

State Board of Health Orientation for New Members
Minutes
March 20, 2014 – 8:00 a.m.
Perimeter Center, 9960 Mayland Drive
Richmond, Virginia 23233

Board of Health Members present: Bruce Edwards; Theresa Brosche; Megan Getter; Hank Kuhlman; and Sister Paul Mary Wilson

VDH Staff present: Dr. Marissa Levine, State Health Commissioner; Joe Hilbert, Director of Governmental and Regulatory Affairs; Catherine West, Administrative Assistant

Dr. Levine and Mr. Edwards welcomed the new Board of Health members to the State Board of Health. Mr. Hilbert gave a brief overview of VDH's mission and goals as well as an overview of the role the State Board of Health has in the regulatory process. Mr. Hilbert also discussed the Virginia Freedom of Information Act and how it pertains to the Board of Health members and meetings. Ms. West discussed the process for reimbursement of travel expenses.

The meeting adjourned at 8:45 a.m.

State Board of Health
Minutes
March 20, 2014 – 9:00 a.m.
Perimeter Center, 9960 Mayland Drive
Richmond, Virginia 23233

Members present: Bruce Edwards, Chair; Brad Beall; Theresa Brosche; Kay Curling; Eric Deaton; Dr. Steven Escobar; Megan Getter; Dr. Charles Johnson; Hank Kuhlman; Dr. Cathy Slusher; Amy Vest; Sister Paul Mary Wilson

Members absent: Dr. John deTriquet; Dr. Mary McCluskey; and Dr. John Seeds

VDH staff present: Dr. Marissa Levine, Interim State Health Commissioner; Richard Corrigan, Deputy Commissioner for Administration; Bob Hicks, Deputy Commissioner for Community Health Services; Dr. David Trump, Acting Chief Deputy Commissioner; Joe Hilbert, Director of Governmental and Regulatory Affairs; Catherine West, Administrative Assistant; Maribeth Brewster, Risk Communications Manager; Erik Bodin, Director, Office of Licensure and Certification; Debbie Condrey, Chief Information Officer, Director of the Office of Information Management and Health IT; Bob Croonenberghs, Director, Division of Shellfish Sanitation; Dr. Laurie Forlano, Acting Director, Office of Epidemiology; Dr. Adrienne McFadden, Director, Office of Minority Health and Health Equity; Dev Nair, PhD, Acting Director, Office of Family Health Services; Melanie Reid, Acting Payroll Supervisor; and Gary Rice, Environmental Health Supervisor, Thomas Jefferson Health District

Others Present: Robin Kurz, Office of the Attorney General

Call to Order

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

Welcome and Introductions

Following introductions, Mr. Edwards welcomed Theresa Brosche (Virginia Nursing Association representative), Megan Getter (public environmental health representative), Hank Kuhlman (consumer representative), and Sister Paul Mary Wilson (nursing home industry representative) as new appointments to the Board of Health. Mr. Hilbert then reviewed the agenda and the items contained in the Board's notebooks. Mr. Hilbert noted that the budget update item on the agenda needed to be deferred to the next meeting since there was not an approved state budget. The agenda without the budget item was approved by unanimous consent.

Election of Vice Chair

Paul Clements served the Board as vice chair and he was not reappointed. The chair called for an election to serve as vice chair for the next three months, the remaining term for that office. Mr. Deaton nominated Dr. Escobar to serve as vice chair. Dr. Escobar was elected by unanimous consent.

Approval of Minutes

A motion was made and seconded to approve the draft minutes of the December 5, 2013 Board meeting. Ms. Vest noted that a correction needed to be made to her member report; specifically, the word "codeine" needed to be replaced with the words "hydrocodone combinations". The amended minutes were approved by unanimous consent.

Commissioner's Report

Dr. Levine gave the Commissioner's report to the Board. She began with the introduction of the "agency stars" for the meeting: Melanie Reid with the Office of Financial Management and Gary Rice with the Thomas Jefferson Health District.

