



COLORADO

Board of Health

Department of Public Health & Environment

Minutes

Wednesday, December 17, 2014

Approved January 21, 2015

Call to Order

The Colorado Board of Health held a public meeting on Wednesday, December 17, 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; Christine Nevin-Wood, D.O., At-Large, Vice President; Sue Warren, At-Large; Larry Wolk, Executive Director.

Members Absent

Rick Brown, District 7

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 October 15, 2014 board meetings.

The board unanimously approved the meeting minutes as written.

Board Comments: Matters Not On the Agenda

The board did not offer any comments.

Public Rule-making Hearings

Ambulatory Surgical Centers and Convalescent Centers

The board convened a hearing in order to receive public testimony and consider revisions to 6 CCR 1011-1, Chapter 20, Ambulatory Surgical Centers and 6 CCR 1011-1, Chapter 11, Convalescent Centers. Laurie Schoder and Randy Kuykendall, Health Facilities and Emergency Medical Services Division, presented the proposed amendments. The amendments reflect current industry standards, department expectations, re-arrange rules into a more concise format and differentiate between ambulatory surgical centers (ASCs) that perform surgery under general anesthesia and centers that perform diagnostic procedures under moderate sedation. A tiered classification system is more consistent with the design and construction guidelines of the 2010 Facility Guidelines Institute, which is referred to in the rules and incorporated by reference. The proposed amendments to Chapter 20 include updated standards for the operation of convalescent centers. These updates coincide with the repeal of 6 CCR 1011-1, Chapter 11, Convalescent Centers, which is insufficient and out-dated. Ms. Schoder specifically discussed proposed changes regarding criteria for ASCs to sublease space to another licensed ASC, elimination of waivers for endoscopy centers, stakeholder comments and changes outlined in the errata sheet dated December 17, 2014. Ms. Schoder and Mr. Kuykendall responded to board questions regarding national standards, subletting space, overnight care, medication administration and pre-planned offsite transfers. Chris Skagen, Ambulatory Surgery Center Association, and Danielle Glover, Association of periOperative Registered Nurses testified in support of the proposed amendments. The board unanimously approved the proposed amendments for Chapter 20, Ambulatory Surgical Centers and Chapter 11, Convalescent Centers. Motion: Ms. Davis, Second: Commissioner Hunsaker-Ryan.

Registration of Radiation Machines, Facilities and Services

The board convened a hearing in order to receive public testimony and consider revisions to 6 CCR 1007-1, Radiation Control, Part 2, Registration of Radiation Machines, Facilities and Services. Jennifer Opila, Brian Vamvakias and James Jarvis, Hazardous Materials and Waste Management Division, presented the proposed amendments. The proposed changes clarify and strengthen the training requirements for Computed Tomography (CT) Operators for specific types of use of CT systems based on stakeholder comment and Board of Health discussions during the June 2014 rulemaking hearing. Additionally, the amendment extends the expiration date for the Colorado CT Operator program from July 2015 to July 2017. The date extension is primarily based on the needs and request of rural hospital facilities who indicated a need for additional time so that individuals may complete their current training. The proposed extension will also allow the radiation



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program further time to evaluate the long term options and alternatives to the Colorado CT Operator program. Lastly, two new definitions were added to support and provide consistency throughout the regulations. Staff responded to questions regarding certification, consequences of extending the expiration date, and American Registry of Radiologic Technologists requirements. 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: Commissioner Hunsaker-Ryan.

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 Ben Price to the committee representing a society of health plans. Motion: Dr. Stanley, Second: Ms. McLain.

Public Comments: Matters Not On the Agenda

After reviewing the registration sheet the board agreed to hear public comments for matters not on the agenda just prior to the Medical Marijuana Research Grant Program funding recommendations as the topics were related.

The following persons provided comments: Timothy Tipton, Jordan Dietrich, Kathleen Chippi, Thomas Stocks, Robert Chase, Phillip Barton, Sean Kiernan, Sohun Shah, Ronn Nixon, Lloyd Covens, Greg Duran, Tony Shaw, Chris Latona, John Evans, and Wendy Turner. The majority of public comment expressed support for the Medical Marijuana Research Grant program. Individuals spoke to the benefits of medical marijuana for veterans as well as children with Inflammatory Bowel Disease. Individuals who observed the work of the Scientific Advisory Council recognized the integrity in which the grant review process was carried out. The board also received comments that Medical Marijuana Registry fees should not be used to fund the research and criticism of the Medical Marijuana Registry.

