

**State Board of Health
Minutes
September 18, 2014 – 9:00 a.m.
Four Points by Sheraton, 4700 South Laburnum Avenue
Richmond, Virginia 23231**

Members present: Bruce Edwards, Chair; Brad Beall; Theresa Brosche; Tommy East; Jim Edmondson; Steven Escobar, DVM; Megan Getter; Linda Hines; Hank Kuhlman; Faye Prichard; John Seeds, MD; Cathy Slusher, MD; and Amy Vest

Members absent: Eric Deaton and Benita Miller, DDS

VDH staff present: Marissa Levine, MD, State Health Commissioner; Richard Corrigan, Deputy Commissioner for Administration; David Trump, MD, Chief Deputy Commissioner; Joe Hilbert, Director of Governmental and Regulatory Affairs; Catherine West, Administrative Assistant; Maribeth Brewster, Risk Communications Manager; Mike McMahon, Deputy Director, Office of Financial Management; Erik Bodin, Director, Office of Licensure and Certification; Susan Horn, Policy Analyst, Office of Licensure and Certification; Gary Brown, Director, Office of Emergency Medical Services; Laurie Forlano, DO, Director, Office of Epidemiology; Lilian Peake, MD, Director, Office of Family Health Services; Dev Nair, PhD, Director, Division of Policy and Evaluation; Paula Garrett, WIC Program Manager; Kathleen Moline, Newborn Screening Supervisor; Aleta Carmody, Executive Secretary Senior, Chesapeake Health District; and Patsy Hayden, Radiological Program Support Technician Senior, Office of Radiological Health

Call to Order

Mr. Edwards called the meeting to order at 9:00 a.m. Dr. Escobar led those in attendance in the pledge of allegiance.

Welcome and Introductions

Following introductions, Mr. Edwards welcomed Jim Edmondson (corporate purchaser of health care representative) back to the Board of Health as a new member. Mr. Edmondson previously served on the Board of Health from July 2004 through June 2013 as one of two consumer representatives.

Mr. Hilbert then reviewed the agenda and the items contained in the Board's notebooks. The agenda was approved by unanimous consent.

Approval of Minutes

A motion was made and seconded to approve the draft minutes of the June 5, 2014 Board meeting. Ms. Brosche noted two corrections that needed to be made. First, in the sixth line in the last paragraph on page four, change the word "that" to "the" so that the sentence reads "Mr. Edwards told the Board that normally the Board. . . ." Second, in her member report on page 11,

remove the word “the” in the first sentence before the words “nursing leaders” and add the word “to” in the fourth line between the words “VNA is doing” and “address the Institute.” Mr. Beall noted that one correction needed to be made to the statement he made at the bottom of page 10. He requested the following sentences be added: “For future reports, Mr. Beall would like to see what the deficiencies were and what was the plan of correction, to determine if the deficiencies are substantive or technical in nature. Mr. Beall stated that he would like to have this same information for both substantiated complaints.” The amended minutes were approved by unanimous consent.

Commissioner’s Report

Dr. Levine began the Commissioner’s report to the Board with the introduction of the “agency stars” for the meeting: Aleta Carmody with the Chesapeake Health District and Patsy Hayden with the Office of Radiological Health.

Dr. Levine then briefed the Board on the Ebola outbreak in West Africa. This is a rapidly evolving situation. The World Health Organization has declared a public health emergency. The Centers for Disease Control and Prevention (CDC) has sent staff to West Africa. VDH participates in weekly conference calls with CDC concerning the outbreak. Information has been provided to health care providers in the U.S. There has not been a reported case of Ebola in Virginia. Dr. Levine told the Board that Ebola is not easily contracted and, provided that people take proper precautions, there is confidence that the disease will not be transmitted into the U.S.

Dr. Levine then briefed the Board on enterovirus D68. Enterovirus is not a new virus. This particular strain of the virus is causing more severe disease. VDH publicly announced seven positive cases in Virginia on September 17 in various parts of the state. All of the children who have been admitted to the hospital with this virus have responded to treatment. Dr. Levine acknowledged that this situation has been very scary for parents and children. VDH will continue to work with all entities involved and will work to keep everyone informed.

