

**State Board of Health  
Minutes  
December 9, 2011 – 9:00 a.m.  
Perimeter Center, 9960 Mayland Drive  
Richmond, Virginia 23231**

Members present: Bruce Edwards, Chair; Paul Clements; Kay Curling; Jim Edmondson; Dr. Steven Escobar; Dr. Charles Johnson; Dr. Bennie Marshall; Dr. Bhushan Pandya; Dr. Cathy Slusher; and Amy Vest

Members absent: Eric Deaton; Dr. John deTriquet; Dr. Anna Jeng; Dr. Mary McCluskey; and Gail Taylor

VDH staff present: Dr. Karen Remley, State Health Commissioner; Dr. Maureen Dempsey, Chief Deputy for Public Health; Jeff Lake, Deputy Commissioner for Community Health Services; Dr. Marissa Levine, Deputy Commissioner for Public Health and Preparedness; Joan Martin, Deputy Commissioner for Administration; Joe Hilbert, Director of Governmental and Regulatory Affairs; Catherine West, Administrative Assistant; Carol Nixon, Policy Analyst; Maribeth Brewster, Risk Communications Manager; Wes Kleene, Director, Office of Drinking Water; Bob Mauskopf, Director, Office of Emergency Preparedness; Diane Woolard, Director, Division of Surveillance and Investigation; Dr. Mike Royster, Director, Office of Minority Health and Health Equity; Lisa Engle, Epidemiologist, Chesapeake Health Department; and Dwayne Merritt, Education Coordinator, Norfolk Health Department

Others Present: Allyson Tysinger and Robin Kurz, Attorney General's Office; Cindi Jones, Executive Director, Virginia Health Reform Initiative

Call to Order

Mr. Edwards convened the meeting at 9:00 a.m.

Approval of Executive Committee Minutes

A motion was made and seconded to approve the draft minutes of the September 15, 2011 Executive Committee meeting. No corrections were noted. The minutes were approved unanimously.

Approval of Quarterly Board Meeting Minutes

A motion was made and seconded to approve the draft minutes of the September 15, 2011 quarterly Board meeting. There was a brief discussion concerning the draft minutes. Mr. Edmondson requested that the following sentence in the draft minutes: "VDH also solicited advice and guidance from the Chairs of the OB/Gyn Departments of Virginia's academic medical centers" be amended to indicate that that advice was subsequently "ignored" by VDH. Dr. Remley told the Board that VDH had not ignored the advice. Rather, Dr. Remley explained that much of the advice was fully incorporated into the emergency regulations, while other

aspects of the advice – after careful consideration – were not incorporated into the regulations. Dr. Remley also explained that incorporation of certain elements of the advice into the emergency regulations was determined, based on legal advice received from the Attorney General’s Office, to be outside of the Board’s statutory authority. Mr. Edmondson stated that in promulgating the permanent regulations, it was his hope that the opinions of medical professionals would be relied upon by VDH.

Upon receiving the Commissioner’s explanation, the Board declined to amend the September 15, 2011 minutes as requested by Mr. Edmondson.

Mr. Hilbert told the Board that a number of minor typographical and grammatical errors had been identified in the draft minutes, and would be corrected prior to posting the final minutes.

The minutes of the September 15, 2011 meeting were approved unanimously.

### Commissioner’s Report

Dr. Remley introduced Lisa Engle and Dwayne Merritt as the VDH “agency stars” in attendance at this meeting. Ms. Engle is the epidemiologist for the Chesapeake Health Department. Mr. Merritt is the education coordinator for the Norfolk Health Department.

Dr. Remley briefed the Board about Plan First, which is a family planning program for individuals enrolled in Medicaid. VDH has challenged its local health departments to enroll as many individuals as they can into Plan First. This program provides multiple family planning options to individuals with scarce resources. More than 12,000 individuals have been enrolled to-date by local health departments, and this number will continue to go up. The next step is to educate the availability of Plan First and re-introduce it to private sector health care providers; this will be a coordinated effort with the Department of Medical Assistance Services, the Department of Social Services, and VDH.

Dr. Remley briefed the Board on the Governor’s Commission on Government Reform. Two of the Commission’s recommendations pertain to VDH: elimination of the Sewage Handling and Disposal Appeal Review Board, and elimination of the Hemophilia Advisory Board.

Dr. Remley briefed the Board on the budget. There have been numerous state budget reduction exercises over the past four years. Dr. Remley noted that over the past four years, the amount of general fund in VDH’s budget has gone down, while federal funds have slowly increased as have special funds. Dr. Remley explained there are no good choices in terms of further VDH budget reductions. VDH is focused on protecting and maintaining core public health services. The Governor is reviewing the budget reduction plans submitted by each agency and will present his proposed budget on December 19.

There was discussion concerning the possibility of layoffs among VDH environmental health specialists due to the decline in housing starts across the state (which reduces the demand for on-site sewage disposal permits). There was also discussion concerning the percentage of the VDH budget that is comprised of personnel expenses. There was further discussion concerning the

potential for layoffs in various areas of VDH, depending on future budget reductions. Dr. Remley emphasized that final decisions concerning the upcoming biennial budget, for fiscal years 2013 and 2014, will not be made until late Spring 2012.

