flame-retardants in products and fighting forest fires and suggested looking at the issue more holistically and environmentally to account for surface runoff and the risks in moving away from these compounds toward other potentially risky chemicals. Ms. Jenks clarified that PFAS is in firefighting foam but not in fire retardants used in clothing and other material. PFAS is in products for stain resistance and other repellency. She acknowledged the point about moving to chemicals that are potential “regrettable substitutes” and said that is why the Department plans to look at many compounds in the PFAS class.

Member Frank asked if the expanded list of 14 PFAS chemicals slated for monitoring includes the current replacement chemicals in firefighting foam. Ms. Jenks explained that the foam is moving toward use of short chain PFAS molecules. The list of 14 PFAS chemicals include 12 long-chain and two short-chain molecules. The list does not capture current replacements. Member Frank said that is a worry and asked if it is reasonable to think short-chain molecules are safer than long-chain molecules. Ms. Jenks said they are less toxic and act differently, and under a standard be accounted for differently. Vice Chair Pendergrass asked if the short chain molecules are biodegradable. Ms. Jenks said no. Vice Chair Pendergrass asked about their safety. Ms. Jenks clarified that short chain molecules may actually be more persistent in the environment and less toxic in the body.

10. PETITION FOR RULEMAKING TO ESTABLISH DRINKING WATER STANDARDS FOR PFAS CHEMICALS—CHAPTER 246-290 WAC

Mr. Glasoe described the petition process of the Administrative Procedures Act, which allows anyone to petition a state agency to request adoption, amendment, or repeal of any rule. Upon receipt of a petition, the agency has 60 days to either 1) deny the petition writing and stating the reasons in writing and, as appropriate, offer other means for addressing the concerns raised by the petitioner; or (2) accept the petition and initiate rule making.

In July, the Department of Health received a letter from ten organizations drawing attention to the problem of PFAS in drinking water and requesting action to establish drinking water standards for the chemicals. Department staff briefed Secretary Wiesman and forwarded the letter to the Board for consideration as a petition to amend the rules for Group A Public Water Supplies (chapter 246-290 WAC).

Mr. Glasoe mentioned that the Board's cover memo addresses many of the issues already covered by Ms. Jenks in her briefing. Mr. Glasoe re-introduced Ms. Jenks to Board members. She described the Department's recommendations for Board consideration. The Department recommended accepting the petition and moving to rule making to establish standards for some PFAS chemicals, coordinating this with ongoing work on the PFAS Chemical Action Plan, and dovetailing the work with additional voluntary water testing to inform rule-making discussions. She further explained that issues to be addressed in rule making would mainly focus on the numeric standard, the scope of chemicals, and the regulatory mechanism (a state advisory level or maximum contaminant level) if the Board initiates rule making. She explained pros and cons associated with the different mechanisms.

Vice Chair Pendergrass asked if the voluntary water testing could move forward without going to rule making. She said yes and explained that application of a standard is different, and each mechanism is different. Vice Chair Pendergrass made the point that water system testing does nothing for people on private wells, and asked if it makes sense to start with the biggest systems or to use sampling to inform a risk-based approach. Ms. Jenks explained that regulation of Group A and Group B water system leaves out private wells and it is something that then falls to local health to work on, which has been a burden in Spokane County. To date, the military has been very responsive providing bottled water to impacted well owners in Island and Spokane counties. She added that the previous EPA testing provided data on regulated systems serving more than 10,000 people but missed some large systems including Airway Heights. Ms. Jenks said that additional monitoring of large systems coupled with an advisory level probably provides the best risk-based approach.

Ms. Davis clarified that filing a CR-101 signals the intent to explore the questions with stakeholders around the numeric standard and selected chemicals and creates an enforceable standard. She said the petition forces the question, is this a problem we need to address by rule? The alternative to accepting the petition is to wait for science to evolve to the point where there is a lot more certainty, which adds time, is less responsive, and may create more risk to the public.

Vice Chair Pendergrass asked whether we should be doing this a step at a time when there are many other toxic chemicals out there, many other unregulated drinking water contaminants. Ms. Jenks replied that this is very complex and recommended that the Board focus on this one class of chemicals now. The work can then inform how we handle unregulated contaminants going forward.

Chair Grellner asked about the reporting levels for the PFAS sampling done to date and whether it is close to the EPA advisory level of 70 ppt. Ms. Jenks did not know.