The first item discussed by Dr. Levine was VDH's response to the coal ash spill in the Dan River. Although the incident happened in North Carolina, it affected a significant portion of the Dan River in Virginia. VDH's Office of Drinking Water and Office of Epidemiology, in particular, played significant roles in the overall response. It is likely that VDH, the Department of Environmental Quality (DEQ), and other state and federal agencies will be dealing with the impacts of this incident for many months. VDH has participated in several meetings with local residents concerning the impact of and response to the incident. Water treatment plants have been able to filter potential toxins. There has not been an actual impact on the drinking water in Virginia. The challenge now is the effect of the incident on the river bed, fish, and recreation. DEQ will be the primary agency working on this issue, VDH will be monitoring.

Mr. Deaton noted as a resident of Danville, this issue is a big concern for people living there. There was a discussion concerning what might happen to the coal ash in a flood situation, and what type of damage to crops or animals can be expected. Mr. Deaton stated that he appreciated the hard work that VDH has done in response to this incident.

Dr. Levine then provided the Board with an update concerning the AIDS Drug Assistance Program (ADAP). This program supports individuals that may not have access to care by ensuring that they are able to obtain necessary medications. ADAP is a payer of last resort. The projected demand for ADAP services exceeds current program resources. In addition, there are numerous provisions in the Affordable Care Act (ACA) which affect ADAP. VDH has requested additional state and federal funding to help support the program, and is working to ensure that the program is administered efficiently and effectively.

Next, Dr. Levine briefed the Board on a variety of infectious diseases, including influenza and norovirus. There was a discussion about the varying impacts of H1N1 influenza on the very young, young adults, and the elderly.

Dr. Levine then discussed the status of development of Virginia's Health Information Exchange (HIE), known as Connect Virginia. Several hospitals and health systems have either completed onboarding to the HIE or are near completion. VDH has completed onboarding to the HIE, so that public health reporting will now flow through the public health reporting pathway. Financial sustainability of the HIE continues to be a focus.

Dr. Levine then briefed the Board concerning the status of the All Payer Claims Database (APCD). The APCD is a voluntary collaborative system and is continuing to work with health plans to refine and standardize the submission of data. Initial reports from the APCD are projected to be available in early May. These initial reports will be aggregate reports on public health topics.

Dr. Levine briefed the Board on the results of the collaboration between VDH's Division of Vital Records and the Department of Motor Vehicles (DMV). As a result of legislation enacted during the 2013 General Assembly Session, and as a result of a collaborative partnership and extensive work on part of both agencies, DMV is now able to issue certified copies of birth certificates at all of its 75 customer service centers. Dr. Levine thanked Debbie Condrey, Janet Rainey, and their staffs for all their hard work on this project.

Dr. Levine also provided the Board with a status report on VDH's ongoing partnership with Ancestry.com to create an online index, along with associated digital images, of Virginia's vital records. A total of 17 million vital records are in the process of being imaged. The online index will be available by December 2015.

Dr. Levine then briefed the Board on VDH's Future of Public Health Workgroup. This was established in anticipation of impacts to the public health system resulting from ACA and health care reform. Dr. Levine told the Board that it is important to ensure that public health stays relevant. The objective of the workgroup is to develop recommendations for transforming public health services in support of VDH's mission of promoting and protecting the health of all

Virginians. Three subcommittees, dealing with services, data, and governance, have been formed to assist the workgroup. The deliverables of the workgroup will be used to inform decision-making on revisions to VDH's strategic plan, agency dashboard, and work profile and performance plan.

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

- Dr. David Matson, new Director for the Eastern Shore Health District;
- Richard Corrigan, new Deputy Commissioner for Administration; and
- Dr. Carole Pratt, new Policy Advisor in the Office of Minority Health and Health Equity.

Legislative Update

Mr. Hilbert provided the legislative update. During the 2014 General Assembly session, VDH monitored 150 bills. Mr. Hilbert summarized a few of the bills that were enacted by the General Assembly which directly or indirectly pertained to public health. These included:

HB1031 – Updates language regarding vaccines required for school attendance.

HB305 – Requires VDH to seek third-party reimbursement for allowable costs associated school-required vaccines, but clarifies that there will be no out-of-pocket costs to parents of children insured through Medicare, Medicaid, CHAMPUS, or FAMIS for school-required vaccine services.