Funding Recommendations

Medical Marijuana Research Grant Program

Dr. Larry Wolk, Executive Director and Scientific Advisory Council Chair, presented funding recommendations for the board's consideration. The Medical Marijuana Research Grant Program was authorized by Senate Bill 14-155 to fund research intended to ascertain the general medical efficacy and appropriate administration of marijuana and its component parts. Senate Bill 14-155 also authorized the establishment of the Scientific Advisory Council (SAC) to evaluate research proposals and submit recommendations to the department and the State Board of Health for recommended grant recipients, grant amounts, and grant duration. Based on the grant review and further discussion regarding alignment with the intent of Senate Bill 14-155 and the Request for Application, eight grants were selected by the SAC for recommendation to the Board of Health for funding approval. The SAC requested that the eight grants, identified and summarized in the funding recommendation memo, be funded in an amount not to exceed \$8,396,692. This amount encompasses the grant amount sought by the applicant and a ten percent contingency per grantee. The contingency enables the department to adjust each grant amount up to an additional ten percent to allow grantees to address unforeseen costs identified during the contract negotiation process. If the funding for any grantee needs to be increased in an amount exceeding ten percent of the grant amount, the SAC will request approval of the board.

The SAC requested direction from the State Board of Health as to how the SAC should proceed with the remaining medical marijuana research grant program funds. The board discussed the importance of the adequately supporting the selected grantees and keeping the funds available for the next ninety days as the contracts are negotiated and that the SAC may want to consider researching the effectiveness of medical marijuana for patients with Tourette Syndrome as this was previously considered for inclusion in the list of debilitating medical conditions.

The board thanked the department for their work and thanked the public for their comments. The board approved the Medical Marijuana Research Grant Program funding recommendations from the Scientific



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Advisory Council Committee in the amount not to exceed \$8,396,692 to fund the grants and grant activities identified in the December 17, 2014 funding recommendation memo. These grants are approved for duration of three years, with the exception of the University of Colorado Denver Double Blind Study concerning Cannabis and Oxycodone which is approved for duration of two years. Final award amounts to grantees may be adjusted as the scope of work for each grant is finalized. Motion passes unanimously. Motion: Dr. Stanley, Second: Ms. Sowinski.

Recommendation to the General Assembly

Tobacco Master Settlement Agreement Monitoring Report

Rich Hull and Andrew Dudley, Budget Office, presented the annual Tobacco Master Settlement Agreement Report (MSA) for FY 2013-14. Mr. Hull reminded the board that in December 2013 they requested that future MSA reports include program outcomes. He remarked that as a result of their request a thorough review was performed resulting in a more streamlined report which includes program outcomes, improved performance summaries and simplified financial reports. Mr. Dudley and Mr. Hull discussed the coordinated efforts between the budget office and the department as it related to the revision of the report and provided the board with a brief overview of each program. Ms. Nelson summarized the board's role regarding the MSA report. Moved by Dr. Stanley, seconded by Ms. Sowinski to submit the report to the General Assembly with the proposed recommendations. The budget office is permitted to finalize the report and include any final revisions from the MSA programs to ensure all data is accurate. Motion passed unanimously.

Standing Reports

Executive Director Report

Dr. Wolk updated the board regarding the public health accreditation process, hiring efforts for a position to oversee the Department's performance management efforts, the \$65 million State Innovation Model funding award, tri-agency alignment efforts, Ebola preparations and the Colorado Healthy Hospital Compact.

Attorney General Report

Jennifer Weaver, First Assistant Attorney General, Health Care Unit, Legal Counsel, remarked that the plaintiffs for the Boyer case did not meet the Court of Appeals response deadline and it appears that they are dropping the case. She advised the board that her office received a lawsuit from Kathleen Chippi challenging the statute establishing the Medical Marijuana Research Grant Program.

Administrative Updates

Ms. Nelson discussed logistics for the upcoming January and May meetings and she discussed the Legislative Legal Services review regarding the Use of Medical Marijuana regulation. The Board supported the Department contesting the findings of Legislative Legal Services.

