

**State of Board of Health  
Minutes  
July 18, 2008 – 9:00 a.m.  
Sheraton Park South, 9901 Midlothian Turnpike  
Richmond, Virginia**

Members present: Fred Hannett, Chairman; Dr. Craig Reed, Vice Chairman; Dr. Julie Beales; Jim Edmondson; Kandy Elliott; Dr. Charles Johnson; Jack O. Lanier, Dr. P.H.; Dr. Bennie Marshall; Ed Spearbeck; and David Summers

Members absent: Scott Burnette; Barbara Favola; and Dr. Bushan Pandya

VDH staff present: Dr. Karen Remley, State Health Commissioner; Dr. Jim Burns, Deputy Commissioner for Public Health; Jeff Lake, Deputy Commissioner for Community Health Services; Dr. Bill Nelson, Interim Deputy Commissioner for Emergency Preparedness and Response; Joan Martin, Deputy Commissioner for Administration; Joe Hilbert, Executive Advisor; Martha Pulley, Policy Advisor; Catherine West, Administrative Assistant; Doug Harris, Adjudication Officer; Michael McMahon, Deputy Director, Office of Financial Management; Cheryle Rodriguez, Acting Director of Communications; Gary Brown, Director, Office of Emergency Medical Services; Dr. David Suttle, Director, Office of Family Health Services; Chris Durrer, Director, Office of Licensure and Certification; Erik Bodin, Director, Division of Certificate of Public Need; Carrie Eddy, Policy Analyst, Office of Licensure and Certification; Bob Hicks, Director, Office of Environmental Health Services; Gary Hagy, Director, Division of Food and General Environmental Services; Chris Gordon, Office of Environmental Health Services

Others Present: Matt Cobb and Robin Kurz, Attorney General's Office; Harrison Gibbs, Mellette, PC; Susan Ward, Virginia Hospital and Healthcare Association (VHHA)

Call to Order

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

Approval of Minutes

The minutes of the April 18, 2008 Board meeting were approved unanimously.

Matrix of Pending Regulatory Actions

Joe Hilbert reviewed the listing of all of the pending VDH regulatory actions. There were no questions.

Commissioner's Report

Dr. Remley provided the Commissioner's report. Dr. Remley discussed the status of the recruitment for the Deputy Commissioner for Emergency Preparedness and Response. She also

discussed a legislative proposal, advanced by stakeholders in the emergency medical services community, to add the chairman of the EMS Advisory Board to the Board of Health. Dr. Remley mentioned that this legislation, should it be introduced, may also provide the opportunity to add an additional seat on the Board for an individual with expertise in environmental health issues. Mr. Hannett said that he would like for there to be, established in the Code of Virginia, some sort of periodic review of the composition of the Board (in order to recognize and accommodate changes that have and will continue to occur in how healthcare services are organized and financed; and the impact that these changes have on various stakeholders).

Dr. Remley briefed the Board on workgroups that have been established by VDH and the VHHA pertaining to healthcare associated infections.

Dr. Remley told the Board about VDH's ongoing efforts to prevent infant mortality, which is a top priority for both the Governor and Secretary Tavenner. Dr. Remley told the Board that she will provide a detailed briefing on this issue at the October Board meeting. There was a brief discussion concerning the role and activities of Medicaid managed care organizations in the prevention of infant mortality.

Dr. Remley also reported on the following topics:

- Compliance with certificate of public need (COPN) charity care conditions, including VDH's recent successful efforts to increase the rate of compliance on the part of COPN holders;
- VDH billing and collections, including VDH's recent hiring of Lisa Park to manage this process;
- Her recent attendance at a national conference concerning ethical considerations involved with pandemic influenza planning;
- Her recent participation at a seminar for new state health officers at Harvard University; and
- Status of VDH recruitment for a new Director of Communications.

## **Budget Update**

Mike McMahon briefed the Board on the chronology of VDH budget reductions that have occurred since October 2007.