HB387/SB183 – Mandates VDH to promulgate emergency regulations requiring every hospital in Virginia with a newborn nursery to perform critical congenital heart disease screening using pulse oximetry on every newborn.

SB72/HB410 – Regarding issues with concussions for student athletes, and establishing requirements for non-interscholastic youth sports programs that take place on local school division property.

HB134/SB532 – Requires local school boards to permit students who have to do self care under certain circumstances.

HB529 – Would have required VDH to develop a process for issuing medical identification cards when requested by individuals with Crohn's disease. The bill did not pass, but was carried over to the 2015 session. The Chairman of the House Health, Welfare and Institutions Committee sent VDH a letter asking that VDH review the underlying issues and report its findings and recommendations to the Committee prior to the 2015 Session. VDH will conduct the requested review.

HB409 – Would have required VDH to convene a stakeholder workgroup concerning a variety of issues concerning the potential privatization of services related to the design of onsite sewage systems. The bill did not pass, but was carried over to the 2015 session. The Chairman of the House Health, Welfare and Institutions Committee is expected to send VDH a letter asking that

VDH review the underlying issues and report its findings and recommendations to the Committee prior to the 2015 session.

HB476 – Requires state agencies that inspect home care organizations to coordinate inspections among subdivisions of the agency and with other agencies, and to accept equivalent inspections performed by other agencies.

HB702 – Requires the Department of Medical Assistance Services to contract with other public or private sector entities to conduct preadmission screenings in local jurisdictions where the screening team has been unable to complete screenings within 30 days of initial application.

SB304 – Specifies the responsibilities for disposition of, and payment for disposition of, dead bodies that are claimed or unclaimed by next of kin, and identified or unidentified after death.

Abortion Facility Licensure Status Report

Mr. Bodin provided the Board with the abortion facility licensure update. One complaint involving a licensed facility has been received since the December 2013 Board meeting. That complaint was received at the end of February and is being investigated. A total of 25 individual complaints have been received involving seven different facilities from March 2012 to the present. All facility licenses expire on April 30, 2014, and all facilities have filed an application for licensure renewal within the required timeframe. VDH is in the process of issuing renewals. There was a brief discussion of what it means for a complaint to be substantiated with no deficiencies. There was further discussion of the process by which VDH collaborates with the Virginia Department of Health Professions on complaints that involve certain issues with licensed health care providers, such as physicians. There was additional discussion concerning the number of biennial facility licensure inspections that VDH has performed.

Matrix of Pending Regulatory Actions

Mr. Hilbert reviewed the summary of all pending VDH regulatory actions. Since the December 2013 meeting, the Commissioner has not approved any regulatory actions on behalf of the Board while the Board was not in session.

List of No Cost Ultrasound Providers – Update

Dr. Nair gave the Board an update on the VDH list of no cost ultrasound providers. In 2012, the informed written consent for abortion statute in the Code of Virginia was amended to require the performance of an ultrasound procedure. The statute was further amended to mandate that VDH develop and maintain a list of providers who would perform ultrasound procedures for women at no cost. Dr. Nair described the process that VDH used to develop the list of no cost ultrasound providers. VDH contacted known providers of abortion services and crisis pregnancy centers by phone. Most providers on the initial list developed by VDH were crisis pregnancy centers. VDH subsequently began to receive concerns and questions about the oversight of sonographers. VDH also received concerns that some providers on the list were providing biased and/or

misleading information, and that some providers were not furnishing a copy of the ultrasound image. Dr. Nair explained to the Board that VDH does not regulate crisis pregnancy centers, sonographers, or providers.

Beginning in the fall of 2013, in an effort to address concerns that had been identified concerning the initial list, VDH developed a web-based survey to elicit information from any additional entity that wanted to be included on a list of no or low cost providers of ultrasound services. VDH did not define “low cost” but rather required that the provider disclose what their costs are. In terms of next steps, VDH is reaching out to providers to verify that all reported information is correct. The goal is to post the revised list on VDH’s website by mid-April. VDH will develop a process for updating the list periodically.

There was a brief discussion concerning how the VDH survey of providers was administered, as well as the response rate to the survey.