Dr. Levine then briefed the Board on the situation involving unaccompanied alien children (UAC) who have been entering the U.S. from Central America via Mexico. Dr. Levine told the Board that the federal government is primarily responsible for these children. Dr. Levine shared data, obtained from the U.S. Department of Health and Human Services, concerning the number of UAC released to sponsors by locality in Virginia. Because of public health screening - including screening for tuberculosis - that is being conducted by the federal government, as well as follow-up on any suspect cases, Dr. Levine told the Board that the presence of such children in Virginia does not present a risk to public health. For example, there is no known relationship between this group of children and enterovirus. Some of these children have contracted various illnesses, often related to the difficulty of their journey to the U.S. However, as a function of the health screening done by the federal government, proper disease control processes can be put in place. Dr. Levine told the Board that, neither VDH nor the Virginia Department of Education is aware that school entry immunization requirements have been waived or set-aside for these individuals. However, there are some required vaccines that may not have been offered in a particular country of origin. Many of these children may require a “catch- up” on required vaccinations, which can be provided by local health departments.

Next, Dr. Levine provided the Board with an update concerning the Excellence in State Public Health Law project. Virginia was one of eight states selected to participate in the program by the Aspen Institute. Virginia's team included Dr. Levine, Secretary Hazel, two legislators, Robin Kurz, legislative staff, Ruth Bernheim (University of Virginia Medical School) and Joe Hilbert. Dr. Levine noted that some of the Board members participated in the statewide project conference in July at the University of Virginia, which served as the culmination of the year-long project. As part of the project, Virginia's team created a Model Process for Public Health Policy Development, as well as a website to promote implementation of the model process. The model process includes a return on investment estimation component. The project team focused on chronic disease prevention as its public health policy issue. While the project has ended, there will be follow-up activity. Extensive, useful feedback was received from external stakeholders during the project. Dr. Levine told the Board that she is sharing the results of the project, including the Model Process and website, with a wide range of external groups.

Dr. Levine provided the Board with an update on various health information technology initiatives that are underway. These include the Health Information Exchange (HIE), the All-Payer Claims Database (APCD), and the Electronic Death Reporting System. Dr. Levine complimented VDH's Chief Information Officer, Debbie Condrey, for her outstanding job on each of these projects. However, Dr. Levine told the Board that more work still needs to be done. Dr. Levine explained that the HIE now exists as its own organization, ConnectVirginia. She told the Board that the HIE represents an area of great opportunity, but one that still has not achieved its initial intent or full impact. Health care providers need to be educated concerning the HIE. Concerning the APCD, Dr. Levine told the Board that submitted data are currently being verified. The first reports from the APCD, which will include public health data, are expected to be available this fall. The Electronic Death Reporting Initiative will provide expanded opportunity to automate the death certificate process, and make them available electronically. This should prove helpful to both funeral directors and health care providers. The new reporting system will go live in November. Dr. Levine also updated the Board on VDH's collaboration with the Department of Motor Vehicles concerning birth certificates. More than 50,000 Virginians have obtained certified copies of birth certificates since this initiative was implemented earlier this year. Dr. Levine described this as a great example of cutting-edge, inter-agency collaboration.

Dr. Levine provided the Board with an update concerning revisions to VDH's strategic plan. VDH's revised vision statement is for Virginia to become the healthiest state in the nation. Virginia is currently in the middle of the pack of overall state health rankings. VDH is using the strategic planning process as an opportunity to revisit its population health strategies and metrics. VDH is using a data-driven process to quantify specific improvements that are needed, on a wide range of metrics, for Virginia to become the healthiest state in the nation. VDH has to be efficient and effective with its use of limited resources across its 41 service areas. The VDH senior leadership team will be looking at VDH's performance metrics regularly. Dr. Levine will update the Board of VDH's performance relative to these metrics at future meetings.

Dr. Levine then provided an update on recent personnel changes:

- Alvie Edwards, new Director of Internal Audit; and
- Mike McMahon, new Operations Director for Administration.

There was a brief discussion concerning certain items in the Commissioner's report. Mr. Edmondson commented that VDH's strategic objectives did not address access to health care. He also said that he was concerned by how access to care will be hindered by a lack of Medicaid eligibility expansion. Dr. Levine told the Board that the Joint Commission on Health Care has requested that VDH work with stakeholders to develop population health metrics, and to report back to the JCHC by the fall of 2015. VDH has initiated this work which, when completed, will enable VDH to develop an appropriate objective and metric related to access to care. Ms. Getter commented concerning the large increase on unaccompanied alien children entering the U.S., and subsequently arriving in Virginia. Dr. Levine noted that the state of Texas has seen a particularly large increase.