There was a brief discussion of the funding reductions that have been made to the regional health systems agencies (HSAs). Mr. McMahon told the Board that there will be a significant impact as a result of the funding reduction, but that the impact will be uneven across the five HSAs. According to the Code of Virginia, the HSAs will remain involved in the COPN process. Mr. Hannett inquired if the Board could be given more information concerning the plans that each of the HSAs have for dealing with the funding reduction. Dr. Remley told the Board that she has already met with the Eastern Virginia HSA. VDH is working to ensure that the excess COPN fee revenue for FY08 is distributed to the HSAs as soon as possible. Mr. Hannett requested that the Commissioner's report for the October meeting contain an update on the HSAs.

Dr. Reed requested that the budget update for the October meeting include an explanation of how VDH is addressing the issue of travel expenses, particularly given the increase in the price of gasoline. Dr. Reed also requested that the October budget update address the issue of “program manager thresholds” in dealing with programmatic budget reductions.

### **Fee Update**

Joan Martin briefed the Board on VDH’s work to identify and assess all of the fees which it is authorized to impose. She explained VDH’s plan is to focus its efforts in a more detailed review of those fees which were last revised/updated more than 20 years ago. Several of the fees administered by the Office of Licensure and Certification are included in that category. VDH will work to develop a costing methodology for its fees. That effort will include a survey of other states to determine the types of costing methodologies that are used by them. Ms. Martin will report back to the Board at the October meeting concerning the results of this survey, and with information concerning costing methodologies. Ms. Martin explained that Virginia’s accounting system was not designed to support the costing of services. Rather, it was designed to report expenditures. That has been an obstacle to the costing out of services.

There was a brief discussion concerning how VDH fee revenue is distributed and the importance for VDH customers to know what services are supported by the fee revenue.

### **Virginia Center for Healthy Communities (VCHC)**

Jeff Lake briefed the Board on the current status of VCHC. The VCHC was established as a 501(c)(3) organization as a result of the “Turning Point” planning grant received by VDH and VHHA from the Robert Wood Johnson Foundation. The VCHC had two purposes. First, to create a repository of local level data that could be used to support targeted community health improvement. Second, to engage the local business community. VCHC’s signature product was the Virginia Atlas of Community Health.

Mr. Lake told the Board that the VCHC was never able to achieve significant momentum at the statewide level. Furthermore, there are now many organizations working on health improvement at the community level. In addition, the Council on Virginia’s Future is making health data widely available.

For these reasons, the VCHC Board has determined that its status as a separate legal entity is no longer needed in order to pursue business support and engagement for community health improvement. The Virginia Atlas for Community Health will migrate to Community Health Solutions, details for the transfer are still being finalized. The VCHC still has some remaining funds. A conference is being planned for this fall.

### **Public Comment**

Harrison Gibbs, of Mellette PC, representing Falls Church Lithotripsy, LLC, addressed the Board concerning the final amendments to the state medical facilities plan (SMFP). He told the Board that the provisions for mobile lithotripsy services are unclear, and the volume standard for

new mobile lithotripsy services is too low, when compared to the fixed volume standard. Mr. Gibbs also said that the term “mobile” is undefined. He urged the Board not to adopt these provisions.

Susan Ward, of the VHHA, also addressed the Board concerning the SMFP. On behalf of the VHHA, she expressed support for the final amendments to the SMFP. She also requested that the September 30 meeting of the SMFP Task Force be a working meeting, so that recommendations can be brought back to the Board at its October meeting. Ms. Ward told the Board that VHHA has identified some additional topics that it would like to see the SMFP Task Force discuss and consider.

### **12 VAC 5-230 – State Medical Facilities Plan (Final Amendments)**

Chris Durrer presented the final amendments to the Board. Mr. Edmondson said that VDH needs to ensure that a mobile lithotripsy facility is in fact “mobile.”

There was a brief discussion concerning the process for appointing members to the SMFP Task Force. Mr. Hilbert explained to the Board that the Commissioner would make the appointments on behalf of the Board, and that the Board will be advised as soon as possible concerning those appointments because the first Task Force meeting is scheduled for September 30, prior to the next Board meeting.