Recommended Board Action:

***Motion:** The Board accepts the petition for rule making to explore options to establish standards for poly- and perfluoroalkyl substances (PFAS) in chapter 246-290 WAC and directs staff to file a CR-101, Preproposal Statement of Inquiry, to further evaluate the request and possible future rule change.*

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

11. UPDATE—BOARD CONTINUITY OF OPERATIONS PLAN (COOP) - MOVED TO ITEM 6 BEFORE THE MORNING BREAK

Ms. Davis noted that RCW 38.42.030 requires state agencies to establish a comprehensive emergency management plan (materials on file). A continuity of operations plan (COOP) identifies interagency coordination. Melanie Hisaw, Board Staff described the changes. If the Board approves the plan, staff will provide members with a thumb drive containing the plan and supporting documents. In the event of an emergency, the Board may be required to adopt emergency rules.

Vice Chair Pendergrass asked for clarification about the types of issues that may come before the Board in the event of an emergency given. Ms. Davis and Member Peterson indicated that it depends on the kind of disaster. Clarification of duties is a discussion that is ongoing throughout state agencies and organizations. Vice Chair Pendergrass noted that the Board's role may come into play weeks into an emergency and could include issues of food safety, drinking water, handling of human remains or many other rules.

Recommended Board Action:

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

***Motion:** The Board approves the 2017 Continuity of Operations plan (COOP) and its development.*

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

12. UPDATE—BYLAWS

Ms. Davis directed the Board to the draft bylaws. She indicated that the Board last updated the bylaws in 2005. She said that she reviewed the bylaws with staff, the Chair, Vice-Chair and Board counsel. The goal for the review is to clarify the bylaws, assure that they reflect current practices and legal requirements, including the OPMA. She noted that the Board could choose to review the bylaws today and adopt changes at the next meeting, depending on discussion.

Ms. Davis asked if the bylaws should include an Article regarding the Board's mission and purpose. Vice Chair Pendergrass said that if the Board includes its mission and vision in its bylaws then they also have to update the bylaws and recommended that they do not include an Article with the mission and purpose. Other Board members concurred.

The Members discussed which cases they need a majority of the full Board to make a decision versus the majority of a quorum. They opted to require a majority of the full Board to elect a Vice Chair but only concurrence of a quorum to select a Chair Pro-Tem.

Ms. Davis asked Board members if they want the Bylaws to indicate that policy committees must be five members or less to ensure that they do not create a quorum of the Board so that they remain advisory only. The Members discussed the merits of restricting the policy committees to five members and decided that this was a logical addition.

Lilia Lopez, Board Assistant Attorney General noted that once committee meetings are open to the public they may need to publish minutes from those meetings, but the minutes do not need to be as extensive as the minutes that the Board does voluntarily for its full meetings.

Ms. Davis asked if Board members would like to remove provisions around adjournment and hearing continuance that are redundant with the OPMA, and received guidance to leave them in for clarity and emphasis.

Recommended Board Action:

Motion: The Board adopts the proposed changes to its bylaws as discussed today.

Motion/Second: Jeffords/Sledge. Approved unanimously

The Board took a break at 2:30 p.m. and reconvened at 2:45 p.m.

13. TRAINING — OPEN PUBLIC MEETINGS ACT

Ms. Davis reminded the Board that the Open Public Meetings Act (OPMA) requires agencies like the Board to hold meetings that are open to the public. The OPMA also requires all members to receive training once every four years. These trainings typically coincide with the appointment of new Board members.

Lilia Lopez, Board Assistant Attorney General reviewed the OPMA and its requirements with the Board (presentation on file).

Members discussed the importance of assuring that all records that could potentially publicly disclosed should be sent to Board staff, or have Board staff copied on them so that staff can retain and disclose these records appropriately.

14. TRAINING—RULES PROCESS ORIENTATION

Ms. Davis noted that Board staff had requested a rules process primer (presentation on file) for Board members and staff. She noted that the Board had broad rule-making authority. She provided a definition for rules, reviewed the Board's authority for rulemaking, and walked the Board through rule making stages and requirements. She reminded members of rules currently underway and those slated for review over the next two years.

15. BOARD MEMBER COMMENTS

Board members offered no comments.

ADJOURNMENT

Keith Grellner, Board Chair, adjourned the meeting at 3:50 p.m.

WASHINGTON STATE BOARD OF HEALTH

Keith Grellner, Chair