Budget Update

Mr. McMahan provided the budget update. He explained to the Board that, since FY2008, federal funds have comprised an increasing percentage of the overall VDH budget while the percentage of state general funds has decreased. While the total VDH budget has increased since FY2008, the reduction in general funds has limited VDH's flexibility to address state-specific priorities. The 2014 General Assembly Session proved to be challenging in terms of obtaining an agreement concerning the budget, but ultimately an agreement was reached. VDH initially expected to receive additional funding, particularly for the AIDS Drug Assistance Program, as a result of the budget agreement. However, when a projected biennial revenue shortfall was subsequently identified, the General Assembly amended the budget to eliminate some of the new funding. VDH still did get some new funding for the 2014-2016 Biennium, which Mr. McMahan summarized for the Board. This included new funding to help some local health departments with rent increases, funding for two new information security staff, as well as funding for the Office of Licensure and Certification to provide plan management assistance to the Bureau of Insurance in connection with the federal health insurance exchange. VDH is currently in the process of developing budget reduction strategies for consideration by the Governor, in response to the Governor's recent directive for agencies to submit a 5 percent budget reduction plan for FY2015 and a 7 percent reduction plan for FY2016. The deadline for plan submission is September 19. Mr. McMahan told the Board that there is still a lot of uncertainty concerning the actual extent of budget reductions that will result from this exercise.

Matrix of Pending Regulatory Actions

Mr. Hilbert reviewed the summary of all pending VDH regulatory actions. Since the June 2014 meeting, there have been two regulatory actions that the Commissioner has taken on behalf of the Board while the Board was not in session. These actions are:

- Regulations for Physician Assistant Scholarships (12VAC5-506) – Approval of the Notice of Intended Regulatory Action to promulgate these regulations; and
- Advance Health Care Directive Registry Regulations (12VAC5-67) – Approval of the fast track amendments as revised by advice from the Attorney General's Office. The Attorney General's Office advised that the Board lacked statutory authority to allow the submission of a "psychiatric advance directive" to the registry. That provision was stricken from the amendments. In addition, the Attorney General's Office advised that, with regard to allowing submission to the registry by a legal representative, the

amendments could not be approved prior to July 1, 2014 since the authorizing legislation would not take effect until that date.

Mr. Hilbert advised the Board that there are three periodic reviews in progress:

- Rules and Regulations Governing Campgrounds (12VAC5-450);
- Rules and Regulations Governing the Construction of Migrant Labor Camps (12VAC5-501); and
- Regulations for Licensure of Abortion Facilities (12VAC5-412).

Mr. Hilbert also briefed the Board on VDH's compliance with various time requirements for regulatory actions contained in Executive Order 17. Mr. Edmondson commented concerning some of the pending regulatory actions concerning sewage handling and disposal. He asked if any of these actions were likely to become sources of controversy. Mr. Hilbert told the Board that VDH's sewage handling regulations had historically been quite controversial from the perspective of certain stakeholders. Mr. Hilbert also told the Board that this was unlikely to change, and VDH would be happy to provide the Board with an overview of its environmental health programs at any time. Mr. Edmondson responded that he would be interested in such an update. Ms. Getter commented concerning the extent to which VDH has been able to comply with timeliness requirements for contained in Executive Order 17. Mr. Hilbert explained the nature of the requirement, and said that a number of factors may contribute to VDH's failure to meet the required time frame. That can include the fact that it is sometimes difficult to achieve consensus among affected stakeholders concerning regulatory provisions.

Abortion Facility Licensure Overview and Status Report

After a brief break, Mr. Bodin provided the Board with this update. This included an overview of the licensure and inspection process, overview of inspection findings, summary of complaints received, a history of the abortion facility licensure regulations, a summary of variance requests that have been received, and a status report concerning the periodic review being conducted pursuant to Executive Directive 1. Mr. Bodin told the Board that the average number of inspection citations issued by VDH staff per facility decreased from the initial licensure surveys that were conducted in 2012 to the biennial licensure surveys that have been conducted thus far in 2014. Mr. Bodin also told the Board that, if VDH staff see something during a facility inspection that needs to be referred to another state agency, such referral is made. Mr. Bodin described one such case from July, in which a facility inspection by VDH resulted in a referral to the Department of Health Professions (DHP) for investigation. He explained the VDH has not heard back from DHP, and that DHP typically does not contact VDH concerning the results of its investigation. Mr. Bodin also told the Board that VDH can conduct a follow up investigation on any facility at any time.

