

**State Board of Health
Minutes
March 23, 2012 – 9:00 a.m.
Perimeter Center, 9960 Mayland Drive
Richmond, Virginia 23233**

Members present: Bruce Edwards, Chair; Paul Clements; Kay Curling; Eric Deaton; Dr. John deTriquet; Jim Edmondson; Dr. Steven Escobar; Dr. Anna Jeng; Dr. Charles Johnson; Dr. Bennie Marshall; Dr. Mary McCluskey; Dr. Bhushan Pandya; Dr. Cathy Slusher; Gail Taylor; and Amy Vest

VDH staff present: Dr. Karen Remley, State Health Commissioner; Dr. Maureen Dempsey, Chief Deputy Commissioner for Public Health; Jeff Lake, Deputy Commissioner for Community Health Services; Joan Martin, Deputy Commissioner for Administration; Joe Hilbert, Director of Governmental and Regulatory Affairs; Catherine West, Administrative Assistant; Susan Horn, Research Assistant; Dr. Diane Helentjaris, Director, Office of Family Health Services; Dr. Laurie Forlano, Acting Director, Office of Epidemiology; Dr. Julie Murphy, State Public Health Veterinarian; Michael McMahan, Deputy Director, Office of Financial Management; Debbie Secor, Chief Information Officer; Paul Widgen, Office of Environmental Health Services; and Susan Tlusty, Office of Family Health Services

Others Present: Robin Kurz, Allyson Tysinger, and Rachel Baer, Attorney General's Office; Michael Matthews, CEO, Community Health Alliance

Call to Order

Mr. Edwards convened the meeting at 9:00 a.m. Mr. Hilbert reviewed the agenda for the meeting and the information items contained in the notebooks available for the Board members. The meeting agenda was unanimously adopted.

Approval of Minutes

A motion was made and seconded to approve the draft minutes of the December 9, 2011 Board meeting. Amy Vest requested that the number of patients referenced in her member report be deleted. VDH staff will make that correction. The minutes were approved as corrected.

Commissioner's Report

Dr. Remley introduced Susan Tlusty and Paul Widgen as the VDH "agency stars" for this meeting. Agency stars are VDH staff that best demonstrate and exemplify the mission and vision of VDH.

Dr. Remley briefed the Board on the status of VDH's involvement with the Uranium Working Group, which is in the process – at the direction of the Governor – of reviewing numerous issues pertaining to the potential mining and milling of uranium in Virginia. Dr. Remley told the Board that Dr. Dempsey would provide a more detailed briefing to the Board at the September meeting.

Dr. Remley then briefed the Board on the national “Million Hearts” initiative, sponsored by the Centers for Disease Control and Prevention and the Center for Medicare Services, which is focused on cardiovascular disease prevention. Virginia is the first state to join this initiative. Dr. Remley has challenged Virginia to perform one million blood pressure checks during the month of May. She also briefed the Board on the status of developing the Commonwealth’s Health Information Exchange, and on VDH’s plans for developing an all payer claims database (APCD), as authorized by legislation enacted during the 2012 Session. Dr. Remley then updated the Board on the status of developing proposed permanent regulations for the licensure of abortion facilities, and on the status of the application process for licensure of abortion facilities as required by the emergency regulations that are currently in effect.

Dr. Remley provided the Board with a maternal and child health update. As part of the update, Dr. Remley explained that Virginia’s teen pregnancy rate has continued to decline, as has the induced termination of pregnancy rate. Dr. Remley told the Board that Virginia’s birth rate and pregnancy rate have not changed much, while the infant mortality rate has decreased, and immunization rates are improving. In addition, progress is being made in narrowing certain racial disparities present in these rates. She described the Plan First Medicaid family planning program, and noted significant improvement in enrollment within this program, due in large part to the work of local health districts' staff, in partnership with the Department of Social Services. There was a brief discussion among the Board members concerning funding for Plan First.

