



COLORADO

Board of Health

Department of Public Health & Environment

COLORADO BOARD OF HEALTH MINUTES

Wednesday, October 15, 2014 10:00 a.m.

Approved December 17, 2014.

Call to Order

The Colorado Board of Health held a public meeting on Wednesday, October 15, 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

Christopher Stanley, M.D., District 1; Laura Davis, District 2, Board President; Jill Hunsaker-Ryan, County Commissioner, District 3; Tony Cappello, PhD, District 4; Betty McLain, District 5; Joan Sowinski, District 6; Rick Brown, District 7; Christine Nevin-Wood, D.O., At-Large, Vice President; Sue Warren, At-Large; Larry Wolk, Executive Director.

Staff Present

Deborah Nelson, Board Administrator; Jennifer L. Weaver, First Assistant Attorney General, and; Jamie L. Thornton, Program Assistant.

Review of the minutes from the August 20, 2014 and September 16, 2014 board meetings.

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

Mr. Cappello remarked that the Medicinal Marijuana Advisory Committee held a couple of organizational meetings and will begin its review. He mentioned that he will provide the board with updates as the committee moves forward. Dr. Stanley provided a personal statement reaffirming his commitment to the board and the tobacco review committee. Ms. Davis expressed her appreciation to Dr. Wolk for his attendance and participation at the recent Environmental Leadership Program Awards Ceremony.

Request for Approval of Committee Member Appointments

Colorado Health Care Professional Credentials Application Review Committee

George Dikeou, Health Care Credentials Application Review Committee and Al Schwindt, COPIC Insurance Company, presented the Committees' appointment recommendation for the board's consideration. The board unanimously approved the recommendation to appoint Nancy Griffith to the committee as a representative of the Colorado Hospital Association, a statewide association or society of Colorado hospitals. Motion: Dr. Stanley, Second: Ms. Warren.

Public Rule-making Hearings

Environmental Laboratory Accreditation

The board convened a hearing in order to receive public testimony and consider revisions to 5 CCR 1005-1, Environmental Laboratory Accreditation. Laura Gillim-Ross and Jeff Groff, Laboratory Services Division, presented the proposed amendments. The proposed amendments update statutory references, provide clarification to the laboratory certification process and ensure that the laboratory standards referenced are consistent with those being used to determine compliance. The proposed amendments establish minimum standards for certification of environmental laboratories and processes utilized for testing and reporting of finished drinking water samples originating within Colorado. Mr. Groff noted that the regulations were last updated in 2002 and that the proposed changes are not substantive and include changing the name of the regulation in order to better reflect the authority of the division. Mr. Groff responded to board questions regarding stakeholder process and the number of labs impacted by this regulation and the proposed

amendments. 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 which included correcting two typographical errors identified during the hearing. Motion: Ms. Davis, Second: Dr. Nevin-Woods.

Cleanup of Methamphetamine Laboratories

Prior to the rulemaking hearing Ms. Nelson advised the board that untimely written testimony was received on October 14. Ms. Nelson mentioned that because it was not timely it would not be considered part of the official rule-making record. The division confirmed that stakeholder was notified and participated in the stakeholder process and numerous revisions were based on the stakeholder's comments.

The board convened a hearing in order to receive public testimony and consider revisions to 6 CCR 1014-3, Cleanup of Methamphetamine Laboratories. Colleen Brisnehan, Joe Schieffelin, Hazardous Materials and Waste Management Division and Dan Miller, Office of Attorney General presented the proposed amendments necessary to comply with Senate Bill 13-219. The amendments reflect a comprehensive rewrite of the regulations and include: a) procedures for testing and evaluating contamination at illegal drug laboratories involving methamphetamine (meth labs); b) standards for the cleanup of meth labs; c) rules for a training and certification program for individuals and companies involved in assessment, decontamination and sampling of meth labs; d) definition of "assessment", "decontamination" and "sampling"; e) procedures for the approval of persons to train Consultants or Contractors in the assessment, decontamination, or sampling of illegal drug labs; and f) procedures for Contractors and Consultants to issue certificates of compliance to property owners upon completion of assessment, decontamination and sampling of illegal drug laboratories to certify that the remediation of the property meets the cleanup standards established by the Board. Proposed amendments also establish fees for a) certification and monitoring of individuals and companies involved in assessment, decontamination and sampling of meth labs; b) monitoring of individuals and companies involved in the assessment, decontamination, and sampling of illegal drug laboratories, necessary to ensure compliance with the statute and regulation; and c) approval of persons that train individuals involved in assessment, decontamination and sampling of meth labs. Lastly, the amendments include rules for determining administrative penalties for violations of the statute and regulation and change the name of the regulations.