Mr. Bodin explained to the Board that the abortion facility licensure regulations authorize the Commissioner to approve the issuance of temporary variances. The variance expires when the facility's license expires. The Commissioner can rescind or modify a variance. Thirteen of the 18 facilities have requested variances to the facility design and construction requirements of the regulations, seven variances have been issued. Four facilities have informed VDH that they are in are in compliance with the design and construction requirements. VDH will inspect those four

facilities to determine if in fact they are in compliance with the requirements. Mr. Bodin also informed the Board that VDH is on schedule for completion of the periodic review by the October 1 deadline set forth in Executive Directive 1.

Mr. Kuhlman asked how the findings of VDH's inspection of these facilities compare to the results of inspections of other types of health care facilities. Mr. Bodin responded that his staff had not performed a side-by-side comparison, but he does not feel that they are very different. Mr. Bodin told the Board that it is not common to find zero deficiencies during an inspection of a health care facility.

There was a brief discussion concerning the extent to which the VDH facility inspection looks at access to emergency medical services, so that patients can be transferred to another facility if necessary. Mr. Bodin told the Board that the facility survey is conducted by two inspectors, usually lasts two days, and that every provision of the regulations is examined.

Mr. East inquired if violations identified during an inspection were categorized according to scope and severity, as is done in the case of nursing home inspections. Mr. Bodin responded that scope and severity refer to federal criteria used by the Centers for Medicaid and Medicare Services (CMS) for purposes of federal certification. Those specific criteria do not apply to state licensure inspections for abortion facilities. However, Mr. Bodin also told the Board that VDH surveyors can look at a particular condition and determine if it poses an immediate threat to safety. If something does pose an immediate threat, the facility would be required to fix the condition before the surveyors exit the facility.

There was a brief discussion concerning the variance review and approval process. Mr. Beall stated that, based on the information provided by Mr. Bodin, there seems to have been substantial improvement in facility inspection results. He then asked if VDH can request a follow-up report from those agencies to which VDH has referred certain inspection findings for further investigation. Mr. Bodin said that such a request could be made. Dr. Trump told the Board that, concerning licensure of an individual health care practitioner, DHP has its own process for making investigation information public. Likewise, VDH has a process for making facility inspection information public.

Mr. Beall asked if Board members could receive the abortion facility inspection reports so that they can read them for themselves. Mr. Bodin responded that Board members could receive the reports once they become public documents. Mr. Beall also said that would be helpful for the Board to have more information concerning the nature of the regulatory requirement (e.g. design/construction) for which the facilities have requested variances.

Ms. Getter stated that, based on the amount and type of facility complaint information that VDH has shared with the Board to-date, it is difficult to understand what any particular complaint involved. Mr. Edwards stated that he believes that the Board wants more detailed information concerning facility complaints investigated by VDH, and more detailed information concerning variances that have been granted.

Ms. Vest stated that Virginia's pharmacy regulations include monetary penalties for violations. She asked if VDH's abortion facility regulations include provisions for monetary penalties. Mr. Bodin responded that regulations do not include monetary penalties. Ms. Vest asked if VDH is considering including that type of provision in the regulations. Mr. Bodin responded that VDH has not yet talked about potentially including that type of regulatory provision.

Ms. Vest stated that the facility inspection report that was provided to the Board prior to the meeting documented very serious deficiencies concerning the use of narcotics. She also commended the VDH inspector for a thorough review and inspection of the facility.

Dr. Levine told the Board that this is an evolving regulatory program, and that she appreciated the concerns and interests of the Board members. She also told the Board that VDH always has the authority and opportunity to go back into a facility to do a follow-up inspection. Dr. Levine told the Board that all of the variance requests that have been received and granted have been related to the design and construction requirements of the regulations. She told the Board that she had carefully reviewed all of the variance requests. All of the variances that were granted were conditioned on the facility's compliance with all of the other requirements of the regulations. If VDH goes back into the facility and finds that there is not compliance with the regulations, the variance can be withdrawn.

