

**COLORADO BOARD OF HEALTH  
MEETING MINUTES  
February 20, 2013**

**NOTE:** These minutes are a summary of the proceedings and motions of the February 20, 2013 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.

**Call to Order/Roll Call**

The February 20, 2013 Colorado Board of Health meeting was called to order at approximately 10:05 a.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**

Philip Mehler, M.D., District 1 (arrived 10:10 a.m.); Laura Davis, District 2; Kindra Mulch, District 4; Glenn Schlabs, District 5 via phone; Joan Sowinski, District 6; Christine Nevin-Woods, D.O., At-Large (arrived 10:15 a.m.); Christopher Stanley, M.D., District 7 (via phone)

**Members Absent:**

None.

**Staff Present:**

Karen Osthus, Board Administrator; Jamie L. Thornton, Program Assistant; Jennifer L. Weaver, First Assistant Attorney General, legal counsel; and Joni Reynolds, Director, Health Programs.

**Approval of Minutes**

**BY UNANIMOUS CONSENT**, the Board approved the January 16, 2013 minutes as amended to add Joni Reynolds to list of staff present.

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

None.

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

None.

**Colorado's FY 2013 Preventive Health and Health Services Block Grant – State Funding Plan Hearing**

John Chase, Director of Grants, Purchasing and Contracts Section, Operations Division, presented Colorado's Preventive Health and Health Services (PHHS) FY 2013 Block Grant state funding plan.

Mr. Chase first provided a brief history about the Preventive Health and Health Services (PHHS) Block Grant and then he provided a summary about what is taking place at the federal level. He reminded the Board that in 2012 the Colorado Preventive Health and Health Services Block Grant (PHHS) received \$944,945 of \$80 million allocated to states for the PHHS Block Grant. He stated that both the President's and the Senate's budgets propose eliminating funding for the PHHS Block Grant. He remarked that the House

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appropriated \$80 million and that they are working to finalizing their differences before the FY 2013 budget is passed. He pointed out that CDC is authorized to provide quarterly payments through a Continuing Resolution (CR) at last year's funding level. He noted that the Department anticipates funding reductions due to sequestration.

Mr. Chase reviewed the proposed funding recommendations and provided brief summaries of all projects funded by the PHS Block Grant. He commented that the Preventive Block Grant Advisory Committee approved the FY 2013 PHS plan to allocate \$862,975 to the projects, including a 5% allowable administrative cost. This amount reflects a 7.2% decrease from last year due to possible funding restrictions.

Mr. Chase responded to questions and comments regarding the PHS Block Grant. Dr. Nevin-Woods stated that it was important that local community health assessments continue to receive support and asked that the department be mindful of this priority.

**MOVED** by Dr. Nevin-Woods, seconded by Dr. Stanley, to approve the FY 2013 PHS Block Grant funding recommendations presented.

#### **MOTION CARRIED UNANIMOUSLY**

##### **Informational Briefing: Influenza Update**

Lisa Miller, MD, MSPH, Manager, Communicable Disease Epidemiology Program, Disease Control and Environmental Epidemiology Division, presented a PowerPoint presentation titled "Influenza Update Feb 2013".

Dr. Miller's presentation included discussions regarding: a) components of surveillance; b) primary focus of Flu surveillance; c) funding streams; d) communication efforts; e) reporting requirements; f) data and data sources; and g) surveillance goals.

Dr. Miller responded to comments and questions regarding; a) number of flu related deaths; b) data available on the federal level; c) effectiveness of the new mandatory immunization for certain health care workers; and d) how to create policy and practice changes based on surveillance data.

##### **Informational Briefing: Budget Update**

Roz Bedell, Chief Operating Officer, Department of Public Health and Environment, provided a Department budget update. She discussed: a) the Department's mission and vision; b) the Department's funding sources and funding provided to local agencies; c) the Department's FY 2013/14 funding request; and d) potential funding changes.

Ms. Bedell responded to questions regarding the cost associated with Lean projects.

##### **PUBLIC RULEMAKING HEARING: 6 CCR 1007-1 Radiation Control Part 4, Standards for Protection Against Radiation**

James Jarvis, M.S., Sr. Health Physicist, Radiation Program, Hazardous Materials and Waste Management Division, and Jennifer Opila, Radioactive Materials Unit Leader, discussed the Informational Summary provided in the meeting packet dated January 15, 2013.

