

COLORADO BOARD OF HEALTH

MINUTES April 20, 2011

(Teleconference Meeting)

NOTE: These minutes are a summary of the proceedings and motions of the April 20, 2011 meeting of the Colorado Board of Health. The complete and accurate record is the audio recording of the meeting. Documents referenced in the minutes are available for public inspection at the Board of Health Office, Colorado Department of Public Health and Environment, Bldg. A, 5th Floor, 4300 Cherry Creek Drive South, Denver, CO., or call 303-692-3464 to request copies.

Call to Order/Roll Call

The April 20, 2011 Colorado Board of Health meeting was called to order at approximately 10:05a.m. at the Colorado Department of Public Health and Environment, Sabin Conference Room, 4300 Cherry Creek Drive South, Denver, Colorado, by Laura Davis, president.

Members Present

Laura Davis, District 2; Kindra Mulch, District 4; Glenn Schlabs, District 5; Joan Sowinski, District 6; Jeanne McGinnis, District 7; Larry Kipe, M.D., At-Large; Christine Nevin-Woods, D.O., At-Large, Christopher Urbina, Executive Director and Chief Medical Officer, (ex-officio).

Members Absent:

Philip Mehler, M.D., District 1

Staff Present:

Karen Osthus, Board Administrator; Jamie L. Thornton, Program Assistant, and Jennifer L. Weaver, Assistant Attorney General, legal counsel.

Approval of Minutes

BY UNANIMOUS CONSENT, the March 16, 2011 minutes were approved as written.

Request for Approval of Funding Recommendations: Health Disparities Grant Program FY11/12

Staff Comments: Mauricio Palacio, Director, Office of Health Disparities respectfully requested the Board to approve the FY 2011-2012 grant awards in the amount of \$480,568.

Mr. Palacio remarked that the recommendations follow the legislative requirements within HB 1262, which include, translating evidence-based strategies into practical application in healthcare, workplace and community settings; providing appropriate arrangements for treatment of screen-detected illness; implementing education programs for the public and healthcare providers; and providing evidence-based strategies to overcome health disparities in the prevention and early detection of cancer, cardiovascular disease and chronic pulmonary disease.

MOVED by Dr. Nevin-Woods, seconded by Ms. Sowinski, to approve the FY 2011-2012 funding recommendations for the Health Disparities Grant Program in the amount not to exceed \$480,568 as presented in the memo dated April 12, 2011.

MOTION CARRIED UNANIMOUSLY

Request for Approval of Funding Recommendations: Nurse Home Visitor Program FY11/12

Staff Comments: Mary Martin, MSW, LCSW, Director, Nurse Home Visitor Programs, Prevention Services Division, presented the FY 2011-2012 funding recommendations for the Colorado Nurse Home Visitor Program. She reviewed the contents of materials included in the memorandum/packet dated April 6, 2011. The packet included; 1) a spreadsheet of the requested and recommended funding amounts for FY 2011-2012; 2) a spreadsheet of the FY 2010-2011 funding amounts; 3) a spreadsheet regarding grantee caseload 3-year averages; and 4) spread sheets with individual award summaries for each of the 19 sites.

Ms. Martin pointed out that the 2006 audit required the department to review caseload averages to ensure that sustainable case loads were being funded. She pointed out that prior to 2011 caseload averages were not available to the department. She added that as a result of having this information the Nurse Family Partnership National Service Office, Invest In Kids, University of Colorado and the department recommend lowering the caseloads for El Paso and Jefferson Counties.

Ms. Martin remarked that funding recommendations are based on the previous year's appropriation levels and that the current recommendations reflect 2010-2011 levels. She added that pending legislation, if passed, will freeze funding for the Nurse Home Visitor Program at \$12, 737,350 or fourteen percent (whichever is higher) of what the actual Master Tobacco Settlement revenues are. She went on to say that revenues are not expected to be higher this year which will result in across the board budget cuts for all agencies in the amount of \$412,500 for FY 2012-2013.

Ms. Martin asked the Board to approve the FY 2011-2012 grant awards for the Colorado Nurse Home Visitor program in the amount of \$11,883,785 which would serve 2,515 clients across 50 counties in Colorado.

MOVED by Mr. Schlabs, seconded by Dr. Kipe, to approve the FY 2011-2012 continuation funding recommendations for the Nurse Home Visitor Program in the amount of \$11,883,785 as presented.

MOTION CARRIED UNANIMOUSLY (Ms. Mulch recused)

Request for Approval of Funding Recommendations: Tobacco Education, Prevention, and Cessation Grant Program

Staff Comments: Jennifer Ludwig, Vice Chair, Tobacco Education, Prevention and Cessation Grant Program Review Committee, requested the approval of \$5,196,358 in grant awards for the FY 2011-2012 funding period, as described in detail, in the memorandum/packet received dated April 6, 2011.