Dr. Levine then briefed the Board concerning an Official Advisory Opinion received from the Attorney General, pertaining to the responsibility of VDH facility inspectors to make a report of child abuse and neglect pursuant to the § 63.2-1509 of the Code of Virginia. Dr. Levine had requested the Opinion following VDH's inspection of an abortion facility in Roanoke. During the course of the inspection, the VDH inspector learned, from the review of a medical record, that a fourteen year old girl had received services related to her pregnancy. The Opinion stated that the inspector is not required to make a report pursuant to § 63.2-1509 unless there is reason to suspect that a parent or other person responsible for the child's care committed, or allowed to be committed, an unlawful sexual act upon the child. Dr. Levine told the Board that she is concerned about safety, and also knowing what the legal requirements are. She told the Board that, in the particular case in Roanoke, VDH did not have any of the information that would have required the inspector to make a report pursuant to § 63.2-1509. Dr. Levine explained that VDH cannot report information that it does not have, and that it does not know about. She also told the Board that she had directed the Office of Licensure and Certification to review the AG's Opinion, and re-educate its staff and re-evaluate its inspection processes accordingly. Dr. Levine also told the Board that VDH would be reviewing its agency confidentiality policy in light of the AG's Opinion. She told the Board that VDH has a moral and ethical obligation to ensure that its staff, and the staff of each of the facilities, knows what type of information needs to be reported.

Mr. Edmondson complimented Mr. Bodin on his presentation, and then described to the Board his own experience with the promulgation of the regulations. He told the Board that, in his opinion, the observations of the OB/GYN advisory panel convened by VDH during the regulatory drafting process were largely ignored. He said that the facility design and construction requirements of the regulations, particularly the fact that existing facilities were not "grandfathered," largely ignored precedents established by other health care facility regulations under the purview of the Board and VDH. Dr. Seeds responded that, as a member of the VDH

OB/GYN advisory committee, he could say that – with the exception of the design and construction requirements – the final regulatory provisions were almost identical to what the committee recommended.

Public Comment

Mr. Edwards discussed the rules and procedures by which the public comment period would be conducted. Pursuant to the Board’s public participation policy, each individual has a maximum of two minutes in which to address the Board, for a total time period of 20 minutes. A total of 11 individuals signed up to speak to the Board which would exceed the 20 minute time period by two minutes. Mr. Edmondson made a motion to extend the public comment period so that everyone who had signed up to speak could address the Board. Mr. Beall seconded the motion. The motion was approved unanimously by the Board by a voice vote.

All of the individuals that spoke during the public comment period talked about the Regulations Governing Licensure of Abortion Facilities. The following individuals addressed the Board:

- Dr. Frances Casey – He spoke in support of revising the regulations.
- Dr. Christopher Marengo – He spoke in support of revising the regulations.
- Will Fitzhugh – He stated that contrary to a recent report about a doctor not being licensed, the doctor is in fact licensed
- Mandy Spence – She spoke in support of revising the regulations.
- Brian Devine – He spoke in support of revising the regulations.
- Tarina Keene – She spoke concerning the important role that women’s health centers play in providing access to care.
- Kathy Greenier – She spoke in support of revising the regulations.
- Victoria Cobb – She spoke concerning the results of a July 2014 abortion facility inspection that uncovered apparent violations of federal drug laws involving Schedule II drugs. She told the Board that the abortion industry receives preferential treatment by being allowed to submit a plan of correction to VDH. She asked how a doctor obtained these drugs if he doesn’t have a current license from the U.S. Drug Enforcement Agency.
- Virginia Podboy – She spoke in support of the retaining the regulations as is.
- Jessica Cochrane –She spoke concerning the results of a July 2014 abortion facility inspection that uncovered apparent violations of federal drug laws involving Schedule II drugs. She urged VDH and the Board to take action before lives are harmed.
- Maggie Disney – She spoke in support of retaining the regulations as is.

Mr. Edwards then told the members of the audience that the public comment period had ended and thanked the members of the audience for their input.

Regulatory Action Items

Virginia Emergency Medical Services Regulations (12VAC5-31) – Fast Track Amendments

Mr. Brown presented the fast track amendments. The amendments add the term “affiliation” to the criteria for the general or presumptive denial for individuals applying for affiliation with an

emergency medical services provider. Dr. Seeds moved that the proposed fast track amendments be approved with Ms. Getter seconding the motion. There was a brief discussion on whether there is a board that grants affiliation and the process that occurs for exceptions to presumptive denial.