Dr. Remley briefed the Board on the Regulations for Licensure of Abortion Facilities. VDH has sent out a memo to facilities and provided a timeline for implementation of the licensure program. VDH continues to work on guidance documents.

Dr. Remley told the Board that VDH recently participated in a dirty bomb exercise with the Governor's office and cabinet. This exercise employed public health. The Governor was very impressed with VDH's performance during the exercise.

Dr. Remley briefed the Board concerning the status of VDH's involvement with uranium mining issues. It is possible that legislation to remove the mining moratorium might be introduced during the upcoming session of the General Assembly. VDH's role would be to protect public health.

Dr. Remley also briefed the Board on

- VDH efforts to identify outdated/obsolete sections of the Code of Virginia and develop recommendations for amending or repeal.
- Completion of an agency confidentiality policy.
- Status of efforts to develop a health information exchange. This will be implemented by 2014, on a voluntary, opt-in basis at the provider/patient level. Reporting of public health information will be provided.
- Implementation of a state advance directive registry. This was developed and implemented at no cost to the Commonwealth through a public/private partnership.

#### Overview of Breast and Prostate Screening Guidelines

Dr. Dempsey presented an overview of breast and prostate screening guidelines and related information. The presentation addressed recent trends in breast cancer morbidity and mortality, as well as racial and geographic disparities in morbidity and mortality. Dr. Dempsey also identified key risk factors. Dr. Dempsey discussed the screening guidelines, including how the guidelines were developed and how they are periodically updated.

There was discussion among the Board members concerning confusion that can result from changes of the breast cancer screening guidelines, as well as the importance of physician interpretation and implementation of the guidelines. The potential effect of changing guidelines on insurance reimbursement was also discussed.

Dr. Dempsey emphasized the difference between breast cancer screening and diagnosis, and the different tools and techniques used for each. Dr. Dempsey also stressed the importance of effective, clear communications concerning recommended changes to the guidelines.

Dr. Dempsey turned the Board's attention to prostate cancer screening. She reviewed the trends in morbidity and mortality, and noted that it had the same types of disparities as did breast cancer. Dr. Dempsey reviewed the screening recommendations.

There was a discussion about the importance of clear, thorough communication between physicians and their patients concerning the risks and benefits of prostate cancer treatment.

Dr. Remley noted that the Commonwealth Health Information Exchange, once implemented, can offer better information up front to aid in provider/patient communications and discussions.

### Lessons Learned from Hurricane Irene

Dr. Remley introduced Bob Mauskopf and Wes Kleene to provide an update on the lessons VDH learned as a result of Hurricane Irene. The presentation began by comparing and contrasting Hurricane Irene with Hurricane Isabel in 2003. There were fewer deaths as a result of Irene, only five compared to 32 during Isabel. All five deaths during Irene were the result of falling trees.

The presentation described key developments in the VDH emergency preparedness and response (EP&R) programs following Hurricane Isabel in 2003 and how the lessons learned from that event aided VDH in its response to Hurricane Irene. EP&R is now woven into all aspects of VDH programs. Issues pertaining to food and water safety have been integrated into the program.

Lessons learned from Hurricane Isabel promoted improved preparedness within VDH in advance of Irene. For example:

- Previously scripted public service announcements were available for use.
- Numerous exercises had been performed prior to Irene with a wide range of external partners.
- Preparedness and response capabilities for both behavioral health and fatality management issues had been strengthened.
- Evacuation plans for long term care facilities had improved.
- Continuity of operation plans had been refined and exercised.
- An extensive volunteer network had been developed and integrated into VDH's response plans.

Hurricane Irene posed a lot of challenges for small community waterworks. Storm related impacts came in the form of loss of pressure, loss of electricity, flooding of wells, and other operation anomalies. VDH is actively engaged in encouraging operators to have back-up systems, involving operations in round table exercises, and promoting consolidation of small systems that lack sufficient resources.

### Influenza Update/Flu Dashboard

Diane Woolard provided the Board with an update concerning influenza and VDH's flu dashboard. The dashboard is a tool that provides VDH with a wide range of information

concerning influenza. This includes information such as emergency room visits and outbreaks. This information is developed using data reported to VDH from sources including health care providers and laboratories. Each week, VDH reports the level of flu-like illness in the state to the CDC. The dashboard allows staff to query for specific information they are looking for.

### Public Comment

The following seven members of the public spoke in opposition to the Regulations for Licensure of Abortion Facilities: Shelley Abrams, Kathy Greenier, Gail Frances, Patricia Crain, Vicki Yeroiewn, Terina Keine, and Wendy Klein.

Catherine Goulait spoke about recently released guidelines regarding breast and prostate cancer.

### Lunch Presentation

Dr. Remley introduced Cindi Jones, Executive Director of the Virginia Health Reform Initiative. Ms. Jones provided an update on the status of the Initiative.