James Dennison, Industrial Hygienist, testified in support of the proposed amendments. He stated that the stakeholder process was exceptional and inclusive, that the amendments solve the majority of the issues contained in the current regulations and that; in general, by offering an improved system business costs and workload should decrease. Melanie Granberg, Gablehouse Calkins & Granber, LLC, testified in support of the proposed amendments and stated that the division did an excellent job of building consensus.

Prior to deliberation board members thanked the division for their hard work and excellent stakeholder process. Ms. Brisnehan responded to board questions regarding the impact to the real estate community, protective equipment for consultants and their assistants, the definitions of room and industrial hygienist, the final report issued by the industrial hygienist and the testing protocols regarding painted surfaces. After further discussion regarding the definition of a room the board considered an amendment to add the following language to the definitions section, "*section six specifies sampling requirements*" at the end of lines 194 and 219 pertaining to the definition of rooms and vehicles. Motion failed 5 - 4. The board unanimously approved the proposed amendments which included adding "*and assistants*" after "consultants" on line 312. Motion: Mr. Brown, Second: Ms. Sowinski.

Air Ambulance Licensing Fees

The board convened a hearing in order to receive public testimony and consider revisions to 6 CCR 1015-3, Chapter 5, rules pertaining to Emergency Medical Services, Air Ambulance Licensing. Randy Kuykendall and Alexandra Haas, Health Facilities and Emergency Medical Services Division presented the proposed amendments. The proposed amendments would temporarily waive all fees for fixed-wing and rotary-wing ambulances that operate in Colorado. This change is required to bring the fixed-wing and rotary-wing ambulances fund into compliance with Section 24-75-402, C.R.S. by lowering the excess uncommitted reserves to an amount at or below 16.5% of yearly expenditures. The department will still have the funds to support the licensure of fixed-wing and rotary-wing ambulance operators, as well as any enforcement work that may need to take place. Mr. Brown asked if the division anticipates any operational changes that would affect the fee amount based on the temporary waiver period. Ms. Haas remarked that based on current practices they

do not predict an influx that would create issues. Mr. Kuykendall added that during the initial development of the program there were an unusual high number of accidents which influenced the fee structure; however, with the safety improvements realized over the last five years the program is comfortable adjusting the budget in that area. 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: Dr. Stanley, Second: Ms. Davis.

General Licensure Standards - Quality Management Plans

The board convened a hearing in order to receive public testimony and consider revisions to 6 CCR 1011-1, Chapter 2, General Licensure Standards and Chapter 8, Facilities Serving Persons with Intellectual and Developmental Disabilities as they pertain to Quality Management Plans. Laurie Schoder and Randy Kuykendall, Health Facilities and Emergency Medical Services Division, presented the proposed amendments which are necessary to comply with House Bill 12-1294. The proposed amendments remove exemptions from having a quality management program as the exemptions are not supported by statute, and update language regarding the submission of written quality management plans for department review and approval. The initial draft of the proposed amendments generated significant stakeholder feedback and was revised in response to comments and suggestions from the Colorado Hospital Association, the Colorado Health Care Association and Leading Age Colorado. The current version of the proposed amendments was well received by stakeholders. 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: Dr. Nevin-Woods, Second: Mr. Cappello.

Assisted Living Residence serving Individuals with a Brain Injury through the Supported Living Program

The board convened a hearing in order to receive public testimony and consider revisions to 6 CCR 1011-1, Chapter 7, Assisted Living Residences serving Individuals with a Brain Injury through the Supported Living Program. Laurie Schoder and Randy Kuykendall, Health Facilities and Emergency Medical Services Division, presented the proposed amendments. The proposed amendments align with new rules adopted by the Department of Health Care Policy and Financing (HCPF) Medical Services Board that allow individuals, who qualify for the Medicaid Home and Community Based Services Brain Injury Waiver, to have access to the Supportive Living Program (SLP). Currently only four facilities provide services to individuals through the SLP, but those facilities do not fit into any of the division's existing license categories. Existing providers and potential new providers have not had specific standards to guide them in the provision of those services. The HCPF rules will require that SLP providers obtain an assisted living residence license from the Division in order to obtain Medicaid reimbursement for services to eligible brain injured individuals. The changes are minimal, and necessary to ensure that the regulations from the two agencies will mesh seamlessly and allow the provision of these essential community services. Mr. Brown asked why the definition on page 6, line 37 is not specific to people with a brain injuries. Ms. Schoder stated that the supportive living program is confined to individuals with a brain injury; however, the rule has broader implications. 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: Ms. McLain.