Dr. Remley also briefed the Board on VDH’s efforts to promote immunization for Tdap (tetanus, diphtheria and pertussis.) There have been a number of disease outbreaks within Virginia and across the country. Dr. Dempsey and Dr. Forlano have led and coordinated VDH’s Tdap task force. One key result of the task force is health insurance plans have come together to provide coverage for Tdap vaccine. Local health departments are fully engaged in providing Tdap vaccine. VDH has established strong relationships at the community level, and with private clinicians, around this issue. The CDC is very impressed with Virginia’s efforts in this area, so much so that it has provided additional funding in order to provide Tdap vaccine to Virginia’s free clinics.

Legislative Update

Many bills were introduced in the 2012 General Assembly session that affected VDH. Mr. Hilbert provided a brief summary of legislation that has been signed into law. Unless otherwise noted, the new laws go into effect July 1, 2012. The Governor has 30 days after the end of session to decide to sign or reject legislation. April 18 is the date for the reconvened session. VDH is in the process for developing implementation plans for each of these legislative items. Mr. Hilbert described the following enacted legislation to the Board:

HB1291/SB678 – Governor’s Reorganization Plan for Executive Branch of State Government – One of the provisions of this bill was the elimination of the Hemophilia Advisory Board. The bill contains language requiring VDH to continue to have a process to receive and act on input from stakeholders in the hemophilia and bleeding disorders community.

HB829 – Authorizes VDH to establish linkages between Virginia Immunization Information System (VIIS) and the newborn screening, hearing screening and blood lead level databases. VDH will need to work with the Division of Consolidated Laboratory Services to develop a memorandum of understanding in order to link VIIS and the newborn screening database.

SB146 – Authorizes VDH dental hygienists statewide to provide preventive services under the remote supervision of a dentist. The legislation requires the Board of Dentistry to adopt the practice protocol that guides this activity, currently used in Lenowisco, Cumberland Plateau and Southside Health Districts, as a regulation. There was a brief discussion concerning the fact that dental service is an optional service for VDH and its local health departments, in addition to the current funding levels for the VDH dental program, and dental services for long-term care residents.

HB1107/SB656 – Requires local school boards to develop and implement policies to administer epinephrine, and requires VDH, in cooperation with the Department of Health Professions and the Department of Education, to convene a work group to develop revisions to Virginia's School Health Guidelines concerning the treatment of anaphylaxis in the school setting, by July 1. There was a brief discussion concerning school nurse staffing levels, as well as the incidence of anaphylaxis among the school age population.

HB74 – Establishes the maximum time frame for mandated reporters for child abuse to submit reports as 24 hours.

SB660 – Reduces the time period after which death, marriage, and divorce records become public from 50 years to 25 years. The bill also requires VDH to seek to enter into a contract with a vendor to provide an online index of vital records information at no direct cost to the Commonwealth. VDH has initiated discussions with certain prospective vendors. VDH will also work with the Library of Virginia to develop a memorandum of understanding for the transfer of vital records to be made public.

HB796 – Requires the Board of Health to promulgate guidelines for the cleanup of residential properties formerly used as clandestine drug laboratories. There was a brief discussion concerning the fact that this legislation does not require the Board of Health or VDH to actually clean up such property.

HB83/SB544 – Requires the Board of Health to promulgate guidelines for the inclusion of breast density information in letters sent to patients informing them of their mammogram results. VDH will develop guidelines to be approved by the BOH. The legislation is very prescriptive in terms of the information to be provided.

HB183 – Provides Medicaid coverage for legal immigrant pregnant women, and FAMIS coverage for legal immigrant children and pregnant women, during their first five years of lawful residence in the United States. VDH will ensure local health departments are aware of this expanded coverage, and that they bill appropriately for services provided to this population.

HB343/SB135 – Authorizes establishment of an APCD. In order to begin implementing this legislation, VDH will be revising its contract with Virginia Health Information, Inc., and appointing an advisory committee. In addition, by December 1, 2012, VDH will have to report to the Governor and the General Assembly on whether health insurers have executed agreements to submit claims data representing at least 75 percent of privately insured individuals and individuals covered under self-funded group health plans in the Commonwealth. There was brief discussion concerning the value and potential uses of an APCD. There was additional discussion concerning the fact that the APCD authorized by the legislation is voluntary, not mandatory, for participants.

