

State Board of Health Nominating Committee
Minutes
June 4, 2015 – 8:30 a.m.
Perimeter Center, 9960 Mayland Drive
Richmond, Virginia 23233

Members present: Terry Brosche; Tommy East; Hank Kuhlman

VDH staff present: Joe Hilbert, Director of Governmental and Regulatory Affairs

The members discussed the slate of officers to recommend to the Board. The meeting adjourned at 8:35 a.m.

State Board of Health
Minutes
June 4, 2015 – 9:00 a.m.
Perimeter Center, 9960 Mayland Drive
Richmond, Virginia 23233

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

VDH staff present: Dr. Marissa Levine, State Health Commissioner; Richard Corrigan, Deputy Commissioner for Administration; Bob Hicks, Deputy Commissioner for Community Health Services; Dr. David Trump, Chief Deputy Commissioner; Joe Hilbert, Director of Governmental and Regulatory Affairs; Catherine West, Administrative Assistant; Cathy Peppers, Administrative Assistant; Mike McMahon, Operations Director for Administration; Maribeth Brewster, Risk Communications Manager; Erik Bodin, Director, Office of Licensure and Certification; Susan Puglisi, Policy Analyst, Office of Licensure and Certification; Steve Harrison, Director, Office of Radiological Health; Stan Orchel, X-Ray Program Supervisor, Office of Radiological Health; Dr. Lilian Peake, Director, Office of Family Health Services; Jennifer Macdonald, Newborn Screening Program Manager, Office of Family Health Services; Rebecca LePrell, Director of the Division of Environmental Epidemiology, Office of Epidemiology; Susan Douglas, Director of Technical Services, Office of Drinking Water; Nga Nguyen, Public Health Nurse Supervisor, Arlington Health District; and Steve Vecchione, Administrative Deputy, Office of Family Health Services

Others Present: Cindy Bailey, Robin Kurz, Amanda Lavin, and Sean Murphy, Office of the Attorney General; Emory Rodgers, Deputy Director, Virginia Department of Housing and Community Development

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 the public to the meeting. 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 March 19, 2015 Board meeting. No corrections were noted. The minutes were approved by unanimous consent.

Commissioner's Report

Dr. Levine provided the Commissioner's Report to the Board. She began with the introduction of the "agency stars" for the meeting: Nga Nguyen with the Arlington Health District and Steve Vecchione with the Office of Family Health Services.

Dr. Levine briefed the Board concerning the development of Virginia's Plan for Well-Being. The plan framework is based on a healthy, connected community; as well as on a strong start for children, preventive actions, and quality health care. Dimensions of well-being include physical, emotional and spiritual wellness, and aging well. VDH is working closely with, and seeking input from, a wide range of public and private stakeholders in developing the plan. Dr. Levine told the Board that the plan intends to focus on issues that impact Virginians the most. The plan seeks to identify the determinants that influence health, ensure proper alignment between clinical medicine and public health data, and coordinate care. Cancer is a primary concern because there are preventive actions that can be taken, as well as significant disparities in health outcomes mostly due to the lack of access to services. Dr. Levine stated that most health care costs are incurred at the end of life. A strong start for children is also critical, and can be impacted by investing limited resources wisely in programs and services that benefit children and their families. The Plan for Well Being is being developed as part of a larger Virginia Health Innovation Plan, which is also addressing efforts to move to a new, value based health care reimbursement model. This is all being completed under the auspices of the State Innovation Model (SIM) Design Grant, funded by the Centers for Medicare and Medicaid Services (CMS) and administered by the Virginia Center for Health Innovation. An essential part of the overall grant is the establishment of regional accountable care communities.

Mr. Edmondson discussed the importance of having aggregate data on programs and services that enable elderly Virginians to age in place. He encouraged VDH to serve as the driving force in developing this type of data. Ms. Prichard encouraged VDH to include intellectual capacity in the plan framework.