Mr. Jarvis remarked that Part 4 is a broad regulatory part which is applicable to the use of all types of radiation sources, including radioactive materials and radiation machines (x-ray machines). He pointed out that Part 4 is not specific to any one industry, and is applied with other broad and specific regulatory parts depending upon the type of radiation producing device and/or use.

He stated that the majority of the proposed changes are to update several provisions so that they are compatible with 10 CFR Part 20 changes which have occurred since Part 4 was last updated in 2005. He mentioned that a few changes were made pertaining to internal process and programmatic needs. He discussed topical areas within the rule that will be affected by the proposed changes including: a) the use of the Deep Dose Equivalent method; b) adding and eliminating reference/requirements for lifetime dose; c) expanding certain dental x-ray and non-medical exceptions; d) adding record keeping requirements; e) adding requirements for licensees undergoing decommissioning; f) clarifying the radioactive disposal requirements; g) adding a section and corresponding table pertaining to higher-risk nationally tracked sources; and h) correcting cross-references and typographical errors.

Mr. Jarvis remarked that in October, a stakeholder and public review process was initiated where the proposed changes and associated documents were posted for public comment. He added that over 800 entities were notified of the proposed changes and that several comments were received and considered. A number of the comments were incorporated into the proposed amendments. He mentioned that the U.S. Nuclear Regulatory Commission (NRC) reviewed the proposed regulations and provided an additional change which was incorporated.

Mr. Jarvis responded to comments and questions regarding x-ray machine registrants and the decision to have requirements in the regulations versus having them directly in the permit.

**Public Comment**

None.

**MOVED** by Ms. Sowinski, seconded by Ms. Warren, to adopt the proposed amendments to 6 CCR 1007-1, Radiation Control, Part 4, Standards for Protection Against Radiation, along with the statement of basis and purpose, specific statutory authority, and regulatory analysis.

**MOTION CARRIED UNANIMOUSLY  
(Dr. Mehler absent)**

**PUBLIC RULEMAKING HEARING: 6 CCR 1009-2, Infant Immunization Program, Vaccines for Children and Immunization of Students Attending School – Table 1**

Jamie D'Amico, RN, MSN, CNS, Public Health Nurse Consultant, Colorado Immunization Program, Disease Control and Environmental Epidemiology Division, discussed the proposed amendments to 6 CCR 1009-2, Infant Immunization Program, the Vaccines for Children Program, and Immunization of Students Attending School.

Ms. D'Amico stated that the Colorado Immunization Section convenes a group of immunization partners to review the current Board of Health rules and to discuss appropriate ways to clarify and update required school immunizations for Colorado students. She remarked that the intent of the program is to model the best practice recommended immunization schedule established by the Advisory Committee on Immunization Practices (ACIP) and the American Academy of Pediatrics (AAP). She commented that the proposed amendments update and clarify language, and replicate the most current ACIP/AAP immunization recommendations.

Ms. D'Amico's discussion included: a) the stakeholder process; b) the immunization schedule; c) the changes to various footnotes; and d) the revised dosage requirements for various vaccines.

**Public Comment**

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None.

**MOVED** by Dr. Nevin-Woods, seconded by Dr. Stanley, to adopt the proposed amendments to 6 CCR 1009-2, Infant Immunization Program, Vaccines for Children and Immunization of Students Attending School – Table 1, version 3, along with the statement of basis and purpose, specific statutory authority, and regulatory analysis.

**MOTION CARRIED UNANIMOUSLY  
(Dr. Mehler absent)**

**PUBLIC RULEMAKING HEARING: 6 CCR 1009-2, Infant Immunization Program, the Vaccines for Children Program and the Immunization of Students Attending School – regarding Vaccine Administration Fees**

Rachel Herlihy, M.D., Immunization Section Chief, Disease Control and Environmental Epidemiology Division, provided a brief history of the Vaccines for Children (VFC) program and asked the Board to permanently adopt the emergency rules passed on January 16, 2013.

Dr. Herlihy remarked that the proposed changes presented today are different from the rules adopted in January. She stated that the objectives of the proposed amendments are to simplify the regulations and remove unnecessary language. She discussed the changes outlined in version 3 of the Errata sheet which included: a) removing references to allowable fee for the Federal VFC program from state rule; b) removing reference to immunization reimbursement for Medicaid-enrolled children; c) removing reference to practitioners; and d) establishing and aligning the state-established maximum regional fee with the federal Regional Maximum Administration Fee of \$21.68.