HB269 – Eliminates the request for application requirement for adding psychiatric beds or services. There was a brief discussion concerning the expected impact that this legislation would have on the availability of psychiatric beds and services.

HB462 – Informed Written Consent for Abortion – This legislation requires, in part, that VDH compile and disseminate a list of health care providers that offer ultrasound services at no cost.

Budget Update

Mr. McMahon provided the budget update. He reviewed for the Board the history of the development and submission of the Governor's 2012 Budget Bill, and summarized the key provisions in the Budget Bill pertaining to VDH. He told the Board that the Governor's introduced budget included, for example, additional VDH funding for Lyme disease, tuberculosis control, medical facilities inspectors, and administration of vital records. The proposed budget also included a provision for increased food service permit fees to support the VDH food service inspection program, thereby lessening demand on the state general fund. The proposed budget also included provision for increased fees on waterworks.

The proposed budget also contained reduced funding for VDH environmental health specialists, given reduced VDH workload of onsite sewage and private well permits resulting from a reduction in housing starts. There was a brief discussion concerning how the proposed level of reduced funding was determined. Jeff Lake told the Board that no more than one EHS position per health district would be affected by this reduction.

There was a discussion concerning funding for the Plan First Medicaid family planning program, how VDH is utilizing funding provided last year to promote increased enrollment in the program, the distinct roles that VDH and DMAS have with respect to the program, and the relationship between Plan First and the VDH family planning program.

Mr. McMahon explained that the 2012 General Assembly Session had adjourned without approving a budget for the 2012-2014 biennium, but that the General Assembly had already convened a Special Session for the purpose of trying to reach an agreement on the budget.

Dr. Remley told the Board that VDH will provide the Board members with information concerning provisions in the final approved budget once it is adopted.

Obesity Prevention Overview

Dr. Helentjaris provided an overview of VDH's obesity prevention efforts. The presentation identified health problems associated with obesity (i.e., heart disease, stroke, diabetes, and arthritis). Various factors contributing to obesity were discussed. These include the prevalence of inexpensive high fat foods, and reduced levels of physical activity levels. The overall obesity rate in Virginia is now 25 percent, but has declined somewhat recently. However, the obesity rate is not evenly distributed throughout the state. For example, obesity is prevalent among low-income individuals. The public health approach to addressing obesity is population based and prevention oriented. The Office of Family Health Services coordinates the majority of VDH's obesity prevention activities. This includes promotion of healthy eating through WIC feeding programs, as well as promotion of breastfeeding. There was a discussion concerning the link between breastfeeding and obesity. There was also discussion concerning the components of the WIC food package. There was additional discussion concerning the WIC program, including nutritional labeling of WIC products and how that information also reaches and benefits people who are not enrolled in the WIC program.

Dr. Helentjaris told the Board that VDH is offering obesity prevention mini grants to localities. There was discussion concerning the fact that local health districts are eligible to apply for these grants.

There was discussion concerning the relationship between the built environment, land use decisions, physical activity levels, and obesity. There was further discussion concerning the need to change people's behavior in various aspects as part of an overall population-based approach to obesity prevention. Dr. Remley told the Board that obesity prevention, and the myriad of issues that are involved, is something with which public health officials across the country are continuing to try to address.

Mr. Hilbert updated the Board on the Interagency Task Force on Obesity and Nutrition. One of the objectives of the Task Force is to increase collaboration among Executive Branch agencies who are involved – in various ways – with issues pertaining to physical activity and nutrition. There are currently 13 agencies, across six Secretariats, represented on the task force. Mr. Hilbert described to the Board a pilot project that the Task Force is developing to promote the availability of healthy menu options in the employee cafeteria located in the Monroe Building in downtown Richmond.

There was further discussion concerning the importance of leadership at the local, community level – relying on evidence based best practices, in order to make continued progress in preventing obesity.

Public Comment

Katherine Greenier spoke about the Regulations for Licensure of Abortion Facilities. Ms. Greenier specifically mentioned HB462, enacted by the 2012 General Assembly, which amended the informed consent statute to require a transabdominal ultrasound as part of the informed consent process. Ms. Greenier stated, as the Board and VDH are directed to compile a list of facilities that provide free ultrasounds, under House Bill 462, the Board and Department must only include in that list facilities overseen by licensed physicians. Many crisis pregnancy centers that are not directed by licensed physicians provide free ultrasounds but they should not be included on the list because HB462 mandates the ultrasound be conducted under the oversight of a physician.