There being no further discussion, the fast track amendments were approved unanimously by voice vote.

Regulations for Disease Reporting and Control (12VAC5-90) – Proposed Amendments

Dr. Forlano presented the proposed amendments. The amendments incorporate testing children to detect elevated blood lead levels by inserting a new section into the Regulations for Disease Reporting and Control. This same action would repeal the existing regulations (12VAC5-120) pertaining to testing children for lead. Moving the testing and reporting requirements into the current Regulations for Disease Reporting and Control will make the process clearer than having those requirements in a separate regulation. The amendments no longer include language to align Virginia testing requirements for gamete testing for HIV with regulations of the U.S. Food and Drug Administration (FDA,) as presented to the Board at its June 5, 2014 meeting.

Ms. Prichard moved that the proposed amendments be approved with Dr. Escobar seconding the motion.

There was a brief discussion concerning the rationale for repeal of 12VAC5-120. There was additional discussion concerning whether 12 VAC5-90-215 requires children to be seen by a health care provider. There was further discussion concerning the exceptions provisions in 12VAC5-90-215.

There being no further discussion, the proposed amendments were approved unanimously by voice vote.

Lunch Presentation

Dr. Levine introduced Paula Garrett, WIC Program Manager as the lunch speaker. Ms. Garrett provided an overview of the WIC program as a nutrition education and referral program, and explained that it is not strictly a food program. The program is intended to help improve birth outcomes, diet, and diet-related outcomes of patients. The program provides “food packages” that are tailored for specific age groups, types of individuals, and whether or not infants are breastfed.

There was a brief discussion concerning breastfeeding recommendations, as well as a discussion concerning food prescriptions for medically fragile individuals, and distribution of food packages.

There was additional discussion concerning the extent to which farmer’s markets accept WIC EBT cards, and the type of nutrition education that is provided by the program.

Ms. Garrett explained to the Board the program's approach to measuring health outcomes. She also told the Board how the program strives to ensure that WIC benefits are utilized only by WIC participants, and not by other individuals who might be living with WIC participants.

Ms. Garrett told the Board that VDH estimates that about 70 percent of eligible individuals currently participate in the WIC program. VDH has reached out to the Virginia Department of Medical Assistance Services (DMAS) and other agencies in efforts to identify other eligible individuals.

Ms. Garrett then explained to the Board the program's approach to product labeling in participating retail stores. Rather than labeling a product with "WIC," the program uses the label "wholesome informed choices." Finally, Ms. Garrett told the Board that the only food in the WIC program that contains high fructose corn syrup is juice. However, the availability of that product has been reduced. As part of its nutrition education, the program outlines the appropriate serving size for juice, as well as how to dilute juice with water. There was a brief discussion concerning educational efforts within WIC program to promote consumption of water.

Dr. Levine complimented Ms. Garrett and the entire WIC program.

Regulatory Action Items

Regulations for the Conduct of Human Research (12VAC5-20) – Final Amendments

Dr. Peake presented the final amendments. The final amendments are the result of a periodic review of the regulations. The final amendments enhance clarity and update outdated information. Ms. Brosche moved that the proposed amendments be approved with Ms. Prichard seconding the motion.

There was extensive discussion concerning the motion. Ms. Brosche asked if the Board could be notified when Virginians are being surveyed. Dr. Peake indicated that there are a number of surveys being conducted by VDH at any one time, and that not all of the surveys come under this regulation. There was additional discussion about several terms that were not defined in various sections of the regulations: specifically, "undue inducement" in the informed consent definition on page one; "vulnerable category" on page nine; "no more than minor increase" on page 17; and "rights and welfare" on page 17. There was also discussion about "cost associated to injury" on page 15 and if there were different levels of informed consent based on the background of the participant. Mr. Edmondson also asked if there is anything in the regulation that affects research on human genome or stem cell research, to which Dr. Nair responded that that type of research does not come before the VDH Institutional Review Board.

Based on the extensive discussions, Mr. Edwards stated that the Board did not appear to be comfortable with the final amendments as presented. Mr. Edmondson made a motion to postpone indefinitely action on the final amendments. Dr. Slusher seconded the motion. There being no further discussion, the Board unanimously approved the motion.