The Board unanimously approved the final amendments.

### **Community Water Fluoridation Policy Statement**

Dr. David Suttle presented the policy statement to the Board. Dr. Johnson asked how VDH encourages the fluoridation of private wells. Dr. Burns responded that VDH depends on private dentists and physicians to ask their patients if they have fluoridated water and, if not, to provide fluoride supplements.

The policy statement was approved unanimously.

### **12 VAC 5-421 – Food Regulations (Proposed Amendments)**

Bob Hicks presented the proposed amendments to the Board. Mr. Hicks explained that the VDH Food Regulations are based on the U.S. Food and Drug Administration’s Model Food Code, but the regulations are not identical to the Model Food Code. In response to a question from Dr. Reed, Mr. Hicks told the Board that VDH’s Food Regulations apply to food served in restaurants, whereas the Virginia Department of Agriculture and Consumer Services (VDACS) has regulatory jurisdiction over food in grocery stores and food processing establishments.

There was a brief discussion concerning which agency has jurisdiction over grocery stores that also prepare and serve food for consumption on the premises. Mr. Hicks told the Board that VDH and VDACS have been working cooperatively to ensure that such facilities are regulated appropriately, but not excessively, in order to ensure that public health is protected. Mr. Hicks

told the Board that the food industry is constantly changing, which creates challenges for regulatory agencies. Mr. Edmondson said that he has received complaints from constituents concerning “horrible” conditions in some grocery stores which also serve food for consumption on the premises. Mr. Hicks asked Mr. Edmondson to share any information that he has concerning such establishments with VDH so that VDH may take appropriate action to protect the public.

There was discussion concerning a provision of the proposed amendments which would add norovirus and its symptoms to the list of diseases that food establishment employees must report to the person in charge of the establishment. The discussion focused on the extent to which such a provision could be enforced in practice.

The proposed amendments were approved unanimously.

### **12 VAC 5-67 – Advanced Health Care Directive Registry (Emergency Regulations)**

Dr. Jim Burns presented the emergency regulations to the Board. Dr. Burns explained that legislation passed by the 2008 General Assembly and signed by the Governor mandated that the Board promulgate emergency regulations.

There was discussion concerning the extent to which the registry could create liability for Virginia. The Board was advised that since use of the registry would be voluntary, liability does not appear to be a significant concern. There was also discussion about the degree to which a physician would be obligated to access the registry and honor the provisions of an advance directive. Dr. Remley told the Board that the legislation and regulation concerning the registry does not change any of the underlying statutes or rules concerning the creation or use of advance directives.

The emergency regulations were approved unanimously.

### **Lunch Speaker – The Honorable Marilyn Tavenner, Secretary of Health and Human Resources**

Secretary Tavenner spoke to the Board concerning “The State of Health in the Commonwealth – 2008 Review and Future Goals”. Secretary Tavenner’s presentation included:

- Health and Human Resources performance measures monitored by the Council on Virginia’s Future;
- Health and Human Resources strategy and vision;
- 2008 results and current activities; and
- Future goals in the areas of access, workforce, long-term care, prevention, mental health, health benefits, and health insurance expansion.

Dr. Beales told the Secretary that child obesity prevention, focused on school nutrition and physical activity issues, should be a top priority. Mr. Edmondson commented concerning recent funding reductions to the regional health systems agencies. Mr. Hannett expressed support for focusing on drug expenditures as a means of achieving cost savings.

Also during lunch, the Board and Secretary Tavenner presented Dr. Lanier with a Certificate of Recognition signed by Governor Kaine, honoring him for his five years of service as Board Chairman.

### **Health Information Technology – Update**

Dr. Jim Burns provided the Board with a brief update concerning VDH and state-level developments concerning health information technology. This included information about the Productivity Investment Fund grants administered by the Secretary of Technology. Mr. Hannett said that health information technology has the potential to improve quality of care and produce significant cost savings. Mr. Hannett expressed the belief that, whoever the next president is, federal spending for health information technology will increase and some funding will likely flow to the states.