Matrix of Pending Regulatory Actions

Mr. Hilbert reviewed the summary of all pending VDH regulatory actions. Since the December 2011 meeting, there was one regulatory action that Dr. Remley had approved on the Board's behalf while the Board was not in session. This item was the Denial of a Petition for Rulemaking, pertaining to the Waterworks Regulations 12VAC5-590.

Mr. Hilbert explained that time frame waiver requests have been submitted for all actions that have exceeded the time frame allowed by Executive Order 14 for submission of actions to the Department of Planning and Budget following expiration of the public comment period.

There was a discussion about the time line for promulgating the permanent Regulations for the Licensure of Abortion Facilities. Mr. Hilbert indicated that in order to meet the 180 day deadline, following conclusion of the public comment period on the Notice of Intended Regulatory Action, for submission to the Department of Planning and Budget, the proposed amendments for this regulation will be brought to the Board for its consideration at the June 2012 meeting.

Lunch Presentation

Michael Matthews, CEO of Community Health Alliance, and Debbie Secor, VDH's Chief Information Officer, briefed the Board on the Commonwealth's Health Information Exchange (HIE).

Virginia's HIE is called Connect Virginia. It is an "opt in" model for sharing electronic health records and will be connected to state government databases and the national HIE. VDH will be working with health care providers so that reportable disease information is submitted electronically through the HIE. The governing board for Connect Virginia has been established and has begun to meet. Funding was received from CMS to stand-up the HIE. The HIE will be self-sustaining going forward. Ms. Secor told the Board that Virginia's HIE compares very favorably to those under development in other states.

Dr. Remley commented that the HIE will help VDH improve its disease surveillance capability, particularly with respect to outbreaks. There was a discussion concerning the composition of the HIE governing board.

There was additional discussion concerning the importance of not overlooking the needs of long term care providers when developing the HIE.

Mr. Matthews provided the Board with a history of the development of HIEs. He told the Board that Connect Virginia represents a federated approach in which data resides in core system and individual health systems will have to be credentialed to participate.

There was a discussion concerning how the HIE might or could be accessed differently during an emergency. Mr. Matthews told the Board that Connect Virginia's governing board was considering that issue.

Mr. Matthews told the Board the HIE is scheduled to go live with first node in third quarter of this year. In the fourth quarter of this year Connect Virginia will link to the national HIE. In 2013 it will connect to the Commonwealth gateway.

There was a discussion concerning establishment of a fee for connecting to the HIE. Mr. Matthews said that the business model is still under development, but Connect Virginia is committed to keeping costs as low as possible in order to keep participation high.

Regulatory Action Items

Regulations Governing Virginia Newborn Screening Services (12VAC5-71) – Proposed Amendments-Fast Track Action

Dr. Helentjaris presented the proposed fast track amendments. The proposed amendments are the result of a periodic review of the regulations. The proposed amendments are primarily technical and not substantive in nature. The proposed amendments do not include any changes to reporting requirements. The proposed amendments were approved unanimously.

Rabies Regulations (12VAC5-105) – Proposed Regulations

Dr. Murphy presented the proposed regulations. The proposed regulations were developed with input from stakeholder groups in order to implement statutory amendments enacted in 2010. There was a discussion concerning a document that would be incorporated by reference into the regulations, titled Request for Rabies Vaccination Exemption for Licensing and Inspection Purposed. Specifically, there was discussion concerning whether the exemption request, in addition to being signed by the veterinarian, should also be signed by the owner of the animal. There was a motion to amend the regulations to add the signature of the animal owner to the document incorporated by reference. The motion to amend the regulations was approved unanimously. There was then a motion to approve the regulations as amended. The proposed regulations were approved unanimously.