Next, Dr. Levine updated the Board concerning VDH's implementation of a vital records automation project mandated by the 2012 General Assembly, which required VDH to partner with Ancestry.com to create an extensive, on-line genealogy index of Virginia's vital records. Under Virginia law, birth records become public 100 years after the date of birth. Marriage, divorce, and death records become public 25 years after the event. The General Assembly authorized VDH to digitize those vital records that were considered public records. Ancestry.com offered to digitize the records for VDH at no cost. The security of the records has been protected and not compromised. Dr. Levine told the Board that this is a good example of a successful public/private partnership in Virginia.

Dr. Levine then provided a status report of the Governor's Task Force on Prescription Drug and Heroin Abuse. Dr. Levine is a member of the Task Force. VDH staff are serving on workgroups that are focused on data and monitoring, treatment, enforcement, storage and disposal, and education. Some of the task force's legislative recommendations were enacted by the 2015 General Assembly. The task force's final report to the Governor is due in September. A statewide summit is planned for the fall. Dr. Levine said that this is a difficult issue to address, and requires continuous effort.

Dr. Slusher shared information with the Board concerning the community methadone clinic in Harrisonburg, and stated that it provided a very important service but monitoring is needed. Dr. Levine said that such a service available locally can be an important part of a healthy, connected community.

The next part of the Commissioner's report concerned Ebola. Dr. Levine said that in Sierra Leone, the Ebola outbreak appears to be resolving. In Liberia, the outbreak is basically resolved. The international traveler monitoring effort in Virginia, administered by VDH, has been a huge effort particularly for local health districts in Northern Virginia. For the most part, people monitored in Virginia had malaria and not Ebola. VDH expects that the Centers for Disease Control and Prevention will modify its guidance for travelers from Liberia, such that those travelers will no longer need to be monitored. Dr. Levine cautioned that there are many remaining communicable disease threats, and VDH is prepared if needed.

There was a brief discussion among the Board members concerning Chikungunya disease, and measles. Dr. Levine told the Board that there had been a recent measles case in Washington D.C., but it was not related to the earlier measles outbreak at Disneyland. Dr. Levine said that the publicity concerning the measles outbreak at Disneyland had renewed public interest in the importance of childhood vaccinations. For example, the best protection for immune-compromised children—who cannot be fully vaccinated themselves—is for other children to be vaccinated. Dr. Levine told the Board that Virginia does not have the same type of broad, “philosophical” exemptions to childhood vaccination requirements that some other states have. The benefits of vaccination clearly outweigh the risks.

Dr. Levine provided an update on a recent VDH key personnel change: Cathy Peppers is the new Administrative Assistant for the Deputy Commissioner for Administration.

Budget Update

Mr. McMahon provided an update on the VDH budget. The Governor has signed the Appropriation Act as enacted by the 2015 General Assembly session. As discussed at the Board's March 2015 meeting, the state general fund component of the VDH budget has decreased, which has resulted in reduced flexibility to undertake VDH-initiated activities and projects. A list of reductions was provided to the Board after its March 2015 meeting and that list is in the Board's materials today for reference. There was a discussion that the reduction that will most affect VDH is the taking of the unspent, non-general fund balances that VDH had hoped to retain. The impact of this reduction will be more pronounced over the long term than in the near term.

Abortion Facility Licensure Status Report

Mr. Bodin provided the Board with the abortion facility licensure status report. One complaint involving a licensed facility was received since the March 2015 Board meeting. That complaint has not yet been investigated, as it was received only a few days before today's meeting. An update on this complaint will be included in the status report at the Board's September 2015 meeting.

Mr. Bodin told the Board that the deficiency grading system, based on scope and severity, which VDH developed in order to assign a relative score to deficiencies identified during facility inspections, was used in the most recent biennial surveys. This grading system was not used in the initial surveys. Twenty facilities were inspected during the initial survey; 18 were inspected in the biennial survey. The deficiency citations are classified by type and group. In order of frequency, organization and management was the largest cited group of citations during the initial survey. There was a substantial decrease within this group during the biennial survey, which represented improvement on the part of the facilities according to Mr. Bodin. All facilities that were cited showed improvement on re-visits, but Mr. Bodin said that there is still room for further improvement.

