



### **Call to Order**

The Colorado Board of Health held a public meeting on Wednesday, October 21, 2015, at Sabin-Cleere Conference Room, Bldg. A, 1<sup>st</sup> Floor 4300 Cherry Creek Dr., South, Denver, CO 80246. The meeting was called to order at approximately 10:02 a.m.

Prior to roll call Dr. Cappello introduced new board member Matt VanAuken.

### **Members Present**

Christopher Stanley, M.D., District 1; Janelle Orsborn, District 2; Tony Cappello, PhD, District 4, Board President; Matt VanAuken, District 5; Joan Sowinski, District 6; Rick Brown, District 7; Nadeen Ibrahim, At-Large; Ray Estacio, M.D., At-Large; Larry Wolk, M.D., MSPH, Executive Director and Chief Medical Officer, CDPHE.

### **Members Absent**

Jill Hunsaker-Ryan, County Commissioner, District 3.

### **Staff Present**

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

**Review of the minutes from the September 16, 2015 board meeting.** The board unanimously approved the meeting minutes with correction to the typos identified by Ms. Sowinski. Mr. VanAuken abstained from voting on the September meeting minutes.

### **Public comments for matters not on the agenda**

The public did not offer any comments.

### **Board comments for matters not on the agenda**

Board members did not offer any comments.

### **Rule-making Hearings**

#### Colorado Health Care Professional Credentials Application

The board convened a hearing in order to receive public testimony and consider revisions to 6 CCR 1014-4, Colorado Health Care Professional Credentials Application, presented by George Dikeou, Health Care Credential Application Review Committee. In March 2015 the Board of Health adopted changes to the credential application. The committee learned that a question in Section I, Part E, requesting the applicant's National Provider Identifier (NPI) number was removed in error. In addition, partners at the Colorado Physicians Health Program (CPHP) asked the committee to revisit the note for Supplemental B, Question 2. The note, which was intended to provide clarifying instruction, does not align with other instructions provided in the application and specifying CPHP could create confusion for applicants. The proposed changes address both issues by restoring the NPI number and removing the over-specific note. Mr. Dikeou responded to board questions regarding physician participation in treatment programs. The board unanimously approved the proposed amendments. Motion: Dr. Stanley; second: Dr. Cappello.



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### Culturally and Linguistically appropriate Hepatitis C Screening

Prior to the hearing Ms. Ibrahim disclosed that she is a member of the Mountain States Regional Health Equity Council. Ms. Ibrahim indicated that she was comfortable participating because her work with the council did not give rise to a conflict of interest. No members expressed concern following Ms. Ibrahim's disclosure. Ms. Ibrahim participated in the proceedings.

The board convened a hearing in order to receive public testimony and consider revisions to 6 CCR 1009-11, Culturally and Linguistically appropriate Hepatitis C Screening. Rachel Herlihy, Daniel Shodell and Amy Warner, Disease Control and Environmental Epidemiology Division, presented the proposed new rule. The proposed new rule is necessary to comply with SB 14-173. The legislation requires that, if a health care provider offers a Hepatitis C screening test, the health care provider offer the screening to the patient in a linguistically and culturally appropriate manner, as determined by rules promulgated by the department. In order to implement the legislative mandate the department recommends the Board of Health adopt the National Culturally and Linguistically Appropriate Services (CLAS) Standards as recommended by the United States Department of Health and Human Services, Office of Minority Health. These are uniform standards widely known to the public health and health care community. The purpose of the National CLAS Standards is to provide a blueprint for health and health care organizations to implement culturally and linguistically appropriate services that will advance health equity, improve quality, and help eliminate health care disparities. Mr. Shodell reviewed the legislation, basis for the recommendation and the stakeholder process. Mr. Shodell and Ms. Warner responded to board questions regarding the application of the proposed new rule, the difference between standards that are mandated and those that are encouraged, and implementation, resources and enforcement for smaller practices.

### *Board Deliberation*

The board discussed the scope of the legislation and enforceability. Dr. Stanley stated that he appreciates the additional outreach conducted by the department and was surprised that no negative comments were received. He remarked that he is still concerned about implementation and the impact on the provider based community. He appreciated the outreach the department conducted and given the lack of stakeholder feedback, supported the proposed rule. Mr. Brown raised Executive Order D 12-002, which calls for rules that are effective and efficient. Mr. Brown questioned the breadth the rule and its ability to bring about the desired outcomes. Dr. Cappello appreciated that the implementing legislation was challenging for the department and the board, and appreciated that the proposal was well written and in alignment with other health equity efforts. Dr. Cappello and Dr. Estacio also appreciated that the rule will be monitored to ensure Coloradoans were not negatively impacted. Ms. Sowinski stated that it is very important to have health equity; however, she is not sure the proposed new rule accomplishes this purpose. She stated that she is



concerned about passing regulations that are not enforceable and that could have a negative effect resulting in less screening for Hepatitis C. The board approved (7-1) the proposed new rule. Motion: Mr. Brown; second: Dr. Cappello.