Patient Record Copy Costs

The board convened a hearing in order to receive public testimony and consider revisions to 6 CCR 1011-1, Chapter 2, General Licensure Standards, Part 5, Access to Patient Medical Records. Laurie Schoder and Randy Kuykendall, Health Facilities and Emergency Medical Services Division, presented the proposed amendments which are necessary to comply with House Bill 14-1186 and a directive from the Office of Legislative Legal Affairs. In January 2014, the Board adopted changes to this section that consisted of striking language in section 5.2.3.4 regarding specific per page fees that licensed health facilities could charge patients or their representatives for copies of a patient's medical record. On the recommendation of the division and the Office of the Attorney General, the board struck the language regarding specific per page fees because the existing statute did not support the board's authority to impose such fees. At the time, the division recommended slightly rewording existing language that no fees be charged by a health care provider for copies of patient records if those copies were being requested solely for the purposed of providing continuing medical care to a patient. The legislature enacted House Bill 14-1186 which added specific patient record copy cost fees to the statute. The bill also added statutory language that allows fees to be charged for continuing medical care when as for X-rays, mammograms, CT scans, MRIs or other film are needed because

“a copy is not sufficient for diagnostic or other treatment purposes.” 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: Mr. Brown, Second: Commissioner Hunsaker-Ryan.

Review of Minimum Qualifications of Public Health Directors: Sagauche County

Kathleen Matthews, Director, Office of Planning and Partnerships, Community Relations, reviewed the substitution of minimum qualifications for a public health director for Sagauche County Public Health Agency. Ms. Matthew responded to board questions regarding the recruitment process and the types of support provided to new public health directors.

Standing Reports

Executive Director Report

Dr. Wolk stated that Colorado was recently recognized as the leanest state in the nation and for having one of the highest flu vaccinations rates, for employees, in the country. He mentioned that the Public Health Accreditation Board, as part of the public health accreditation process, will be conducting site visits in February 2015. He remarked that the U.S. Centers for Disease Control and Prevention has awarded the department \$2.5 million grant to continue surveillance tracking and research for Muscular Dystrophy and other neuromuscular disorders. He stated that the Medical Marijuana Scientific Advisory Council will begin reviewing research proposals in the next couple of weeks and submit recommendations for grant recipients to the board in December. He provided an update regarding Enterovirus and Ebola. In regard to Enterovirus, Dr. Wolk provided some background information on the virus and stated that Colorado has experienced a decrease in the number of cases of acute central nervous system diseases. In regard to Ebola, Dr. Wolk discussed the state's comprehensive two-pronged plan which consists of a general public approach and a healthcare provider approach which was developed in partnership with the Colorado Hospital Association, Colorado Medical Society, the Colorado Nurses Association, and Colorado Association of Local Public Health Officials. He noted that the Governor's Expert Emergency Epidemic Response Committee is scheduled to meet on 10/17 to discuss the plan. The Board directed staff to draft a board resolution that supported the state's plan and CDPHE's leadership. Dr. Wolk responded to questions regarding board support and how local public health departments could provide consistent information to Colorado citizens.

Attorney General Report

Jennifer Weaver, First Assistant Attorney General, Health Care Unit, Legal Counsel remarked that there were no updates to report this month.

Board Members Reports of Committee Activities

- Cancer, Cardiovascular and Chronic Pulmonary Disease Committee: No updates.
- Public Health Act Steering Committee: Commissioner Hunsaker-Ryan remarked that there was no committee meeting in September; however, they did conduct focus groups in order to obtain input regarding the statewide plan.
- Tobacco Review Committee: No updates.
- Governor's Expert Emergency Epidemic Response Committee: No updates.

Tobacco Master Settlement Agreement Monitoring Report

Rich Hull and Andrew Dudley, Budget Office, presented a progress report regarding the Tobacco Master Settlement Agreement Monitoring Report (MSA). Mr. Hull reminded the board that in December 2013 they requested that future MSA reports include program outcomes. He discussed the steps taken by the Budget Office and outlined the report improvements which include outcome data at the program level, alignment with the SMART Act, structured and succinct performance summaries, access to relevant program details, simplified financial reports, and clear distinction between MSA funds and A35 (tobacco tax) funds. The Board members supported the improvements made to the report.

Administrative Updates

Ms. Nelson discussed the joint Board of Health and Air Quality Control Commission meeting, the logistics of the November 19 work session meeting and the medical marijuana research grant program.