Mr. Bodin told the Board about the types of deficiencies that are typically identified during the inspections. The third most common deficiency is Tag 95, personnel (12VAC5-412-180). Tag 170, infection prevention (12VAC5-412-220 B) and Tag 340, health information records (12VAC5-412-300) tied for the second most common number of cited deficiencies. The top most cited deficiency is Tag 175, infection prevention (12VAC5-412-220 C).

There was a discussion concerning how the results of abortion facility inspections compare with other types of facilities that are inspected by VDH. Mr. Bodin told the Board the only other type of facility for which VDH uses a scope and severity deficiency grading system is nursing facilities. Mr. Bodin told the Board that the inspection results between abortion facilities and nursing facilities are fairly comparable—in terms of number of citations per facility per year—although some nursing facilities have had higher severity level associated with cited deficiencies. There was also a discussion about the types of facilities (e.g., physician's offices performing oral

surgery or colonoscopy) that VDH does not have the authority to license and inspect. There was further discussion that although the scope and severity matrix is not used for hospital inspections, the results of those inspections are comparable to what is found during inspections of abortion facilities.

Dr. Escobar stated that the citations for deficiencies with respect to medical records and infection prevention are “shocking to me.” He said that that statement was not meant to be a comment about abortion facilities, but rather about Virginia’s health system in general. Dr. Escobar told the Board that veterinary medicine practices in Virginia are subject to random inspections, but human health medical practices are not. He stated further that veterinary health facilities are more thoroughly inspected than human health facilities. There was further discussion concerning the abortion facility deficiency grading methodology, and the manner in which VDH staff had presented the deficiency scoring information to the Board.

Mr. Edwards asked if VDH could apply the scope and severity deficiency grading system to its inspection of outpatient surgical hospitals (OSH), so that the Board could have a benchmark to which to compare abortion facilities. Mr. Bodin responded that that might be beneficial, but it would also require a level of staff resources that OLC does not currently have. Ms. Hines asked, rather than applying the scope and severity index to OSH, if OLC could provide the Board with information concerning the average number of deficiencies cited per OSH licensure inspection. Mr. Beall suggested that perhaps OLC could review a sample of OSHs for this purpose. Mr. Bodin said that he would take a look at what OLC could possibly do in response to this request, in order to develop some information that would be useful to the Board. Mr. Edwards thanked Mr. Bodin for his willingness to consider the Board’s request.

Dr. Levine told the Board that OLC performs federal certification surveys for many different types of medical facilities on behalf of CMS. While Mr. Bodin can look at a possible means of providing the Board with requested comparative information, Dr. Levine reminded the Board that OLC does not perform federal certification surveys for abortion facilities, and that abortion facilities are not subject to CMS certification standards.

Mr. Beall stated that while overall deficiency citations have decreased, the citations for medical record deficiencies have increased. He asked if VDH had reviewed issues surrounding the medical records deficiencies in greater detail, or if VDH had any idea why medical records deficiencies had increased. Mr. Bodin responded that OLC does not yet know why medical records deficiencies have increased. He also said that, while one set of facility surveys does not constitute a trend, OLC will take a closer look at those deficiencies.

Mr. Beall asked for confirmation that, aside from the 13 facilities that have been granted temporary variances to the design and construction requirements of the regulations, the remaining licensed facilities are in compliance with those requirements. Mr. Bodin confirmed that that was correct. Mr. Bodin also told the Board that the only temporary variances that had been issued were for design and construction requirements.

Mr. Beall then referenced the recent Official Advisory Opinion of the Attorney General (AG) concerning regulation of abortion facilities. Mr. Beall suggested to the Board that, if the use of the structure in which an abortion facility is located has changed since the structure was originally built, perhaps the provisions of the Guidelines for Design and Construction of Health Care Facilities, issued by the Facility Guidelines Institute, do still apply despite the fact that there has not been any new construction. He asked if VDH knows, or if it can determine, the original occupancy use of the structures in which each licensed abortion facility is currently located. Mr. Rodgers was asked to respond to Mr. Beall's question. Mr. Rodgers told the Board that it would be necessary to obtain the original certificate of occupancy issued for each structure, which is possible. The occupancy use permit should be on file in the office of the building official of the locality in which the facility is located. Mr. Beall then asked if it would be worthwhile to obtain that information. Mr. Edmondson said that he did not see the value of such an undertaking, since the abortion facilities were not licensed prior to 2012. Mr. Beall responded that he did think such information would be relevant, because if the occupancy use of the structure had changed, it would be considered new construction. Mr. Beall then said that perhaps the Office of the Attorney General (OAG) could advise the Board concerning this question. Mr. Edwards said that the OAG would continue to advise the Board on all aspects of the abortion facility regulations. Dr. Levine told the Board that VDH's only obligation is to ensure that the abortion facility has a certificate of occupancy for the current use of the structure.