Ms. Ludwig remarked that due to fiscal emergency the General Assembly transferred \$17.6 million of the revenue from the Grant Program, which resulted in a decreased appropriation of approximately \$5.2 million for FY 2011-2012.

She pointed out that the budget reduction process was very difficult and included a public comment period. She mentioned that the Review Committee met in February to determine the approach for implementing FY 2011-2012 reductions and reached consensus to preserve evidence-based, population-level initiative.

Ms. McGinnis said that she appreciates the efforts the Committee made to maintain the integrity of the programs in the current economic environment.

Ms. Davis stated that as a member of the Review Committee she understands the difficult decisions the department faced during this process. She added that the Review Committee's methodology was sound and resulted in good decisions.

MOVED by Mr. Schlabs, seconded by Ms. McGinnis, to approve the FY 2011-2012 funding recommendations for the Tobacco Education Prevention and Cessation Grant Program in the amount not to exceed \$5,196,358 as presented, with the exception of the Pueblo City and County Health Department grant in the amount not to exceed \$126,358.

MOTION CARRIED UNANIMOUSLY

MOVED by Mr. Schlabs, seconded by Ms. McGinnis, to approve the FY 2011-2012 funding recommendation for the Tobacco Education Prevention and Cessation Grant Program for the Pueblo City and County Health Department grant in the amount not to exceed \$126,358 as presented.

MOTION CARRIED UNANIMOUSLY (Dr. Nevin-Wood recused)

Request for Approval of Funding Recommendations: Colorado HIV/AIDS Prevention Grant Program (CHAPP)

Staff Comments: Richard Weinert, Planning Unit Coordinator/CHAPP Program Coordinator, STI/HIV Section, Disease Control and Environmental Epidemiology Division, presented the funding recommendations as described, in detail, in the memorandum/packet dated April 6, 2011.

Mr. Weinert noted that the 20 projects recommend for continued funding are meant to fill a number of service gaps that currently exist in the state regarding HIV/AIDS prevention and education programs. He added that the Advisory Committee also agreed to continue funding the OMNI Institute, at a decreased level, for another year of evaluation services.

Mr. Weinert asked the Board to approve the FY 2011-2012 grant awards for the Colorado HIV and AIDS Prevention Grant Program in the amount of \$1,700,000.

MOVED by Mr. Schlabs, seconded by Dr. Kipe, to approve the FY 2011-2012 funding recommendation for the Colorado HIV and AIDS Prevention Grant Program and for Cohort Three continuing funding

and additional funding for evaluation services in the amount not to exceed \$1,700,000 as presented.

MOTION CARRIED UNANIMOUSLY

Preventive Health and Health Services Block Grant Annual Report, FY 2009/10

Staff Comments: John Chase, PHHS Block Grant Manager, thanked the Board for the opportunity to conduct the second public hearing for the FY 2009 – 2010 Preventive Health and Health Services Block Grant (PHHS) funding cycle.

He reminded the Board that their role is to serve as the PHHS Advisory Committee. He added that the Centers for Disease Control and Prevention (CDC) require that a public hearing is conducted for each funding cycle and reminded the Board that the first public hearing for the 2010 funding cycle was held on November 18, 2009.

Mr. Chase stated that this public hearing is being conducted to receive feedback on the annual reports and/or the program self-assessments provided in memorandum/packet provided dated March 24, 2011. He added that the Board is not required to take any action on any items presented in the packet.

Mr. Chase mentioned that the President's proposed 2012 budget proposes eliminating PHHS. He emphasized that discussions are still in the preliminary stages and that he wanted to take this opportunity to advise the Board on pertinent issues being discussed on the federal level.

Dr. Urbina remarked that the department is monitoring the budget process and will notify all interested parties of the final outcome as soon as practical.

Public Comment

None.

The Board thanked Mr. Chase for his presentation and his excellent work in managing the Preventive Health and Health Service Block Grant.

Request for Waiver of Building and Fire Safety Regulations: Skilled and Intermediate Health Facilities pursuant to 6 CCR 1011-1, Chapter II, Section 4.106 for Parkplace Retirement Community

Staff Comments: Rob Sontag, Program Manager, Life Safety Code, Health Facilities and Emergency Medical Services Division, provided an overview of the waiver request as described, in detail, in the memorandum/packet dated March 28, 2011.

Mr. Sontag commented that the Parkplace Retirement Community currently occupies the first three floors of an eighteen story building and are currently protected with a National Fire Protection Association (NFPA) 13R automatic fire suppression system. He added that they currently comply with 6 CCR 1011-1 Chapter VII of the department's regulations.