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. The following individuals addressed the Board:

Victoria Cobb – She spoke to the Board about VDH’s failure to respond in a timely manner to a request made under the Freedom of Information Act (FOIA) concerning inspection reports of abortion facilities. She also indicated that it is mandatory for VDH to make reports of abuse, and that potential child abuse cannot be ignored by VDH. She told the Board that the Family Foundation had filed a lawsuit to compel VDH to respond to its FOIA request.

Lynn Bisbee – She is a nurse practitioner in a crisis pregnancy center. She told the Board that each pregnancy center is unique and that they are dedicated to providing care to women in the Richmond area. She also indicated that she had completed the survey for no cost list of ultrasound providers. Ms. Bisbee described to the Board the problems she encountered while trying to respond to the online survey.

Member Reports

By unanimous consent, the Board suspended the rule to begin the lunch presentation noted in the agenda and moved the member reports agenda item to this time.

Dr. Catherine Slusher – Medical Society of Virginia (MSV). She briefed the Board on pending changes to the ICD-10. She also discussed training for opiate prescribers, population health management, EVOLVE, and legislation considered during the 2014 session that was of interest to MSV.

Brad Beall – Consumer Representative. No report.

Amy Vest – Virginia Pharmacists Association. She informed the Board that the next DEA drug take back day is scheduled for April 26. A list of localities participating in this event can be found on the DEA's website. She also updated the Board on the status of the FDA initiative to move hydrocodone combination products to schedule 2 status; the initiative is moving forward and is currently in a public comment period. Comments can be submitted on the FDA's website and are due by April 28. She expressed gratitude to MSV for the information that was distributed to its members about the FDA initiative and asked Board members to submit comments during the public comment period if this is an issue they feel strongly about. There was a brief discussion concerning the FDA initiative.

Sister Paul Mary Wilson – Nursing Home Industry Representative. No report.

Eric Deaton – Hospital Industry. He told the Board that the deadline for enrolling in the ACA is drawing near, and hospitals are helping individuals to sign up. He also told the Board that hospitals are experiencing large cuts in Medicaid reimbursement; therefore it is important to hospitals and other providers that Medicaid eligibility be expanded. The hospital industry would like to make expansion happen in this budget year. Mr. Deaton noted that the hospital industry is working with Averett University to provide a BSN program, and this year will be the first graduating class for that program. The industry is also working on creating a RN scholarship program which will hopefully double the number of students in the program.

Dr. Charles Johnson – Virginia Dental Association. He informed the Board about the Mission of Mercy program, now in its 15th year, which was held in Suffolk on March 9. He also discussed budgetary and legislative issues of interest to the Virginia Dental Association.

Dr. Steven Escobar – Virginia Veterinary Medical Association (VVMA). He briefed the Board on legislation enacted by the 2014 General Assembly pertaining to compounding pharmacies.

Theresa Brosche – Virginia Nurses Association (VNA). She told the Board that the VNA, through the Virginia Action Coalition, is continuing its work on the implementation of the recommendations in the Institute of Medicine's report titled Future of Nursing: Leading Change, Advancing Health. The Virginia Action Coalition was recently awarded a grant from the Robert Wood Johnson Foundation to assist in continuing their efforts to address the Institute of Medicine recommendations. She also briefed the Board concerning VNA's 2014 Legislative Day, and visits made to several legislators during the 2014 Session. VNA's nursing public policy platform includes: a) strategies to close the coverage gap in Virginia; b) removing barriers to enable advanced practice registered nurses to practice to the full scope of their education and training; and c) increasing educational capacity and nursing faculty salaries to ensure that schools have the capacity to accommodate the growing number of nursing students to meet the needs of Virginians.

Kay Curling – Corporate Purchaser of Health Care. She informed the Board about impacts of the ACA. All large employers must comply with the provisions of the ACA in 2014. Employers which had grandfathered status are now facing the full impact of the ACA. There has been no significant move by large employer groups into a private or public exchange. She told the Board that employers are holding back due to their concern about the viability of the exchanges over

the long term. She also stated that small employers had their compliance deadline delayed by a year; however, they may use the SHOP exchanges to find plans. Small employers face significant changes including pricing based on the age of their individual employees, mandated essential health benefits, etc. She said that both large and small employers are experiencing significant administrative burdens associated with complying with the ACA.

