



## **COLORADO BOARD OF HEALTH MINUTES**

**Wednesday, June 18, 2014, 10:00 a.m.**

**Approved July 16, 2014.**

Colorado Department of Public Health and Environment  
Sabin-Cleere Conference Room, Bldg. A, 1<sup>st</sup> Floor  
4300 Cherry Creek Dr. South, Denver, CO 80246

Colorado Department  
of Public Health  
and Environment

### **Call to Order**

The Colorado Board of Health held a public meeting on Wednesday, June 18, 2014 at 4300 Cherry Creek Dr. South, Sabin-Cleere Conference Room, Bldg. A, Denver, CO 80246. The meeting was called to order at 10:05 a.m.

### **Members Present**

Laura Davis, District 2, Board President; Jill Hunsaker-Ryan, County Commissioner, District 3; District 4; Betty McLain, District 5; Joan Sowinski, District 6; Rick Brown, District 7; Christine Nevin-Woods, D.O., At-Large, Vice President; Sue Warren, At-Large; Larry Wolk, M.D., Executive Director.

### **Members Absent**

Christopher Stanley, M.D., District 1; Tony Cappello, PhD, District 4.

### **Staff Present**

Joni Reynolds, Public Health Programs Director; Deborah Nelson, Board Administrator; Jennifer L. Weaver, First Assistant Attorney General, and; Jamie L. Thornton, Program Assistant.

### **Review of the May 21, 2014 meeting minutes**

The board unanimously approved the meeting minutes as written.

### **Public Comments: Matters Not On the Agenda**

The public did not offer any comments.

### **Board Comments: Matters Not On the Agenda**

The board did not offer any comments.

### **Rule-making Hearings**

#### Radiation Control: Registration of Radiation Producing Machines, Facilities, and Services

The board convened a hearing in order to receive public testimony and consider revisions to 6 CCR 1007-1, Part 2. James Jarvis, Brian Vamvakias and Gary Baughman, Hazardous Materials and Waste Management Division, presented the proposed changes to add definitions and references for clarity; consolidate and relocate sections throughout the rule; wind-down and then discontinue the state certification pathway mechanism for Computed Tomography machine operators and defer to nationally recognized certification bodies; incorporate language relating to disposal of radiation machines under service company activities; reduce training requirements for portable hand held x-ray units; clarify the ability to pursue compliance efforts against operators who falsify credentials or that are otherwise not properly qualified, and; correct typographical and cross-reference errors. At the rulemaking hearing, the division presented additional technical amendments to act on stakeholder recommendations. No written testimony from the public was received and reviewed by the board prior to the hearing.

Michael Odgren, Colorado Society of Radiologic Technologists, stated that, while he generally supports the proposed amendments, he is concerned that nuclear medicine technologist and radiation therapist would be allowed to perform computed tomography without the additional education or certification requirements that are being placed on radiographers. The board discussed the importance of the issues raised by Mr. Odgren and encouraged the division to amend the regulations in the near future and include the Colorado Medical Society in the stakeholder process. Ms. Nelson stated that she would work with the

division and review the 2014 Regulatory Agenda to determine a possible time-frame for the proposed amendments to be considered.

The board discussed enforcement, the registered service technician definition, machine calibration, and medical physicist versus qualified inspector and service technician requirements. The board unanimously approved the proposed amendments including those identified in the division's errata sheet. Motion: Ms. Davis, Second: Ms. Sowinski.

#### Radiation Control: Transportation of Radioactive Material

The board convened a hearing in order to receive public testimony and consider revisions to 6 CCR 1007-1, Part 17. James Jarvis and Gary Baughman, Hazardous Materials and Waste Management Division, presented the proposed changes necessary to incorporate changes contained in federal regulation 10 CFR. The proposed amendments maintain compatibility with the national framework for regulation of transportation of radioactive materials, and include: adding definitions, references related to Native American tribes and, a physician exemption for transport of radioactive materials; correcting references and typos, and; updating formal notification requirements for entities shipping nuclear waste and other materials. The board discussed the physician exemption. No written or oral testimony was received during the public hearing. No written testimony from the public was received and reviewed by the board prior to the hearing. The board unanimously approved the proposed amendments. Motion: Ms. Sowinski, Second: Mr. Brown.

#### Standards for Hospitals and Health Facilities, License Fee Modifications

The board convened a hearing in order to receive public testimony and consider revisions to 6 CCR 1011-1, Chapter 4, General Hospitals, Chapter 9, Community Clinics and Community Clinics and Emergency Centers, Chapter 10, Rehabilitation Center, Chapter 15, Dialysis Treatment Clinics, Chapter 18, Psychiatric Hospitals, Chapter 20, Ambulatory Surgical Centers, Chapter 21, Hospices, and Chapter 26, Home Care Agencies. Laurie Schoder and Michelle Reese, Health Facilities and Emergency Medical Services Division presented the proposed amendments and indicated the rulemaking was necessary to comply with House Bills 12-1294 and 12-1268.