Dr. Trump told the Board that VDH staff would review the final amendments with legal counsel in the AG's Office concerning the need for further revisions. Dr. Trump also said that when final amendments are again placed on the Board's agenda for a future meeting, VDH will provide additional background concerning the type and scope of research projects that come before the VDH IRB for approval, and which are subject to the regulations. Dr. Trump said that the type of public health research projects that require VDH IRB approval, and are subject to the regulations, usually do not involve clinical research.

Regulations Implementing the Virginia Organ and Donor Registry (12VAC5-475) – Final Amendments

Dr. Peake presented the final amendments. The final amendments were proposed to more closely reflect current practice of the Organ and Tissue Donor Registry. Dr. Slusher moved that the final amendments be approved with Dr. Escobar seconding the motion.

There was a discussion about the administration fee mentioned on page three and what is meant by "unique individual." Dr. Peake indicated that this means an unduplicated count, that individuals should not be listed more than once. Ms. Brosche stated that the word "or" needed to be changed to "of" on page three, line three of 12VAC5-475-30 C, so that the sentence reads "(iii) the number of recovered organ donors who were identified. . . ." There was further discussion concerning accredited organ procurement organizations.

There being no further discussion, the final amendments as amended during the discussion were approved unanimously by voice vote.

Regulations Governing Virginia Newborn Screening Services (12VAC5-71) – Emergency Regulations and Notice of Intended Regulatory Action

Dr. Peake presented the emergency regulatory action, which amends the current regulations to add critical congenital heart disease to the Virginia Newborn Screening System. This emergency action is the result of legislation enacted by the General Assembly during the 2014 legislative session, which the Governor signed into law on March 5, 2014. Dr. Peake indicated that most hospitals are already doing this screening voluntarily, and that the emergency regulations would require all hospitals to conduct the screening. Ms. Hines moved that the amendments be approved with Ms. Vest seconding the motion.

There was a discussion concerning exemptions to the regulations. There was additional discussion concerning the interpretation of the word "immediately" in 12VAC5-71-230B, concerning the reporting of abnormal screening results. The Board also discussed 12VAC5-71-260 (parental refusal). There was discussion concerning the definition of "screening technology." Finally, there was discussion concerning 12VAC5-71-240 (referral for care coordination).

There being no further discussion, the final amendments were approved unanimously by voice vote.

Mr. Edwards told the Board that he recognizes that review of the various regulatory actions is hard work, and he values all of the questions asked by Board members concerning the regulatory action items on the agenda. Mr. Edwards told the Board that it is his responsibility to make sure that the Board gets answers to all of its questions.

2015 Proposed Board Meeting Schedule

Mr. Edwards referred to the proposed Board meeting schedule for 2015 as outlined in the members' notebooks: March 19, June 4, September 17, and December 3. The schedule was approved by unanimous consent.

Member Reports

Dr. Steven Escobar – Virginia Veterinary Medical Association (VVMA). At the June 2014 Board of Health meeting, the Board directed that VDH work with VVMA to request that the Governor issue a proclamation for Lyme disease awareness week. VDH and VVMA worked together to revise the request to a proclamation for tick-borne diseases awareness week. Mr. Edwards presented Dr. Escobar with the original signed Certificate of Recognition that was issued by the Governor. Dr. Escobar thanked the Board on behalf of the VVMA for its action to request the proclamation. Dr. Escobar also thanked the Board for its well wishes following his accident that occurred in July. He also briefed the Board on issues concerning drug compounding and the recent work of a Board of Pharmacy task forces which examined the topic.

Dr. Catherine Slusher – Medical Society of Virginia (MSV). She told the Board that MSV is involved with developing its legislative agenda for the upcoming General Assembly session and preparing for its annual meeting. MSV will be participating on two new task forces with the Department of Health Professions; one dealing with a midlevel provider licensing; and the newly-announced prescription drug and substance abuse forum.

Faye Prichard – Local Government. No report.

Tommy East – Nursing Home Industry Representative. He briefed the Board that the payment structure for residents who are dually eligible for Medicare and Medicaid is underway and that things are going well.

Jim Edmondson – Corporate Purchaser of Health Care. Mr. Edmondson told the Board that he plans to resume participation as a member of the VDH Healthcare Associated Infections task force.