Mr. Beall then asked if VDH had ever received information from the Department of Health Professions (DHP) concerning the results of its investigation—stemming from the results of a prior abortion facility inspection—concerning a physician who lacked a proper license from the U.S. Drug Enforcement Agency (DEA). He also asked whether DHP could legally share such information with VDH. Mr. Bodin said that while DHP initially lacked the authority to share the information with VDH, the applicable law was amended during the 2015 General Assembly Session such that, effective July 1, DHP will have the authority to share the information with OLC. Dr. Levine said that the physician referenced by Mr. Beall does have a DEA license, but VDH does not know of any disciplinary action taken to date by DHP.

Mr. Edmondson asked when the two regulatory advisory panels, appointed by Dr. Levine to advise VDH on development of proposed amendments to the abortion facility regulations, would be meeting. Dr. Levine said that VDH had originally intended to present the proposed amendments to the Board at today's meeting, so both regulatory advisory panels have already met. Dr. Levine told the Board that, since the recent AG opinion affects not only the abortion facility regulations but also the hospital and nursing facility regulations, VDH will be presenting proposed amendments to all three regulations at the September Board meeting. Mr. Edmondson asked how far in advance of the meeting VDH would send the proposed amendments to the Board members. Dr. Levine said that work on the proposed amendments is well under way, and VDH hopes to provide the proposed amendments to the Board members prior to two weeks before the meeting. Mr. Edmondson requested that the minutes of the regulatory advisory panel meetings be sent to the Board. Mr. Bodin said that the meeting minutes would be sent to the Board members.

There was further discussion concerning the certificate of occupancy. Ms. Brosche asked that, if the occupancy use of a building changed with the opening of an abortion facility, is there some

type of reassessment conducted of the building. Mr. Rodgers responded that, if there was a change in occupancy use, the local building official and the applicable state regulatory agency would inspect the building. He further explained to the Board how the Uniform Statewide Building Code, Facility Guidelines, and life safety code relate to each other, and how they are collaboratively administered and enforced by local building officials and state regulatory agencies. Dr. Escobar asked if the occupancy use of a building changed when an abortion facility opened in an existing structure, what is required to be done, by whom, and when. Mr. Edwards said that, since this particular subject matter is quite complicated, the Board should give VDH the opportunity to work with the OAG in order to prepare the requested information for the Board. Dr. Levine said that VDH would provide the Board with the results of this analysis as soon as possible. Ms. Getter said that her concerns stem from the AG's opinion, which appears to be saying that there are no building design and construction standards. Dr. Slusher stated that, unlike many other types of medical facilities, abortion facilities do not need to submit their records to an external third-party payer (i.e., CMS). Dr. Slusher also said that many other types of medical facilities are subject to unannounced inspections by the U.S. Occupational Safety and Health Administration.

Mr. East requested clarification concerning what type of deficiency citation requires a revisit. Mr. Bodin said that any citation scored at an F level or higher on the scope and severity index requires a revisit. Ms. Whipple stated her understanding, based on Mr. Bodin's presentation, that overall facility citations have been reduced, and during the most recent round of inspections there were no citations issued above an F. Mr. Bodin said that was correct. Mr. Kuhlman asked if VDH had identified the main drivers responsible for the reduction in citations. Mr. Bodin said that VDH is observing strong efforts to improve on the part of the facilities.

Dr. Seeds reminded the Board that VDH was mandated by the General Assembly to promulgate regulations for the licensure of abortion facilities. He also said, from his point of view, regulation of other types of outpatient medical practices is highly desirable. Dr. Seeds also said that the information contained in Mr. Bodin's presentation—pertaining to a reduction in the number of citations—provides evidence of the benefit of regulation.