Request for Approval of Committee Member Appointments

Cassidy Smith, Cancer, Cardiovascular and Pulmonary Disease Grant Program Manager, presented the Committees' appointment recommendation for the board's consideration. The board unanimously approved the recommendation to appoint Carlin Long, MD, Chief of Cardiology Division, and Denver Health Medical Center, as a representative of a cardiovascular disease professional, to the Cancer, Cardiovascular and Pulmonary Disease Grants Program Review Committee. Ms. Smith responded to questions regarding the new grant application requirements. Motion: Dr. Stanley, Second: Dr. Nevin-Woods.

Request for Rule-making Hearings:

Ambulatory Surgical Centers

Laurie Schoder and Randy Kuykendall Health Facilities and Emergency Medical Services Division, asked the board to convene a rule-making hearing to consider amendments to 6 CCR 1011-1, Standards for Hospitals and Health facilities, Chapter 20, Ambulatory Surgical Centers. The proposed amendments reflect current industry and department standards re-arrange the current rules into a more concise format and differentiate between centers that perform surgery under general anesthesia and centers that perform diagnostic procedures under mild sedation. In addition, the division's proposed amendments include up-dated standards of care for the operation of convalescent centers, in anticipation of the repeal of 6 CCR 1011-1, Chapter 11, Convalescent Centers. By unanimous consent, the board scheduled a public rule-making hearing on December 17, 2014 to receive public testimony and consider the proposed amendments to 6 CCR 1011-1, Chapter 20. Dr. Stanley will chair.

Convalescent Centers

Laurie Schoder and Randy Kuykendall Health Facilities and Emergency Medical Services Division, asked the board to convene a rule-making hearing to consider the repeal of 6 CCR 1011-1, Standards for Hospitals and Health facilities, Chapter 11, Convalescent Centers. The standards for convalescent centers outlined in Chapter 11 are insufficient, extremely out-dated and no longer in line with current practice. The definition of a convalescent care center lacks clarity and contains the unnecessary requirement that a convalescent care center maintain an affiliation with a general hospital. There are currently 11 licensed convalescent centers in Colorado with a patient capacity ranging from 3 to 10 beds, for a total of 58 licensed convalescent center beds in the state. Each of these convalescent centers is operated in conjunction with an ambulatory surgery center the proposed repeal would allow for the licensing of a convalescent center only in conjunction with an ambulatory surgical center license. The division has met with stakeholders from currently licensed ambulatory surgical centers and convalescent centers, as well as representatives of the Colorado Hospital Association and all have agreed that the department's proposal is an appropriate course of action. By unanimous consent, the board scheduled a public rule-making hearing on December 17, 2014 to receive public testimony and consider the proposed amendments to 6 CCR 1011-1, Chapter 11. Dr. Stanley will chair.

Registration of Radiation Machines, Facilities and Services

James Jarvis, Brian Vamvakias and Jennifer Opila, Hazardous Materials and Waste Management Division, asked the board to convene a rule-making hearing to consider amendments to 6 CCR 1007-1, Radiation Control, Part 2, Registration of Radiation Machines. The proposed changes clarify and strengthen the training requirements for Computed Tomography (CT) Operators for specific types of use of CT systems, extend the expiration date for the Colorado CT Operator program, add clarifying language to ensure supervision of individuals who are in training to become CT Operators; adds two new definitions, and corrects a reference. By unanimous consent, the board scheduled a public rule-making hearing on December 17, 2014 to receive public testimony and consider the proposed amendments to 6 CCR 1007-1, Chapter 2. Ms. McLain will chair.

Presentations

Public Health Act Update: Local and State Plans

Kathleen Matthews, Office of Planning and Partnership, updated the board on efforts regarding the statewide public health improvement plan which include accreditation, top priorities and building Colorado public health capacity. Rick Ritter, Otero County Health Department Director, discussed public health improvement plans pertaining to Baca, Prowers, Kiowa, Bent, Otero, Crowley, Las Animas, and Huerfano counties. He talked about the similarities between the counties; the collaborative approach regarding resources; the challenges rural counties face regarding public health; and the priorities, goals and objectives of the plans. Jason Vahling, Broomfield Public Health Director, discussed the public health improvement plan, as it relates to

obesity prevention, for the City and County of Broomfield. He talked about keeping the momentum going, the importance of director support, the development of an advisory committee, the challenge of coordinating evidences based programming with community needs, and the importance of keeping key decision makers and community partners engaged.

Environmental Health and Sustainability Division Director Report

Jeff Lawrence, Division of Environmental Health and Sustainability provided a divisional overview which included budget and staffing; regulation oversight; units and workgroup leads; direct implementation programs and delegated programs; and emerging issues and division focuses. The board asked questions regarding the Environmental Protection Agency's role, coordinating efforts in relation to the environmental agricultural program, and the increase of food recall notices.

This meeting was adjourned at approximately 2:30 p.m.