Dr. Herlihy noted that the adoption of these rules will ensure congruency with fee structures established by federal standards and provide clarity, eliminate redundancy and update the status of vaccine funding through CDPHE.

Dr. Herlihy responded to Board questions and comments pertaining to the true cost of providing vaccinations.

**Public Comments**

None.

**MOVED** by Dr. Stanley, seconded by Dr. Nevin-Woods to adopt the proposed amendments to 6 CCR 1009-2, Infant Immunization Program, the Vaccines for Children Program, and the Immunizations of Students Attending School, regarding vaccine administration fees version 3, with the following change: Line number 30, item number C, strike the second letter "N" in administration, along with the statement of basis and purpose, specific statutory authority, and regulatory analysis.

**MOTION CARRIED UNANIMOUSLY  
(Dr. Mehler absent)**

**Legislative Report – Karin McGowan, Deputy Executive Director**

Ms. McGowan updated the Board on various bills of interest on the department's legislative agenda. She advised the Board that there are at least one hundred late bills still waiting to be introduced and that there is still a lot of work to be done during this session. She mentioned that a number of bills are still in Appropriations until March 1, 2013 and that the department is tracking and supporting several sunset bills for the Department of Regulatory Agencies.

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Ms. McGowan discussed HB13-1088, concerning modification of the Office of Health Disparities; HB13-1074, concerning the reallocation of the Primary Care Office; SB13-242, regarding dental benefits for adults in the Medicaid program; HB13-1091, concerning alternative air quality testing methods for heavy-duty diesel vehicles; HB13-1191, grants for domestic wastewater treatment plants to comply with the water quality control commission's nutrients management control regulation; HB13-1155, concerning Life Safety Codes; and SB13-073, concerning a requirement that the Division of Administration follow rule-making procedures when proposing changes to the general permits related to water quality control.

Ms. McGowan discussed the results of the figure setting meeting with the Joint Budget Committee (JBC) which she described as mixed. She stated that the JBC had taken the following actions at the meeting: a) approving additional funding for the local public health funding formula; b) requiring more information pertaining to the department's request for an air dispersion study; c) denying the request to purchase infrared cameras; d) recommending programmatic changes to the water division; and e) removing funding for the Health Facilities Division.

Ms. McGowan responded to questions regarding fracking, oral health and the Comprehensive Human Sexuality bill.

#### **Executive Director and Chief Medical Officer Report – Joni Reynolds, Director, Health Programs**

Ms. Reynolds discussed a variety of topics including a) Lean events, b) Amendment 64 implementation efforts; c) sequestration funding; and d) the current Medical Marijuana program.

#### **Public Health Act Update - Kathleen Matthews, Director, Office of Planning and Partnerships, Community Relations**

Ms. Matthews requested that the Board approve the waiver of minimum qualifications for Colleen Nielson to serve as the Lake County Director of Public Health.

Ms. Matthews responded to Board questions regarding Ms. Nielson's qualifications and the process used to determine eligibility for a substitution or waiver of minimum requirements for a public health director. The Board encouraged Ms. Matthews to create a consistent and transparent process that would provide the Board with substantive information it needed in order to make a thoughtful determination.

#### **Attorney General's Report - Jennifer Weaver, First Assistant Attorney General, Health Care Unit**

Jennifer Weaver, First Assistant Attorney General, provided a brief history regarding Colorado Consumer Health Initiative (CCHI) vs. Colorado Board and stated that the District Court amended the order to reflect that a cost study is not required. She mentioned that the Attorney General's Office (AGO) is working with the department on a proposal to comply with the modified order. Two options are being considered: a) striking the entire rule regarding copying costs; or b) modifying the language of the rule to allow providers to determine appropriate costs in compliance with HIPAA.

#### **Administrative Business - Karen Osthus, Board Administrator**

Ms. Osthus discussed logistics for the March meeting and provided an update on the application process for new Board members.

#### **Election of Officers**

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The Board held its annual election of officers using nominating ballots and electing ballots for the office of Vice President and re-elected Dr. Nevin-Woods. By unanimous consent, the Board elected Dr. Urbina, Executive Director and Chief Medical Officer, Department of Public Health and Environment, as Secretary of the Board.

**This meeting was adjourned at approximately 1:45 p.m.**

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