### **Member Reports**

Fred Hannett – Chairman (Corporate purchaser of health care) – He told the Board that he will continue to utilize Dr. Lanier’s model of transparency as chairman. Virginia has an excellent reputation with the U.S. Department of Health and Human Services as an innovator and thought leader. He is looking to maximize collaboration between the state and federal government. Mr. Hannett told the Board that he will redouble his efforts to engage the business community around Virginia’s objectives. In his view, each Board member should represent VDH to their respective constituent organizations, as well as represent those constituent organizations to the Board.

Dr. Charles Johnson (Virginia Dental Association) – He briefed the Board concerning humanitarian dental missions that he participated in to Guyana and Hawaii. Dr. Johnson also stated to the Board that community water fluoridation is a proven intervention to reduce the incidence of dental disease.

Dr. Julie Beales (Medical Society of Virginia) – She told the Board that rural Virginians are having difficult getting laboratory tests completed. She is also seeing a lot of post-traumatic stress disorder among members of the military returning to the United States.

Kandy Elliott (Nursing home industry) – She recently participated as a volunteer in the Virginia Dental Association’s Mission of Mercy clinic held at the Roanoke Civic Center.

Dr. Craig Reed (Virginia Veterinary Medical Association) – Veterinary medicine has always been a sentinel for human health. In Minnesota, epidemiologists have recently found tuberculosis among cattle. The trace-back investigation indicated that the tuberculosis originated in cattle handlers, who often come from Latin America. Dr. Reed explained that Minnesota has largely been free of any human TB cases for decades. He told the Board that the ease with which TB is now transferring between species is troubling.

Dr. Jack Lanier (Consumer) – He encouraged the Board to revisit the 2004 report of the Joint Committee of the Board of Health and Board of Education. Dr. Lanier is working with a student at VCU who is being published concerning the linkage between obesity and arthritis.

Dr. Bennie Marshall (Virginia Nurses Association) – The VNA is concerned about nursing workforce support, scope of practice issues involving the advanced practice nursing, and workplace safety. Dr. Marshall is working with a committee in VDH's Office of Minority Health and Public Health Policy concerning cultural competence training. She told the Board that Norfolk State University has received a grant from the U.S. Environmental Protection Agency which enabled the university to implement a program designed to introduce ninth graders to the field of environmental health. The students will meet two Saturdays a month over the next three years, and for two weeks each summer.

David Summers (Managed care health insurance plans) – Mr. Summers told the Board that the Department of Medical Assistance Services is still working on the FY09 Managed Care Organization contract, and therefore is still using the rates that were in effect in FY08. He also expressed his opinion that the managed care health insurance plan representative on the Board should have to also be a member of the Virginia Association of Health Plans (VAHP). Mr. Summers said that he is not a member of VAHP, which often makes it more difficult for him to obtain information that would be of interest to the Board.

Ed Spearbeck (Virginia Pharmacists Association) – Mr. Spearbeck briefed the Board on recent work done by the National Association of Boards of Pharmacy (NABP) concerning the certification of internet pharmacies. There are three categories: certified pharmacy, certification pending, and pharmacy under review. The NABP has discovered hundreds of internet pharmacies with no license.

Jim Edmondson (Consumer). The Board will have to decide how it wishes to stay engaged in the SMFP process. Mr. Edmondson attended a joint meeting of VDH and VHHA workgroups on healthcare associated infections on June 20<sup>th</sup>. Handwashing is an important issue in infection control.

**The Board adjourned and reconvened at the Virginia Emergency Operations Center.**

### **Virginia Emergency Operations Center**

The Board received a presentation from Steve Harrison, VDH Assistant Director for Emergency Operations, Planning and Logistics. Mr. Harrison's presentation provided an overview of VDH emergency preparedness and response partnerships. The Board also received a presentation from the Virginia State Police concerning the Virginia Fusion Center. The Board also received a briefing and tour, conducted by the Virginia Department of Emergency Management, of the State Emergency Operations Center.

The Board meeting adjourned at approximately 4:00 p.m.