

Approved April 18, 2012

COLORADO BOARD OF HEALTH
March 21, 2012
Meeting Minutes

NOTE: These minutes are a summary of the proceedings and motions of the March 21, 2012 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/Role Call

The March 21, 2012 Colorado Board of Health meeting was called to order at approximately 10:10 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

Laura Davis, District 2; Crestina Martinez, District 3, County Commissioner, (via telephone); Kindra Mulch, District 4; Glenn Schlabs, District 5; Joan Sowinski, District 6; Christine Nevin-Woods, D.O., At-Large, (via telephone); Sue Warren, At-Large; Christopher Urbina, M.D., MPH, Executive Director and Chief Medical Officer, (ex-officio).

Members Absent

Philip Mehler, M.D., District 1, and Christopher Stanley, M.D., District 7.

Staff Present

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

Approval of Minutes

BY UNANIMOUS CONSENT, the Board approved the February 15, 2012 as written.

Public Comments (regarding matters not on the agenda)

None.

Board Comments

None.

Informational Briefing: LiveWell Colorado Annual Update

Maren Stewart, President, and CEO, LiveWell Colorado, reminded the Board that LiveWell Colorado is a statewide non-profit organization whose mission is to prevent and reduce obesity in Colorado through the promotion of healthy eating and active living by creating systemic change on societal, community and individual levels. She provided a copy of the LiveWell Colorado 2010 Annual Report: *Collaborative Leadership, Inspiring Healthy Eating and Active Living*, which highlights 2010's achievements. Ms. Stewart updated the Board on LiveWell Colorado's strategic goals, which include community investment, marketing, and policy blueprints; additionally, she provided a brief progress report for each strategic goal.

Ms. Stewart responded to various questions and comments related to opportunities for further

collaboration with the department, and the potential to advance community investment by reaching out to primary care providers.

The Board thanked Ms. Stewart for the update and congratulated her on the success of LiveWell Colorado.

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

Staff Comments: Celeste Schoenthaler, Healthy Living Branch Unit, Director, Youth Health & Tobacco, Prevention Services Division, presented a funding recommendation from the Tobacco Education, Prevention and Cessation Grant Program Review Committee for additional funds for the National Jewish contract for the Colorado QuitLine service.

Ms. Schoenthaler remarked that during FY2012/13 budget planning, in light of previous year's budget reductions, the Committee set-aside funds for tobacco cessation services and tobacco cessation media to support the service provided through the QuitLine. She mentioned that a contract, pertaining to the media component of the program, was not immediately executed because the division became aware of a possible nationwide media campaign being released by the Centers for Disease Control and Prevention (CDC).

Ms. Schoenthaler remarked that CDC released the *Tips From Former Smokers* campaign on March 15, 2012 and she emphasized that this was the first national media campaign regarding tobacco use conducted by CDC. She provided the Board with a copy of CDC's National Tobacco Education Campaign handout and she presented several thirty-second TV ads. She stated that since the release of the CDC national campaign it has become evident that it would be better to avoid investing state resources into a local media campaign and instead amend the National Jewish contract to include a funding increase of \$199,942. She pointed out that \$168,610 would be obtained from Amendment 35 tobacco funds and that \$31,332 would be provided through a grant from CDC.

Jennifer Ludwig, Vice Chair, Tobacco Education, Prevention and Cessation Grant Program Review Committee, pointed out that large campaigns, like CDC's, typically drive individual session efforts. She remarked that this slight shift of funds previously allocated from Amendment 35 provides an opportunity to support the QuitLine and the cessation efforts for the state of Colorado.

There were various questions, comments, and discussion regarding: 1) the outcome of approving the funding recommendation; 2) the ability to increase capacity; 3) the program's previous funding amounts; 4) the target audience for the program; and 5) the ability to obtain data.

MOVED by Mr. Schlabs, seconded by Ms. Sowinski, to approve the FY 2012-2013 funding recommendations for the Tobacco Education, Prevention and Cessation Program in the amount not to exceed \$199,942 to augment the Colorado QuitLine service.

MOTION CARRIED (6-1 Ms. Mulch opposed)

Request for Approval of Funding Recommendations: Health Disparities Grant Program FY12/13

Staff Comments: Mauricio Palacio, Director, Office of Health Disparities, presented funding recommendations, as described in detail, in the memorandum dated 3/9/2012. He discussed the continuation of funding for the current grantees and he respectfully requested that the Board approve the funding recommendation. He stated that the Minority Health Advisory Commission had approved the recommendation for \$493,994 for a twelve-month period beginning July 1, 2012 and concluding June 30, 2013.

Mr. Palacio responded to questions pertaining to the criteria used to determine ethnicity, the impact of incorrectly identifying ethnicity as it relates to racial and ethnic health disparities, and future opportunities for rural communities to apply for these grants.

MOVED by Ms. Mulch, seconded by Mr. Schlabs, to approve the FY 2012-2013 funding recommendations for the Health Disparities Grant Program as presented.