In August 2010, the Governor appointed 24 leaders to form an advisory council for health care reform in Virginia. The advisory council was tasked with reviewing a wide range of issues, including delivery and payment reform.

There was a discussion among the Board members concerning a number of topics, including the concept of a Medicaid assisted living waiver, the Program of All-Inclusive Care for the Elderly (PACE), availability of behavioral health care services, the adequacy of the health care workforce with a particular focus on the number of available physicians, and the role of patient self-responsibility in the health care delivery system.

There was additional discussion concerning the extent to which Virginia was ready for the implementation of federal health care reform in 2014. Ms. Jones said Virginia is pretty far ahead. She also stated that the work being done now can proceed without waiting for the Supreme Court decision.

### Matrix of Pending Regulatory Actions

Mr. Hilbert gave an overview of the pending regulatory actions, including an overview of the regulatory process and the stages of the process. All agencies have to review all of their regulations every four years. Once the review is completed, the agency can either initiate a regulatory action to amend or repeal the regulation or explain why the regulation should be retained as is. The authority of the State Health Commissioner to act on behalf of the Board when the Board is not in session is used judiciously. This authority is used to meet time guidelines that the regulatory process has to follow. Dr. Remley indicated her approach to acting on behalf of the Board; if an item is substantive or controversial, she does not act on the Board's behalf. There was a discussion of how the Board is notified when Dr. Remley acts on its behalf.

While the Board may not act on every part of a regulation, it is exposed to the activity on the regulation because of the regulatory process. Mr. Hilbert indicated that VDH will report to the Board as a standing part of the meeting as the Board wishes.

### Regulatory Action Items

#### *Regulations for Nursing Scholarships (12VAC5-510) – Proposed Amendments*

Dr. Royster presented the proposed amendments for the nursing scholarships regulations. No public comment was received for the Notice of Intended Regulatory Action. There was a brief discussion that the required grade point average (GPA) listed in the regulations does not agree with VDH's website. Dr. Remley indicated that VDH will ensure that the regulations, website, and scholarship applications agree on the required GPA. There was also a brief discussion about the number of applications, geographic distribution, and that some students may not always know if they are in an approved program. The proposed amendments were approved unanimously.

#### Proposed Amendments to the Board of Health Bylaws

These include several housekeeping items such as corrections to Code citations, and that a vote can be made by a show of hands. Two additional issues identified included the size of the quorum which is established in the Code, and that the Code states that at least one meeting shall be held in the City of Richmond. However, recent meetings have been held in Henrico County.

Mr. Hilbert presented the Board with several proposed amendments to the bylaws. These proposed amendments resulted from Mr. Hilbert's review of the current bylaws, done in conjunction with the Attorney General's Office, and at the request of the Board Chair.

After some discussion, the Board determined that the proposed amendments would be voted on at the March 23, 2012 Board meeting, and VDH staff will develop a legislative proposal for approval by the Secretary of Health and Human Resources and Governor prior to the 2013 General Assembly session addressing issues concerning the size of the quorum and the location of Board meetings.

### Member Reports

*Amy Vest – Virginia Pharmacists Association.* She informed the Board that pharmacists have played a significant role in vaccinating Virginians against the flu.

*Dr. Steven Escobar – Virginia Veterinary Medical Association (VVMA).* He discussed the recent VVMA conference and continuing education for public health issues.

*Dr. Bennie Marshall – Virginia Nurses Association.* She told the Board about the Virginia Action Coalition and the future of nursing.

*Paul Clements – Nursing Home Industry Representative.* He discussed prevention of health care associated infections, communication between acute care and long term care facilities, certificate of public need, and a Medicaid demonstration project involving managed care for long term care.

*Dr. Bhushan Pandya – Medical Society of Virginia.* He talked about the annual meeting of the Medical Society of Virginia (MSV). He also indicated MSV's commitment for a pilot program for the use of telemedicine to see if it improves health care in communities. He also discussed the local health fair that was held in Danville in November.

*Kay Curling – Corporate Purchaser of Health Care.* She briefed the Board concerning the "flu fighter award" sponsored by hospitals, for which a number of companies are competing.

*Jim Edmondson – Consumer Representative.* He talked about information he learned from attending a conference on the delivery of health care services, with particular emphasis on end-of-life care.

*Dr. Catherine Slusher – Medical Society of Virginia.* She talked about the process of medical practices implementing electronic medical records. She also asked that the Board be provided with a general overview of obesity with emphasis on ways the Board can enter into collaboration with efforts to reduce obesity.

*Dr. Charles Johnson – Virginia Dental Association.* He discussed the Virginia Dental Association's expansion of its Mission of Mercy (MOM) program to the Native American community. He also indicated there are six MOM projects scheduled for 2012.

*Bruce Edwards – Emergency Medical Services Representative.* He discussed a major election for the EMS Advisory Board as well as the rescue squad assistance work group that aids rescue squads experiencing problems. He also indicated work is continuing on issues about providing emergency medical services for patients with behavioral and developmental disorders.

### Adjourn

The meeting adjourned at approximately 2:45 p.m.