House Bill 12-1294 enacted statutory changes that require the Department of Public Health and Environment to deem health facilities that are currently accredited by an accrediting organization recognized by the Federal Centers for Medicare and Medicaid Services (CMS) as satisfying the requirements for renewal of a state health facility license. The legislation directed the department to provide an appropriate credit or reduced fee to a health facility that achieves state license renewal through deemed status. The legislation also changed the name of a particular facility type from "Rehabilitation Center" to "Rehabilitation Hospital."

House Bill 12-1268 removed the department's authority to enact or enforce standards relating to building or fire codes and transferred those to the Department of Public Safety, Division of Fire Prevention and Control effective July 1, 2013. The department examined its health facility license fees and found that it needed to reduce the license fees in Chapters 9 and 15 because a small component of those fees was based upon life safety code work that the department no longer performs. The board discussed facility surveys and enforcement actions. No written or oral testimony was received during the public hearing. No written testimony from the public was received and reviewed by the board prior to the hearing. Ms. Reynolds thanked the staff for their hard work and dedication. The board unanimously approved the proposed amendments with the correction to page 11, line 4 to remove the extra "t." Motion: Commissioner Hunsaker-Ryan, Second: Dr. Nevin-Woods.

#### **Funding Recommendations**

##### Health Disparities Grant Program

Mauricio Palacio, Office of Health Equity and Leo Kattari, Vice-Chair, Health Equity Commission presented funding recommendations for the board's consideration. Mr. Palacio mentioned that National Jewish

Health was mislabeled in the memo as a cardiovascular disease project rather than a cross-cutting project. The board discussed the three month extension, the definition of “other” as it relates to the graphs on page eight, the rationale for awarding grants and the incident of diseases. The board unanimously approved the funding recommendations for the Health Disparities Grant Program in the amount not to exceed \$1,713,391 to fund activities for the state fiscal year 2015 through September 30, 2015 as identified in the funding recommendation memo dated June 2, 2014 with the revision to page 4 to identify National Jewish Health as cross-cutting, the revision to page 5 to correct the Disease Categories percentages to Cardiovascular Disease 44% and Cross-cutting 56%, and to page 15 to identify National Jewish Health as cross-cutting. Final award amounts to grantees may be adjusted as the scope of work for each grant is finalized. Motion: Mr. Brown, Second: Dr. Nevin-Woods.

## **Standing Reports**

### Executive Director Report

Dr. Wolk discussed the department’s priority areas: operating at high levels of efficiency, elegance and effectiveness; leading innovative population based efforts that align with healthcare reform; promoting technology; advancing the Simply Health initiative, and; expanding evidence based information. Dr. Wolk discussed the Vaccines for Children Program, the Colorado Response to Children with Special Needs program, the Aids Drug Assistance Program, the Women’s Wellness Connection program and the Colorado Immunization Information System. He also talked about the department’s new website, the state-wide campaign to promote safe use of recreational marijuana, medical marijuana research and the results of the Long-acting Reversible Contraceptive program.

### Attorney General Report

There were no updates to report this month.

### Board Members Reports of Committee Activities

- Cancer, Cardiovascular and Chronic Pulmonary Disease Committee: Mr. Brown discussed the guiding principles for the grant program.
- Public Health Act Steering Committee: No updates.
- Tobacco Review Committee: No updates.
- Governor’s Expert Emergency Epidemic Response Committee: No updates.

### Administrative Updates

Ms. Nelson discussed the new Board of Health website, the upcoming medical marijuana hearing, and the A35 Grant Programs grant cycle and upcoming RFA presentation scheduled in July. She thanked members for their biographies. Ms. Nelson let the board know that Gary Teague is no longer a member of the board and that Tony Cappello was appointed on Monday to represent Congressional District 4. Tony will be at the July meeting.

## **Requests for Rule-making Hearing**

### Infant Immunization Program, Vaccines for Children Program, and Immunization of Students Attending School

Lynn Trefren and Jamie D’Amico, Disease Control and Environment Epidemiology Division, asked the board to convene a rule-making hearing to consider amendments to 6 CCR 1009-2. The proposed changes clarify and update required school immunizations for Colorado Students and include: adding and updating definitions and references, incorporating the CDC Advisory Committee on Immunization Practices (ACIP) Birth-18 years and Catch –up immunizations schedules by reference, and updating language regarding fees. The board discussed definitions, compliance monitoring, the ACIP and footnotes. By unanimous consent, the board scheduled a public rule-making hearing on August 20, 2014 to receive public testimony and consider the proposed amendments to 6 CCR 1009-2. Ms. McLain will chair.

