



Colorado Department  
of Public Health  
and Environment

**COLORADO BOARD OF HEALTH**  
**Minutes for Wednesday, February 19, 2014**  
**Approved March 19, 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

NOTE: These minutes are a summary of the proceedings and motions of the 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, 5<sup>th</sup> Floor, 4300 Cherry Creek Drive South, Denver, CO, or call 303-692-3464 to request copies. Copies of the rulemaking documents, reports, briefings and presentations may be obtained by submitting a request to: [cdphe.bohrequests@state.co.us](mailto:cdphe.bohrequests@state.co.us)

Y/N	Board Member Attendance
Y	Christopher Stanley, M.D., District 1
Y	Laura Davis, District 2, President
Y	Jill Hunsaker-Ryan, County Commissioner, District 3
N	Gary Teague, District 4
Y	Betty McLain, District 5
Y	Joan Sowinski, District 6
N	Rick Brown, District 7
Y	Christine Nevin-Woods, D.O., At-Large, Vice President
Y	Sue Warren, At-Large
N	Larry Wolk, MD, MSPH Executive Director, (ex-officio)

Y/N	Staff Attendance
Y	Joni Reynolds, Health Programs Director
Y	Deborah Nelson, Board Administrator
Y	Jamie L. Thornton, Program Assistant
Y	Jennifer L. Weaver, First Assistant Attorney General

**Call to order/Roll call**

The meeting was called to order at approximately 10:05 a.m. by Ms. Davis, Board President.

**Approval of the minutes**

BY UNANIMOUS CONSENT, the Board approved the January 20, 2014 meeting minutes as amended. The amendment corrected one typographical error.

**Public comments regarding matters not on the agenda**

Mary Jarril provided a brief background regarding her experiences speaking at public meetings. She spoke highly of Kathleen Chippi and stated that she was disturbed that Ms. Chippi was removed from the December meeting. Ms. Jarril stated that she supported the Department's work and encouraged the Department to utilize Ms. Chippi as a resource regarding medical marijuana.

Ms. Chippi also commented before the Board. She too was disturbed with being removed from the December Board meeting. She indicated that it curtailed her First Amendment rights. She referenced a letter she sent to the Board on the same day of the Board meeting (February 19, 2014) and asked Ms. Davis about being removed from the meeting. Ms. Davis remarked that she was not going to respond because she had just received Ms. Chippi's email and had not

had sufficient time to review it; however, Ms. Davis did confirm that Ms. Chippi was removed from the December meeting.

**Board comments regarding matters not on the agenda**

None.

**Citizen Petition concerning 5 CCR 1006-2, Medical Use of Marijuana – Registry Confidentially**

The Board acted on the Cannabis Therapy Institute petition concerning 5 CCR 1006-2, Medical Use of Marijuana – Registry Confidentially. The Board relied upon the written materials (the petition, the Department’s response and a stakeholder comment) received and did not take comments from the Petitioner or the Department. Ms. Davis polled each member of the Board to determine if they were prepared to vote on the petition. A majority of the Board was prepared to proceed with the petition at this time but members indicated they would like an Executive Session to occur at some point so the Board could receive legal advice from the Office of the Attorney General on the Medical Marijuana Registry and audit findings to ensure the Board did not need to take action outside of the petition. **MOVED** by Dr. Stanley, seconded by Ms. McLain, to deny the petition and the proposed amendments to 5 CCR 1006-2. **MOTION CARRIED (5-0-2)** Ms. Sowinski and Commissioner Hunsaker-Ryan abstained.

**Rule-making Hearing**

6 CCR 1016-1, Nurse Home Visitor Program Repeal – Ms. Warren Chair

Esperanza Ybarra, Health Services & Connections Branch Director, Prevention Services Division, presented the repeal of the Nurse Home Visitor Program (NHVP). The NHVP transferred to the Colorado Department of Human Services (CDHS). The agencies worked together so the Board of Health rules were repealed at the same time CDHS rules were promulgated by the State Board of Human Services. This allowed a seamless transition for stakeholders. **MOVED** by Dr. Stanley, seconded by Ms. Davis, to adopt the rules repealing 6 CCR 1016-1, Nurse Home Visitor Program, along with the statement of basis and purpose, specific statutory authority and regulatory analysis. **MOTION CARRIED UNANIMOUSLY.**