Hank Kuhlman – Consumer Representative. No report

Theresa Brosche – Virginia Nurses Association (VNA). She thanked VDH for the information on its website concerning preventing tick bites. She also thanked VDH for hosting the Excellence in State Public Health Law conference in Charlottesville on July 23. She told the Board that the VNA continues to be a leader in implementing the Institute of Medicine's *Future of Nursing* report. In addressing access to care, VNA will be conducting a qualitative research

study to explore how policies and practices in hospitals in Virginia either support or inhibit registered nurses from practicing to the fullest extent of their training. In addressing academic progression, VNA has identified factors that are barriers to academic progression including accreditation and the lack of consistency in the pre-requisites required for admission into schools of nursing. VNA met with the State Council of Higher Education, has been participating in the Virginia Association of Colleges of Nursing meetings, and will be awarding funds to selected schools of nursing who can offer a proposal on how to address these issues. In the Fredericksburg area, the University of Mary Washington signed nursing education agreements with Germanna Community College and Mary Washington Healthcare to assist with academic progression by creating new paths for nursing students and nurses to obtain a BSN. In addressing interprofessional collaboration, VNA had 20 teams of physicians, nurses, and other healthcare professionals who completed a team-based educational program focused on the culture of health, which was in collaboration with the Medical Society of Virginia Foundation. This collaboration led to identification of best practices that will be shared with educators, legislators, and community partners. Other teams will begin in the fall. In addressing leadership, VNA surveyed chief nursing officers of hospitals throughout the state to identify if a nurse is serving on their hospital board, if the nurse is a voting member, and if there is a need for information on how to get a nurse on the board.

VNA has also planned a leadership symposium. The leadership symposium is titled, *Bedside to Boardroom: Nurses Leading the Way*, to be held on September 26 at the Jefferson Hotel. Ms. Brosche has been asked to participate on a panel. This will be followed by VNA's annual education day on September 27 and a conference titled, *Navigating the Future of Healthcare: Work Environment, Workforce, & Public Policy*. Finally, Ms. Brosche asked that VDH provide the Board with an informational briefing concerning immunization at a future meeting, with a focus on VDH's efforts to increase immunization rates and to dispel myths about harmful effects of vaccines.

Dr. John Seeds – Medical Society of Virginia (MSV). Dr. Seeds told the Board that Dr. Slusher reported for MSV.

Megan Getter – Public Environmental Health Representative. She told the Board that she recently attended the Virginia Environmental Health and Safety Conference, sponsored by the Virginia Manufacturers Association. Ms. Getter also told the Board that the CDC issued new guidance for healthy swimming pools. She hopes that swimming pools in Virginia will follow the new guidance. She also discussed the recent closure of the Virginia Beach oceanfront due to health concerns related to water quality.

Linda Hines – Managed Care Health Insurance Plans. She discussed issues pertaining to access to behavioral health care services, as well as the importance of closing the coverage gap. She described to the Board one component of the Governor's Healthy Virginia Plan, which involves development of pilot program by DMAS to improve access to care for up to 20,000 individual with severe mental illness.

Brad Beall – Consumer Representative. No report.

Amy Vest – Virginia Pharmacists Association. She reported that the next prescription drug take back day is scheduled for September 27. She also reported that flu vaccine is readily available. She also told the Board that the DEA published a final ruling on August 22 about moving hydrocodone combination products to Schedule II status, which goes into effect on October 6.

Bruce Edwards – Emergency Medical Services (EMS) Representative. – He told the Board that the State EMS Advisory Board is now largely comprised of new members. He and others are working on getting the new members oriented. Mr. Edwards also briefly discussed issues pertaining to criminal background checks and mobile integrated health care. Mr. Edwards told the Board that the EMS community is watching for the reintroduction of legislation (HB1010) during the 2015 General Assembly Session. This legislation, which was unsuccessful and had a great deal of opposition, would reduce the length of required training time for EMTs, with the intention of improving recruitment and retention. The Annual EMS symposium will be held in November.

Other Business

There was brief discussion concerning beach monitoring,

Mr. Edwards said that he wants to make sure that each Board has all of the information they need. He told the Board members that they should feel free to ask questions if they are not comfortable. He also told the Board members that he would call them between meetings if there was additional information to share. Finally, he told the Board that he and Dr. Levine would be talking more frequently between Board meetings.

Adjourn

The meeting adjourned at approximately 2:10 p.m.