### **Request for Rule-making Hearings**

#### Statewide Emergency Medical and Trauma Care System

Randy Kuykendall and Grace Sandeno, Health Facilities and Emergency Medical Services Division asked the board to convene a rule-making hearing to consider amendments to 6 CCR 1015-4, Chapter 1, Statewide Emergency Medical and Trauma Care System. The proposed amendments remove all references to the prehospital registry, modify and add definitions to clarify the requirements of the trauma registry, reformat the chapter to clearly define which data elements are required from each level trauma center, replace obsolete language and reformat the entire chapter to be consistent with other rules. Mr. Kuykendall stated that the Statewide Trauma Advisory Committee reviewed and approved the proposed changes with minor revisions. Ms. Sandeno discussed the details of the proposed changes and the stakeholder process. Mr. Kuykendall and Ms. Sandeno responded to questions regarding confidentiality, the definition of readmission, and data utilization and dissemination. Mr. Brown asked staff to identify the affiliation for the two individuals on the Statewide Trauma Advisory Committee (STAC) committee (see the Table on page 7) when finalizing the rulemaking hearing packet. By unanimous consent, the board scheduled a public rule-making hearing for December 16, 2015 to receive public testimony and consider the proposed amendments to 6 CCR 1015-4, Chapter 1. Mr. Brown will chair.

#### Radiation Part 1, General Provisions; Part 3, Licensing of Radioactive Material; Part 18, Licensing Requirements for Uranium and Thorium Processing

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, Part 1, General Provisions; Part 3, Licensing of Radioactive Material, and; Part 18, Licensing Requirements for Uranium and Thorium Processing. The proposed amendments maintain consistency with the 2014 and 2015 Colorado Radiation Control Act (statutory) changes and address past comments and federal rule changes of the Nuclear Regulatory Commission.

The proposed amendments to Part 1 delete two definitions ("classified material", "non 11e(2) material") that are not compatible or consistent with state statute or federal rule, modify five definitions ("byproduct material", "commencement of construction", "NORM", "source material", and "unrefined and unprocessed ore") that are not compatible or consistent with state statute or federal rule, add two definitions ("carrier", "construction") not currently found in the rule but are needed for compatibility and consistency with federal rule, and correct minor typographical corrections in the rule.



Proposed amendments to Part 3 include: specific limits for certain types/forms of source material; prohibitions on administering source material to humans without a specific license; prohibitions on export of source material without a specific license; requirements for minimization of contamination, and; requirements for initial distribution of source material to persons generally licensed. The proposed amendments also add an exemption for common carriers involved in the transport of radioactive materials on behalf of licensed entities, remove the definitions for the terms *commencement of construction* and *construction*, modify the term environmental *report* to environmental *assessment*, add licensing requirements for sealed sources and devices which are not listed in the national registry, and expand the financial assurance/warranty requirements.

The proposed changes to Part 18 modify several definitions to be consistent with state statute and federal rule, add clarifying language for requirements which are under federal jurisdiction and state jurisdiction, add language allowing receipt of non-processing materials, add language pertaining to financial surety, and add requirements for spill notification and expedited groundwater restoration.

Ms. Opila responded to questions regarding byproduct and source material in relation to drinking water waste facilities, the definition of "radioactive material" and whether the Part 18 definition of "residual radioactive material" is appropriate given that Part 18 does not apply to facilities that fall under the Uranium Mill Tailings Radiation Control Act (UMTRA). Ms. Opila appreciated Mr. Brown's point concerning UMTRA and indicated that she would research this issue prior to finalizing the materials for the rulemaking hearing.

Ms. Opila indicated that the board may see minor revisions in the hearing packet as staff continues to work with stakeholders. The board encouraged staff to clarify the Statement of Basis and Purpose, and the Stakeholder Comment form to recognize all of the stakeholder outreach the department has performed. By unanimous consent, the board scheduled a public rule-making hearing for December 16, 2015 to receive public testimony and consider the proposed amendments to 6 CCR 1007-1, Radiation, Part 1, General Provisions; Part 3, Licensing of Radioactive Material, and; Part 18, Licensing Requirements for Uranium and Thorium Processing. Dr. Cappello will chair.