**Presentations: Disease Control and Environmental Epidemiology Division Director Report**

Dr. Tista Ghosh, Deputy Chief Medical Officer and Disease Control and Environmental Epidemiology Division Director, provided the Board an overview of the Division’s work and updates on recent activities related to the synthetic marijuana outbreak, monitoring the health effects of recreational marijuana and integrated disease reporting. Lisa Miller, Communicable Disease Epidemiology Section Chief, provided the Board an update about flu and pertussis. Ms. Sowinski commented that it would be interesting to see whether the data establishes a correlation between hospital admission and individuals that did not receive a flu vaccine. Jennifer House, Public Health Veterinarian, provided the Board information about rabies and public health in Colorado. The presentation provided information about how Colorado compares to other states in covering rabies treatment, the fiscal and treatment delivery challenges, and the work group that is looking at rabies statewide. Board members discussed the constituent letter received in February and encouraged the Department to set up a statewide structure to support rabies treatment. Dr. Stanley commented that emergency room treatment is an inefficient solution that raises costs across the system and for individuals.

Rachel Herlihy, Disease Control and Environmental Epidemiology Division Deputy Director, responded to Dr. Stanley’s comment about pertussis for children less than six months and the spread of the disease. Dr. Herlihy also discussed the Department’s work with stakeholders to assess vaccine financing and access. The preliminary recommendations are being reviewed and the Department will continue to engage stakeholders as it evaluates next steps. Once the recommendations are finalized, the Department will be coming back to the Board. Lynn Trefren, Immunization Section Chief, followed and provided the Board an update on health care worker vaccination rates and reporting across the state. Diana Herrero, Colorado Immunization Information

System Program Manager, reviewed the Personal Belief Exemption stakeholder engagement process and the resulting recommendations with the Board.

Melanie Mattson, STI/HIV/Viral Hepatitis Section Chief, updated the Board about the Colorado HIV and AIDS Prevention Grant Program (CHAPP) audit progress. Ms. Mattson discussed the community's response to the audit findings and acknowledged that some members of the community disagreed with the findings. She acknowledged that the Department needed to improve its administration efforts and that in doing so, some members of the stakeholder community have voiced opposition. Though there is work to be done, Ms. Mattson indicated that staff is working hard to respond to the audit and improve services to Coloradoans. Members of the Board appreciated Ms. Mattson's candor and understand that consensus may be difficult when long-standing practices are being changed. Members of the Board found all of the Division's presentation very informative and thanked staff for their efforts.

### **Standing Reports**

#### Executive Director Report, Joni Reynolds, Public Health Programs Director on behalf of the Executive Director

Ms. Reynolds indicated that Dr. Wolk wished he could be with the Board today but is out of town on state business. Ms. Reynolds reported that the Department organization has changed. Dr. Gosh has the position of Deputy Chief Medical Officer and she is charged with aligning some of the physicians within the Department. In addition, Emergency Preparedness and Response (EPR) is moving to Karin McGowin to support a community focus and to recognize EPR's efforts cross the public health and the environmental programs. Ms. McLain asked if EPR's focus would change. Ms. Reynolds indicated that it was not changing; EPR will continue to be tied to public health.

#### Board Member Reports of Committee Activities

Ms. Davis let the Board know that she and Ms. McLain attended the recent Governor's Expert Emergency Epidemic Response Committee meeting and that a large portion of the meeting was spent reviewing Executive Orders that would apply in the event of an emergency epidemic.

#### Attorney General's Report, Jennifer Weaver, First Assistant Attorney General, Health Care Unit, Legal Counsel

Ms. Weaver indicated that the intoxilyzer litigation challenging the Board rules is en route and she will keep the Board apprised as this moves into district court.

#### Legislative Report

Karin McGowan, Deputy Executive Director and Director of Community Relations, updated the Board regarding the Department's legislative initiatives and other bills of interest to the Department. Ms. McGowan explained that the deadline for introducing bills has passed. The Department's legislative proposals are proceeding through the process. The proposal related to community grants is with the Governor for signature and the drug take-back bill is proceeding well. Discussions continue to find a funding stream to support on-going upgrades of evidential breath alcohol testing equipment. SB 14-134 concerning the repeal of the statutory water quality fee schedules and moving the fees into rules promulgated by the Water Quality Control Commission has been introduced. Ms. McGowan spoke of the revenue projections from retail marijuana being estimated at \$99 million for FY 2014-15. In preliminary conversations funding is being identified for Department efforts including: \$13 million for prevention and education awareness by the Prevention Services Division and the Disease Control and Environmental Epidemiology Division, funding for a Healthy Kids Colorado survey to identify youth behaviors every other year through a joint effort with the Colorado Department of Human Services and the Department of Education, and funds to collect and report data related to driving under the influence of drugs. Department budget requests to support the Medical Marijuana Registry data system and the Brownfields program are proceeding well. Discussions for funds to support Medical Marijuana research grants continue. Commissioner Hunsaker-Ryan mentioned that Daniel Rees, University of Colorado at Denver Economics

Professor, studied the impact of marijuana usage on teens, in states that legalized medical marijuana, and found that use in this population either stayed the same and/or decreased; additionally his research also noticed a decrease in drinking and driving in these states. She encouraged the Department to explore this resource.