Proposed Amendments to the Board of Health Bylaws

Mr. Hilbert presented the Board with the amendments to the bylaws as discussed in the December 2011 Board meeting. There was a brief discussion of how to list the results of any vote taken during a Board meeting. A Board member can request that any particular vote become a roll call vote, the results of which are reported as such in the minutes. There is also a specific reference in meeting minutes whether a vote is unanimous or if there are any negative votes for any action. The amendments to the bylaws were approved unanimously.

Nominating Committee

Mr. Edwards appointed Dr. Bhushan Pandya, Gail Taylor, and Paul Clements to the nominating committee. Mr. Edwards appointed Dr. Pandya as chair of the nominating committee. The nominating committee will recommend a slate of Board officers for election at the June 2012 Board meeting.

Member Reports

Dr. Catherine Slusher – Medical Society of Virginia. No report.

Dr. Steven Escobar – Virginia Veterinary Medical Association. He thanked the Board for the action taken on the rabies regulations. No further report.

Dr. Charles Johnson – Virginia Dental Association. He told the Board that the Virginia Dental Association's (VDA) Mission of Mercy clinic program held its 50th mission with the Gloucester project in February 2012. Also in February, the VDA sponsored its 2012 Give Kids a Smile program, with 180 volunteers and 728 registered children. Dr. Johnson thanked Dr. Remley for attending and participating in the Give Kids a Smile program.

Amy Vest – Virginia Pharmacists Association. She briefed the Board concerning Virginia Pharmacy Day at the General Assembly. She discussed issues pertaining to medication therapy management for state employees. She also briefed the Board concerning the latest prescription drug take back day.

Dr. Anna Jeng – Public Environmental Health Representative. No report.

Dr. John de Triquet – Local Government. He discussed a variety of issues pertaining the funding of services provided by local governments.

Dr. Bhushan Pandya – Medical Society of Virginia. He discussed MSV's involvement during the 2012 Session working on legislation pertaining to the APCD, administration of epinephrine in public schools, and collaborative care with nurse practitioners.

Dr. Bennie Marshall – Virginia Nurses Association. She discussed the reorganization of VNA to have a chapter vs. district structure. VNA's focus continues to be related to addressing the recommendations of the Institute of Medicine report (including education and practice for nurses). She reminded the Board that March is National Kidney Month and that the Board should continue its discussion around efforts with regard to chronic disease such as diabetes, hypertension, and kidney disease.

Paul Clements – Nursing Home Industry Representative. He discussed the Virginia Health Care Association's annual conference, telemedicine, the status of the state budget, and Medicaid dual eligible clients.

Dr. Mary McCluskey – Managed Care Health Insurance Plans. She informed the Board she had an opportunity to present at an event for master's degree students. She told the board the health insurance industry is awaiting the U.S. Supreme Court decision regarding the health reform law. She also discussed dual eligibility integration.

Kay Curling – Corporate Purchaser of Health Care. She briefed the Board concerning Mercer's 2011 National Survey of Employer Sponsored Health Plans. She commented that employers continue to be concerned that the Affordable Care Act will increase costs.

Jim Edmondson – Consumer Representative. He told the Board that he continues to receive emails pertaining to issues regarding the risks to access for ob/gyn services for poor women that he said are posed by the emergency regulations for licensure of abortion facilities. He updated the Board concerning his involvement with VDH's health care facility acquired infection committee. He told the Board significant progress has been made in this area.

Gail Taylor – Consumer Representative. She told the Board that she appreciates progress being made to reduce health care disparities. She told the Board she also was very impressed with VDH's work pertaining to the prevention of health care facility acquired infections.

Eric Deaton – Hospital Industry. He discussed the benefits of having the APCD. He also discussed the issue of dual eligibility for Medicare and Medicaid. He also discussed decreases in federal reimbursement from CMS.

Bruce Edwards – Emergency Medical Services Representative. He discussed a variety of state-level issues pertaining to emergency medical services.

Other Business

Mr. Hilbert discussed the Board's public participation policy, which has not been reviewed since its initial adoption in 2003. The policy contains a few outdated citations to the Code of Virginia. Mr. Edwards requested the Board members send any comments or suggestions they have concerning the policy directly to Mr. Hilbert, who will compile the comments for presentation at a future Board meeting.

Adjourn

The meeting adjourned at approximately 2:40 p.m.