#### Dental Assistance Program Services Grants

Katya Mauritson, Prevention Services Division asked the board to convene a rule-making hearing to consider the repeal of 6 CCR 1015-8, Dental Assistance Program Services Grants in order to comply with Senate Bill 14-180 which transferred this program to the Colorado Department of Health Care Policy and Financing. Rulemaking authority was transferred to the Medical Services Board. The department recommends the repeal of 6 CCR 1015-8 since this program has been successfully transferred to the Colorado Department of Health Care Policy and Financing and is no longer with the department. Ms. Mauritson responded to



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questions regarding changes made to the new program. By unanimous consent, the board scheduled a public rule-making hearing for December 16, 2015 to receive public testimony and consider the repeal of 6 CCR 1015-8, Dental Assistance Program Services Grants. Dr. Estacio will chair.

### Reports

#### Executive Director Report

Dr. Wolk remarked that 2014 Long-Acting Reversible Contraception (LARC) data shows a 50% reduction of teen pregnancy and abortion rates for young women between the ages of 15 to 19 in Colorado. He pointed out that Colorado has the highest LARC utilization rate in the country. He noted that the department continues to look for sustainable funding source for the LARC program. Dr. Wolk stated that the Laboratory Services Division was recently recognized by the Center for Disease Control and designated as an advance level reference lab. He mentioned that the department is in the process of hiring a new director for the lab. Dr. Wolk remarked that the marijuana public education campaign "Good to Know" and the "What Next" campaigns received national awards. He stated that a timeline has been created in order to comply with the Clean Power Plan. Dr. Wolk and the board discussed the successful joint meeting with the Air Quality Control Commission. Members thought all gained an increased appreciation for the public health impacts of good air quality. Dr. Wolk indicated that the final submission to the Public Health Accreditation Board will be occurring later in the month.

#### Attorney General's Report

Jennifer Weaver, First Assistant Attorney General, Legal Counsel, updated the board on three cases involving the Board of Health.

#### Board Member Reports of Committee Activities

Dr. Stanley stated that the Tobacco Review Committee (TRC) has been discussing activities related to the Quitline and media projects and health equity. He shared the election results of the annual election; Dr. Daniel Kortsch will serve as the chair and Dr. Stanley will be serving as the vice-chair. Dr. Stanley asked the board to co-sign a letter with the TRC and Office of Health Equity. The letter is intended for the Public Housing Authorities (PHA) and encourages the PHA to take steps to protect resident and employee health by implementing smoke-free policies. The board agreed to co-sign the letter. Mr. Brown remarked that the Cancer, Cardiovascular and Chronic Pulmonary Disease Program and the Health Disparities Grants program grantee kick-off meeting was a success with about 150 attendees.

#### Administrative Updates

Ms. Nelson announced that Commissioner Hunsaker-Ryan will no longer be serving on the Public Health Improvement Steering Committee (PHISC). She stated that this is an opportunity for the board to determine if it would like to continue to have a board member



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participate. There is no statutory mandate for a board member to participate, the board is updated by Ms. Kathleen Matthews as needed, and local public health is represented on the Board of Health. After a brief discussion it was determined that it was not necessary to have board representation on PHISC. Ms. Nelson discussed the 2016 Regulatory Agenda and the Regulatory Plan and anticipated joint meetings in 2016. The scheduled was designed to accomplish the work while maintaining a manageable workload for board members.

### Presentation

#### Overview of Occupational Health and Safety and the Work Safe Committee

Mike VanDyke, Disease Control and Environmental Epidemiology Division, presented an overview of occupational health and safety which included an overview of the department's priorities, funding, staffing, and surveillance. Ms. VanDyke discussed how this effort was not a regulatory effort, the day laborers project, the public schools projects, and the efforts of the School of Public Health. Ms. Orsborn commended the program for its efforts to bring undergraduate and graduate students into the effort and highlighted how the students' projects have meaning and impact for Coloradoans. Mr. VanDyke responded to board questions and comments concerning state and local government not being covered by the Occupational Safety and Health Administration (OSHA), the value of worker's compensation data, and the worker health and safety efforts occurring in rural communities.

This meeting was adjourned at approximately 1:22 p.m.