#### Budget Office Updates

Chuck Bayard, Director of Financial Services, and Rich Hull, Budget Director, provided a follow-up to the Board concerning the annual Master Settlement Agreement Tobacco Monitoring Report (MSA). Staff reviewed the 2013 submissions and found that some programs provided outcomes data but it was not universal and extrapolating that data from the report could misrepresent what the programs intended. Rather than running that risk the Department is working to improve the report for this next year. Mr. Bayard let the Board know that the Department has reached out to all of the MSA programs to let them know the Department and Board will ask for outcomes information as part of the 2014 report. The Department will also be looking at the rule language to ensure it is current as part of its Executive Order D 12-002 review.

#### Administrative Updates, Deborah Nelson, Board of Health Administrator

Ms. Nelson indicated that Dr. Nevin-Woods is unable to attend the March Board meeting and needs another member to chair the Health Facilities Emergency Medical Services Division (HFEMS) infection control committee rule. Dr. Stanley volunteered. Ms. Nelson pointed Board members to the side-by-side in their Board packets. This document was requested by the Board and provides a comparison of each of the grant programs coming before the Board in the next few months. The document will not drive significant changes to the requests but staff has self-identified some information they would like to highlight for the Board. Members were asked to provide feedback within the next week if they had questions or comments. Ms. Nelson also let members know that the same vendor would be used for lunches next month and lunches would remain the same unless members requested a different selection. Ms. Nelson also asked the Board for feedback about the division director reports and asked members to let her know if they have items they would like to see covered. The HFEMS division is scheduled to present their division overview in March.

#### **Executive Session**

Ms. Davis asked members for a motion to convene in executive session. **MOVED** by Ms. Sowinski, seconded by Ms. Warren, to go into executive session to seek legal advice from the Office of the Attorney General concerning the Medical Marijuana Registry and the findings of the State Auditor's Office. **MOTION CARRIED UNANIMOUSLY (7-0)**. The public was excused from the Sabin-Cleere room. The public meeting resumed and Ms. Davis indicated that the public meeting ended at 1:10 and resumed at 1:38. Ms. Davis explained that during the executive session the Board engaged in communications seeking legal advice on specific legal questions pertaining to the Medical Marijuana Registry and the findings of the State Auditor's Office. These communications are protected by attorney-client privilege, §13-90-107(1)(b) and §24-6-402(3)(a)(II), C.R.S. and exempt from the Open Meetings Law, §24-6-402(3)(a)(II), C.R.S. During the executive session, the Board did not adopt any proposed policy, position, resolution, rule, regulation or formal action, in accordance with §24-6-402(3)(a), C.R.S.

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

##### 6 CCR 1015-11, Rules for Breast and Cervical Cancer Screening Program –Ms. Sowinski will Chair

Emily Kinsella, Women's Wellness Connection Unit Manager, Prevention Services Division, presented the repeal of the Breast and Cervical Cancer Screening Program rules. Ms. Kinsella explained that repeal of rule promotes efficiency for the program and the stakeholder community as the community relies on the contract language and the Department's Toolkit to provide screening services. In response to Ms. Warren, Ms. Kinsella explained that the Women's Wellness Connection unit is housed within the Prevention Services Division of the Department, and that the program funds forty-six agencies with a budget of about five million dollars. In response to Commissioner Hunsaker-Ryan's question about agencies not relying on the rules, Ms. Kinsella indicated that standards are identified in the contracts and the contracts

incorporate the Toolkit. She further stated that Health Care Policy and Financing (HCFP) will align its rules and that HCFP did not identify any concerns with the proposed repeal. Ms. Warren asked Ms. Weaver if there was any concern with repealing the rules and whether the Department is losing an enforcement vehicle by repealing the rules. Ms. Weaver responded that contract lawsuits are generally preferable over regulation enforcement and that she has no concerns with the program repealing the rules. **BY UNANIMOUS CONSENT**, the Board scheduled a public rulemaking hearing to consider the repeal of 6 CCR 1015-11, Rules for Breast and Cervical Cancer Screening Program. The rulemaking hearing is tentatively scheduled for April 16, 2014 and Ms. Sowinski will chair the rulemaking hearing.