MOTION CARRIED UNANIMOUSLY

Consideration of Petition for a Declaratory Order: 6 CCR 1011-1, Chapter XV, Dialysis Treatment Clinics

Karen Osthus, Board Administrator, mentioned the Board of Health's Declaratory Order procedures discussed during the February 15 meeting. She mentioned that the only action required by the Board, today, is to decide if the petition will be heard at a future date. She reminded the Board that if they decide not to rule on the petition, the Declaratory Order rules require them to notify the petitioner of the decision and include the reason they arrived at their decision. She summarized the considerations outlined in the Declaratory Order rules and asked if there were any questions.

Jennifer Weaver, First Assistant Attorney General, State Services Section, summarized the petition by stating that the petitioner asserts that there is an uncertainty in statutes and regulations because they do not specifically prohibit non end-stage renal disease patients from receiving treatment at dialysis treatment clinics. She remarked that, in her opinion, the statute and regulation are clear and intended to limit state licensed dialysis treatment clinics from providing services to patients with end-stage renal disease because if the General Assembly meant to include other types of patients, the statute could have said something similar to "...and any other appropriate patient".

The Board discussed the merits of the petition and decided that a hearing would not terminate a controversy or remove uncertainties in statute or regulation; furthermore, the petitioner may consider seeking a statutory change in order to provide services to acute/non- end-stage renal disease patients.

MOVED by Ms. Mulch, seconded by Ms. Warren, to deny the request to consider a petition for a declaratory order pertaining to 6 CCR 1011-1, Chapter XV, Dialysis Treatment Clinics.

MOTION CARRIED UNANIMOUSLY

Request for Approval of Funding Recommendations: Colorado HIV and AIDS Prevention Grant Program (CHAPP) – FY 2012 Program Comprehensive Evaluation

Richard Weinert, Planning Unit Coordinator/CHAPP Program Coordinator, STD/HIV Section, Disease Control and Environmental Epidemiology Division, presented the funding recommendations from the CHAPP Advisory Committee for \$199,570 to the University of Colorado, Denver, Department of Health and Behavioral Sciences for the period of July 1, 2012 – June 30, 2013.

There were some questions and discussion regarding the cost and outcomes of previous program evaluations, the pros and cons of being evaluated by an outside source vs. an internal source, and the statute's limitations pertaining to how the division manages funds associated with the program.

MOVED by Ms. Mulch, seconded by Ms. Sowinski, to approve the Colorado HIV and AIDS Prevention Grant Program Review Committee funding recommendation as presented.

MOTION CARRIED UNANIMOUSLY

Reports of the Executive Director and Chief Medical Officer, Chris Urbina, MD, MPH

Dr. Urbina reported on department activities pertaining to the strategic map, the Winnable Battles, and the Lean process. He mentioned that the department is using internal and external resources to make efficiency and customer service part of the department's framework. He also discussed a recent letter from the department to the Nuclear Regulatory Commission.

Request for Continuation of PUBLIC RULEMAKING HEARING: Proposed amendments to 6 CCR 1011-1, Standards for Hospitals and Health Facilities, Ch. IX, Community Clinics and Community Clinics and Emergency Centers and Ch. IV, (Continued from November 16, 2011)

Nancy McDonald, Director, Health Facilities and Emergency Medical Services Division, requested that the Board continue this rulemaking hearing to the April 18, 2012 meeting

Legislative Update Karin McGowan, Director, Community Relations

Ms. McGowan updated the Board on various bills of interest on the department's legislative agenda. She discussed HB12-1058, concerning infant eye prophylaxis; HB12-1097, concerning food protection; HB12-1161, regarding the Nutrients Scientific Advisory Board; HB12-1268, regarding the transfer of oversight for conducting health facility safety inspections to the Colorado Department of Public Safety; HB12-1294, pertaining to licensure of state health facilities; and SB12-048, pertaining to licensing requirements placed on retail food establishments. Ms. McGowan noted that HB12-1058 and HB 12-1097 were on the way to the Governor for signature.

Public Health Act Update Kathleen Matthews, Director, Office of Planning and Partnerships

Ms. Matthews provided preliminary information regarding the new funding formula that will be used to allocate funds to local public health agencies. Her presentation included a discussion on the scope of work, the funding formula work group, the guiding principles for establishing the funding model and formula, the implementation of a pilot formula, and the goals of the new funding formula. She asked the Board to schedule a request for funding approval on April 18, 2012.

Attorney General's Report - updates on litigation involving the State Board of Health

Jennifer Weaver, First Assistant Attorney General, updated the Board on the status of the following cases:

- Colorado Consumer Health Initiative (CHHI) vs. Colorado Board of Health – The Attorney General's Office will ask the Denver District Court to amend the order to allow health care entities to set their own copy costs.

Administrative Business Karen Osthus, Board Administrator

Ms. Osthus provided the Board with the draft statement of basis and purpose and discussed the revised draft procedural rules. She remarked that the revisions contain changes discussed at the January 2012 work session and written comments submitted by Board members. She pointed out that the statement of basis and purpose was incomplete because it will be important to conduct a stakeholder process if the Board decides to move forward with the rules. She mentioned that she would ask a member to chair at least one stakeholder meeting.

The Board discussed the specific changes to the rules, the stakeholder process, and the timeline for the rulemaking hearing.

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