Presentations

Office of Planning and Partnership State Plan

Kathleen Matthews and Cambria Brown, Office of Planning and Partnerships updated the board on the 2015-2019 statewide public health improvement plans, Healthy Colorado: Shaping the State of Health. The plan builds on the 2013 environmental assessment and aligns with the existing local, state and national efforts. It was developed with input from partners in diverse organizations across the state and includes priority areas for improvement, measureable objects and targets for health outcomes and recommendations for continuing to build Colorado's infrastructure and capacity.

Hazardous Materials and Waste Management Division Report

Gary Baughman, Hazardous Materials and Waste Management Division, provided an overview of the division which includes the: Hazardous Waste Program, Solid Waste Program, Remediation Program, Radiation Control, and Administration. Mr. Baughman responded to questions regarding administrative fees, self inspections and the Pueblo Chemical Depot.

Request for Rule-making Hearings

Fees for Radiation Control Services and Registration of Radiation Machines, Facilities, and Services



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Jennifer Opila and James Jarvis, 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, Parts 2, Registration of Radiation Machines, Facilities and Services and Part 12, Fees for Radiation Control Services. The proposed amendments are necessary to address a projected budget shortfall in program funding. During a recent analysis of fees, budgets and expenditures, it was determined that the program will have a projected income shortfall of approximately \$394K for FY 2015. Fees for radioactive materials licensing have not changed since 2009 and fees for radiation machine services have not changed since 2001. The proposed fee increases (above the current fees) range from 16%-25% which will impact approximately 975 specific and general radioactive materials licensees and all radiation machine registrants. Additionally, the proposed amendments include a new radiation machine facility registration fee of \$50 per year per facility to meet department costs for administering radiation control services to support the approximate 5,200 facilities using radiation machines in Colorado. The proposed amendment to Part 2 adds language consistent with the proposed changes in Part 12. Language is added to reference the proposed facility registration fee for radiation control services, and to indicate that Service Company, Qualified Inspector, and Qualified Expert registrations are for a 1-year period. By unanimous consent, the board scheduled a public rule-making hearing on February 18, 2015 to receive public testimony and consider the proposed amendments to 6 CCR 1007-1, Parts 2 and 12. Ms. Sowinski will chair.

Preparations for a Bioterrorist Event

Lyle Moore, Office of Emergency Preparedness and Response and Michele Askenaze, Tri-County Health Department asked the board to convene a rule-making hearing to consider amendments to 6 CCR 1009-5, Preparations for a Bioterrorist Event, Pandemic Influenza, or an Outbreak by a Novel and Highly Fatal Infectious Agent or Biological Toxin. The proposed amendments are necessary in order to align the rule with current statute and existing practice, and create clarity regarding the prophylaxis cache and the Strategic National Stockpile protocols. Mr. Moore and Ms. Askenaze responded to several questions from the board pertaining to cache requirements, definition of managed care organization, purpose of a managed care organization, Category A, treatable antibiotics, sufficient stockpile for conditions that are transmissible person to person and the need for a more detailed Statement of Basis and Purpose. After further discussion the board agreed not to schedule a rule-making hearing at this time. The board directed staff to conduct additional research in order to address the concerns raised during this meeting; additionally, the board recommended that feedback from the Governor's Expert Emergency Epidemic Committee be provided.

Rules and Regulations Governing Schools

Cary Ruble, Therese Pilonetti and Greg McConnell, Environmental Health and Sustainability Division, asked the board to convene a rule-making hearing to consider amendments to 6 CCR 1010-6, Rules and Regulations Governing Schools necessary to safeguard the health and safety of school occupants.

The proposed amendments reflect a comprehensive rewrite of the regulations and include creating a self-certification checklist, establishing a final compliance date for all schools to develop a chemical hygiene plan, implementing a public notification requirement and incorporating a requirement that all schools contract with a registered nurse. Less substantive revisions include standardizing the format of the regulation to comply with the Colorado Secretary of State CCR style template, updating definitions, citations, references, and administrative directives, modernizing essential regulation language, incorporating standardized language and clarifying requirements based on implementation of the current rule. Mr. Ruble indicated that the stakeholder group recently decided to return to the more prescriptive Colorado specific chemical list and that the division can support this change. This change will be incorporated into the rulemaking packet prior to the hearing. Staff responded to board questions regarding the chemical list, variances, accident prevention, and compliance levels. By unanimous consent, the board scheduled a public rule-making hearing for February 18, 2015, to receive public testimony and consider the proposed amendments to 6 CCR 1010-6. Dr. Nevin-Woods will chair.

This meeting adjourned at approximately 1:55 p.m.