He said that the owners are expanding to the fourth floor and that the expansion would require them to comply with Chapter XXXII of the department's regulations. He added that Chapter XXXII dictates that the entire building be equipped with a quick response sprinkler system.

Mr. Sontag stated that Parkplace alleges that it would be cost prohibitive to install the entire building with quick response sprinklers. He pointed out that both the department and Parkplace had several discussions prior to agreeing on the alternative approach outline in the waiver request. He added that the alternative method is common practice and is consistent with standard fire fighting strategies in high rise buildings.

Mr. Sontag responded to Board questions concerning the plan review process and the results of the City of Denver's plan review.

MOVED by Mr. McGinnis, seconded by Ms. Sowinski, to approve the request for Waiver of Building and Fire Safety Regulations for Skilled and Intermediate Health Facilities pursuant to 6 CCR 1011-1, Chapter II, Section 4.106 for Parkplace Retirement Community.

MOTION CARRIED UNANIMOUSLY

Discussion/Request for a Rulemaking Hearing: Proposed amendments to 5 CCR 1006-2 Medical Use of Marijuana, pertaining to patient rules

Staff Comments: Ann Hause, Director, Office of Legal and Regulatory Affairs, requested the Board to schedule a public rulemaking hearing on June 15, 2011.

Ms. Hause remarked that the proposed rules refer back to the original constitutional amendment creating the medical marijuana registry, as well as Colorado § 25-1.5-106. She pointed out that the proposed rules include: 1) making clarifying changes to the medical marijuana registry and the application process for medical marijuana cards; 2) creating new rules pertaining to patient responsibilities; and 3) setting subpoena fees for department staff when they are required to testify in matters pertaining to the registry.

She remarked that the department reviewed the proposed rules with the Medical Marijuana Advisory Committee (MMAC). She added that the proposed changes represent language unanimously approved by the MMAC.

BY UNANIMOUS CONSENT, the Board scheduled a public rulemaking hearing on June 15, 2011 to consider proposed amendments to 5 CCR 1006-2, Medical Use of Marijuana – pertaining to patient rules.

Discussion/Request for a Rulemaking Hearing: Proposed amendments to 5 CCR 1006-2 Medical Use of Marijuana, pertaining to primary care-giver rules

Staff Comments: Ann Hause, Director, Office of Legal and Regulatory Affairs, provided the Board with a summary of the proposed changes which describe the responsibilities of a primary care-giver and explains the waiver process.

Ms. Hause reminded the Board that considerable discussion focused on the definition of a primary-caregiver during a previous rulemaking process. She pointed out that, the Colorado General Assembly, in enacting House Bill 10-1284, clarified the definition of primary caregiver stating that "a primary care-giver is an individual who has significant responsibility for managing the well-being of a patient with a debilitating medical condition". She added that the legislation clearly states that the provision of medical marijuana does not satisfy the definition of significant responsibility of managing the well-being of patient.

Ms. Hause provided an overview of the department's standard stakeholder process and pointed out that the stakeholder process for these rules were much more involved due to significant discussion regarding the definition of significant responsibility.

She commented that the language approved by the Medical Marijuana Advisory Committee (MMAC), allowed an individual to qualify as a primary care-giver if they provided education and consultation services pertaining to the use of medical marijuana.

Ms. Hause remarked that the department recently received an opinion from the Attorney General's Office (AGO) stating that the definition approved by MMAC is not consistent or compliant with current statutory language. She stated that in response to the AGO opinion the department has solicited additional public comments which will be considered as possible changes to the current proposed amendments.

Ms. Hause responded to questions and she asked the Board to schedule a rulemaking hearing for June 15, 2011.

BY UNANIMOUS CONSENT, the Board scheduled a public rulemaking hearing on June 15, 2011 to consider proposed amendments to 5 CCR 1006-2, Medical Use of Marijuana – primary care-giver rules.

Administrative Business, Karen Osthus, Board Administrator

Ms. Osthus mentioned that the May meeting would include a work session to pertaining to the Board's processes and procedures. She stated that she anticipate an increase in public participation during the June meeting due to the controversial medical marijuana hearings. She added that it is very important that all members be present and she suggested that members reserve the entire day for the meeting.

Reports of the Executive Director and Chief Medical Officer, Chris Urbina, M.D., M.P.H.

Dr. Urbina updated the Board on the reorganization efforts of the department. He stated that he is continually impressed with the dedication shown by the department staff. He pointed out that there are 20 days left in the legislative session and that he does not anticipate any surprises for the department.

Ms. McGinnis commented that she admires Dr. Urbina's fortitude and wished him success in his endeavors with the department.

Ms. Davis stated that the Board is engaged and well versed in the operations of the department and she offered Dr. Urbina assistance with the department's reorganization efforts.

Meeting Adjourned at 11:15 a.m.