6 CCR 1007-1, Radiation Control Part 3, Licensing of Radioactive Material (non-uranium rules) – Dr. Stanley will Chair  
James Jarvis, M.S., Sr. Health Physicist, Radiation Program, Hazardous Materials and Waste Management Division, presented a request for a rulemaking hearing to incorporate changes in the federal regulation (10 CFR Parts 20, 30, 31, 32, and 40) as well as recommendations from the Conference of Radiation Control Program Directors, Inc. (Suggested State Radiation Control Regulations (SSRCR) Part C (2010)) that were not captured during a prior revision to Part 3 in 2011. The changes align the program with the Nuclear Regulatory Commission, program needs and the SSRCR. Mr. Jarvis also reviewed the Division's stakeholder process for this rule with the Board. **BY UNANIMOUS CONSENT**, the Board scheduled a public rulemaking hearing to consider proposed amendments to 6 CCR 1007-1, Radiation Control Part 3, Licensing of Radioactive Material (non-uranium rules). The rulemaking hearing is tentatively scheduled for April 16, 2014 and Dr. Stanley will chair the rulemaking hearing.

6 CCR 1015-4, Chapter 3, Level 1 Trauma volume criteria – Ms. Warren will Chair  
Randy Kuykendall, Director, Health Facilities and Emergency Medical Services Division Director, and Grace Sandeno, Trauma Facilities Program Manager, presented the revision to the volume criteria for Level 1 trauma facilities. Mr. Kuykendall discussed the efforts of the work group and SEMTAC as they evaluated the criteria and necessity to align with the Abbreviated Injury Scale (AIS) scoring system. He reviewed the level of consensus the work group (Vote: 6-4) and the SEMTAC (Vote: 30-2) achieved when developing the recommended standard of "320." In response to Dr. Stanley, Mr. Kuykendall commented that the rule change maintains status quo with three Level 1 trauma facilities and that it is unknown if more facilities would apply for Level 1 status. **BY UNANIMOUS CONSENT**, the Board scheduled a public rulemaking hearing to consider proposed amendments to 6 CCR 1015-4, Chapter 3, Level 1 Trauma Volume Criteria. The rulemaking hearing is tentatively scheduled for April 16, 2014 and Ms. Warren will chair the rulemaking hearing.

#### **Presentation: Public Health Act Local Plans**

Kathleen Matthews, Director, Office of Planning and Partnerships, presented fifteen completed public health improvement plans. The fifteen plans represent twenty-four counties. To date thirty-two local public health improvement plans have come before the Board for review. To elaborate upon the local public health agencies' efforts under the Public Health Act, the Board heard from Margaret Wacker, Coordinator, West Central Public Health Partnership, Tara Hardy, Public Health Director, Hinsdale County, Carol Worrall, Public Health Director, Gunnison County, John Douglas, MD, Public Health Director, Tri-County Public Health, Jody Erwin, Administrative Director, Jefferson County Public Health, Doug Linkhart, Manager, Denver Environmental Health and Bill Burman, MD, Public Health Director, Denver Public Health. Each agency spoke to the collaborations that occurred to identify priorities and develop objectives for their communities. Parallels were found between Denver-Metro agencies and agencies in the West Central Public Health Partnership. Board members and local agency leaders reflected on how far the work has come and how developing achievable plans through cross-agency partnerships is a success in and of itself. Ms. Reynolds congratulated all involved and recognized the exceptional work by West Central Public Health Partnership, which serves 100,000+ people spanning 9,500 square miles and by the Denver Metro representatives, who serve about half of the state's population. Board members congratulated the local public health leaders and the Office of Planning and Partnerships for their good work.

**Presentation: Healthy Eating Active Living (HEAL)**

Susan M. Motika, JD, Healthy Eating Active Living, Manager, Law and Policy Unit Director, Prevention Services Division updated the Board on three of the many activities occurring in the unit. Ms. Motika, along with Andrea Wagner, Obesity Initiatives Work Lead, and Dan McKenna, Worksite Wellness Manager, updated the Board regarding efforts to promote physical activity in the Built Environment, promoting health through worksite wellness and improving nutrition in government and community settings. Board members commented on the opportunities to advance worksite wellness and how much businesses would value the staff expertise as they select programs for their employees. Dr. Stanley encouraged the unit to provide the Board with suggestions of how the Board could lead by example and support these efforts. Commissioner Hunsaker-Ryan thanked the unit for all of the expertise and technical assistance they provided to local public health agencies as the local public health agencies were developing their local public health improvement plans.

**The meeting was adjourned at approximately 3:23 p.m.**