Hank Kuhlman – Consumer Representative. No report

Megan Getter – Public Environmental Health Representative. No report.

Bruce Edwards – Emergency Medical Services Representative. He told the board that Drs. Levine and Trump attended the recent State EMS Advisory Board meeting. Mr. Edwards has been replaced on the State EMS Advisory Board; however, he will take an ex-officio seat on the executive committee. He also briefed the Board on the topic of community paramedicine.

Nominating Committee

By unanimous consent, the Board suspended the rule to begin the lunch presentation noted in the agenda and moved the appointment of the nominating committee agenda item to this time.

Mr. Edwards recommended four individuals to serve on the nominating committee: Ms. Curling, Mr. Deaton, Dr. Slusher, and Ms. Vest. He also recommended that Mr. Deaton be appointed as the chair of the nominating committee. The nominating committee will recommend a slate of Board officers for election at the June 2014 Board meeting. The nominating committee was approved by unanimous consent.

Lunch Presentation

Mr. Hicks introduced Bob Croonenberghs, Director of VDH's Division of Shellfish Sanitation, as the lunch speaker. Mr. Croonenberghs briefed the Board on the structure and operations of VDH's Shellfish Sanitation Program, and various issues pertaining to the program. This included a discussion of VDH's efforts to work with the shellfish industry to prevent disease outbreaks resulting from shellfish contaminated with the *Vibrio* bacteria.

Regulatory Action Items

Regulations for Disease Reporting and Control (12VAC5-412) – Final amendments

Dr. Forlano presented the final amendments which pertain to healthcare associated infection reporting. The amendments allow VDH to implement control measures for identifying, tracking, and reporting of healthcare associated infections. Currently, hospitals enter this data into system maintained by the Centers for Disease Control and Prevention. The amendments will allow VDH to access this data without increasing the hospital workload. Mr. Deaton made a motion to approve the final amendments. Dr. Escobar seconded the motion. The final amendments were approved unanimously by a voice vote.

Regulations for Nursing Scholarship and Loan Repayment Program Requiring Service in a Long Term Care Facility (12VAC5-507) – Final regulations

Dr. McFadden presented the final regulations. She gave an overview of the four nursing scholarships that VDH offers. The final regulations describe the criteria for scholarships and loan repayment. Dr. Escobar made a motion to approve the final regulations. Dr. Slusher seconded the motion. There was a discussion on whether the Board of Health needs to approve any changes to the term of the loan. Ms. Kurz advised the Board that the State Health Commissioner may act on the Board's behalf when the Board is not in session. There was also a discussion about requesting variances. In addition, Ms. Brosche discussed the advisory committee that makes recommendations regarding the scholarship and loan recipients.

After discussion, the Board agreed by unanimous consent to the following amendment to 12VAC5-507-80 D : adding the words "or is able" to after the words "no longer intends" so that the sentence reads: "Participant no longer intends or is able to fulfill service obligation as a nurse in the Commonwealth in a long-term care facility."

After further discussion, the Board agreed by unanimous consent to the following amendment to 12VAC5-507-130 B: changing ". . . a qualified nurse training program. . ." to "an approved nurse training program. . ."

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

Advance Healthcare Directive Registry (12VAC5-67) – Fast track amendments

Ms. Condrey presented the fast track action, which is the result of a periodic review. The registry stores healthcare related documents. The action will add a definition section, add an additional document that may be filed with the registry, and remove restrictive language so that the regulation will track language in the Code of Virginia. Mr. Deaton made a motion to approve the fast track action. Dr. Johnson seconded the motion. The fast track action was approved unanimously by a voice vote.

Other Business

Ms. Vest noted that the information given during public comment about reporting minor abuse is troubling. There was then a brief discussion concerning the lawsuit filed by the Family Foundation of Virginia against VDH, in connection with a recent FOIA request. Dr. Levine told the Board that, since there is pending litigation, she cannot discuss the details of the case. However, she assured the Board that VDH takes its regulatory and FOIA responsibilities very seriously. She also told the Board that VDH has responded to the FOIA and acted on the issues raised by the lawsuit.

Adjourn

The meeting adjourned at approximately 1:00 p.m.