### Epidemic and Communicable Disease Control

Lisa Miller, Disease Control and Environmental Epidemiology Division, asked the board to convene a rule-making hearing to consider amendments to 6 CCR 1009-1. The proposed changes clarify which events, illnesses, and specific diseases are reportable. Changes include: deleting Aseptic Meningitis and Kawasaki Syndrome from the reportable list, modifying Regulation 3 to broaden laboratory requirements when reporting arboviral diseases and deleting the reference to St. Louis Encephalitis and Western Equine Encephalitis. Additional changes make technical corrections, add language to allow other health care providers to report, and encourage electronic records. Mr. Brown asked about the table formatting and footnotes. By unanimous consent, the board scheduled a public rule-making hearing on August 20, 2014. Commissioner Hunsaker-Ryan will chair.

#### Certification of Health Care Professionals Practicing in Rural Health Professional Shortage Areas to Qualify for the State Income Tax Credit

Stephen Holloway, Prevention Services Division, asked the board to convene a rule-making hearing to repeal 6 CCR 1015-6. The program allowed practicing physicians, physician assistants, nurse practitioners and dentists in rural Health Professional Shortage Areas to apply for a state income tax credit if the clinician had outstanding student loan debt and completed a minimum of three years of service in the qualified rural practice. The purpose of the program was to create a financial incentive to encourage health care professionals to serve in the medically underserved areas of Colorado. The legislative authority for the program reached its "sunset" date on July 1, 2008.

Mr. Holloway remarked that the division has created the Colorado Health Service Corps (July 1, 2009) which provides educational loan debt forgiveness for health professionals in exchange for a period of service in a rural or underserved community. Service terms are typically three years and, unlike the tax credit, the clinician is required to provide some care to publicly insured and uninsured individuals. Applicants to the program are selected based on characteristics that are believed to support long-term provider retention. The Corps is significantly more effective than the tax credit in supporting the clinical workforce in rural communities. By unanimous consent, the board scheduled a public rule-making hearing on August 20, 2014 to receive public testimony and consider the proposed repeal to 6 CCR 1015-6. Dr. Nevin-Woods will chair.

#### Colorado Grade A Pasteurized Milk and Fluid Milk Products

Cary Ruble and Paul Klug, Environmental Health and Sustainability Division, asked the board to convene a rule-making hearing to consider proposed amendments to 6 CCR 1010-4, Colorado Grade A Pasteurized Milk and Fluid Milk Products. The proposed changes incorporate changes in the Grade "A" Pasteurized Milk Ordinance 2013 Revision (PMO); Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments 2013 Revision (Procedures); and, Methods of Making Sanitation Ratings of Milk Shippers, 2013 Revision (Methods). The PMO, Procedures, and Methods are developed by the Federal Food and Drug Administration (FDA) with the assistance of state and local milk regulatory agencies, the dairy industry and educational and research institutions for the purpose of assuring uniformity and effectiveness in the state milk sanitation programs. The PMO, Procedures, and Methods also serve as the official documents setting forth the sanitation requirements that govern the interstate shipment of Grade A milk and milk products. The board discussed equipment, criteria for milk shippers and milk laboratories located outside of the geographic boundaries of the National Conference on Interstate Milk Shipments Member States, use of the incorporation by reference and raw milk. By unanimous consent, the board scheduled a public rule-making hearing on August 20, 2014 to receive public testimony and consider the proposed amendments to 6 CCR 1010-4. Ms. Sowinski will chair.

#### **Laboratory Services Division Director Report**

Laura Gillim-Ross and Rick Brough provided an overview of the division, which included organization, funding, core functions, laboratory response network, laboratory programs and direct access testing.

Board comments focused on background checks, testing protocols, well testing, newborn testing and retail marijuana testing.

### **Rule-making Hearing**

#### Colorado HIV/AIDS Prevention Grant Program

The board convened a hearing in order to receive public testimony and consider revisions to 6 CCR 1009-10. Melanie Mattson, Disease Control and Environmental Epidemiology Division and Jesse Yedinak, HIV and AIDS Prevention Grant Program Advisory Committee (Advisory Committee) member presented the proposed amendments necessary to comply with the 2013 performance audit conducted by the Office of the State Auditor (OSA) and align the rules with statute and current practice. The proposed amendments clarify the grant process, the role of the department and the scope of the Advisory Committee's authority and responsibility. Ms. Mattson remarked that the department conducted an extensive stakeholder process and that broad consensus was achieved. At the rulemaking hearing, the division presented additional technical amendments to act on stakeholder recommendations.

Ms. Yedinak provided an overview of the stakeholder process and remarked that the Advisory Committee was significantly involved and supports the proposed amendments. The board discussed the OSA audit, stakeholder composition, and the definition of "urban" and "rural." Darrell Vigil, Colorado Health Network, testified in support of the proposed amendments. The board discussed and determined that the definition of urban and rural needed to be revised to remove reference to the U.S. Office of Management and Budget and reference to Metropolitan Statistical Areas or non- Metropolitan Statistical Areas. No written testimony from the public was received and reviewed by the board prior to the hearing. The board unanimously approved the proposed amendments including those identified in the errata sheet and the revision to the "urban" and "rural" definitions. Motion: Ms. Sowinski, Second: Dr. Nevin-Woods.

This meeting was adjourned at approximately 2:45 p.m.