Ms. Getter told the Board that the citation tag numbers in the facility inspection reports are linked to the applicable section of the emergency regulations, but not to the permanent regulations. As a result, Ms. Getter said that it was difficult to observe trends in the reports. She stated further that future inspection citations need to reference the correct regulatory requirement from the permanent regulations. Mr. Bodin said that he would take a look at the regulatory section references and inspection report findings described by Ms. Getter.

Ms. Getter asked that, if a facility has been granted a temporary variance related to the design and construction requirements, how does that affect their ability to be cited for deficiencies related to other regulatory requirements not covered by the variance. Mr. Bodin said that any regulatory requirement not covered by the temporary variance can serve as the source of a potential deficiency citation. Dr. Levine said that VDH does not turn a blind eye towards violations, regardless of whether a temporary variance has been granted.

There was a discussion that the minutes for the March 2015 meeting indicated that “A revisit will be scheduled for any score at or higher than 1C. . .” but that the information in the Board’s materials today indicates that a revisit is scheduled for anything equal to or above an “F”. The discussion concluded that this was an error in how the information was presented at the March 2015 meeting. The March 2015 minutes will remain as approved earlier today and the minutes for this meeting will reflect that the proper level to initiate a revisit is “F” on the scope and severity matrix.

Matrix of Pending Regulatory Actions

Mr. Hilbert reviewed the summary of all pending VDH regulatory actions. Since the March 2015 meeting, the Commissioner has not approved any regulatory actions on behalf of the Board while the Board was not in session.

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

- Home Care Organization Regulations (12VAC5-381);
- Rules and Regulations Governing Campgrounds (12VAC5-450); and
- Rules and Regulations Governing the Construction and Maintenance of Migrant Labor Camps (12VAC5-501).

Public Comment

After a brief break, 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:

- Kris Kennedy – She spoke in support of amending the current abortion facility regulations and urged the Board to heed the advice of the medical advisory panel when considering changes.
- Meredith Harbach – She told the Board to avoid constitutional pitfalls in amending the regulations for abortion facilities, that construction guidelines impact cost and access to care, and to follow the opinion of the Attorney General.
- Victoria Cobb – She told the Board that there is no federal or state reporting requirement for abortion procedure complications. She spoke in favor of retaining the abortion facility regulations as is to maintain facility standards.
- Maggie Disney – She spoke in support of retaining the abortion facility regulations as is so as to not weaken them.
- Janice Craft-Henry – She spoke in support of amending the abortion facility regulations and that the regulations should be grounded in medical evidence.

Mr. Edwards thanked the public for their comments and declared the public comment period to be ended.

Regulatory Action Items

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

Dr. Peake presented the proposed amendments which add screening for critical congenital heart disease (CCHD) to the newborn screening regulations. Emergency regulations went into effect on December 24, 2014 to add CCHD to the newborn screening panel as a result of legislation passed by the 2014 General Assembly session and signed by the Governor. The proposed amendments are similar to the emergency regulations currently in effect, with revisions primarily serving to enhance clarity or simplify text. Definitions that were in a separate section in the emergency regulations have been incorporated into the existing definitions section for 12VAC5-71 and deleted as a separate section. The term “on federal property” has been removed because VDH does not have authority over facilities located on federal property. Two elements to be recorded in the electronic birth record have been added. Ms. Getter moved that the proposed amendments be approved with Dr. Miller seconding the motion.

Ms. Brosche made a motion to delete the words “as specified in implementing Recommended Screening for Critical Congenital Heart Disease; Pediatrics; 2013; 132; 1.” in 12VAC5-71-210, as shown in the last paragraph on page nine of the proposed amendments. Ms. Brosche recommended removal of this specific reference so that the reference will not become outdated. Dr. Miller seconded the motion. Mr. Edwards called for a vote on this motion to amend the proposed amendments as presented by VDH. The motion was approved unanimously by a voice vote. Ms. Brosche then made a motion to delete the words “as soon as the result is obtained” in 12VAC5-71-230 B 1 as shown in the second paragraph on page 11 of the proposed amendments. Ms. Brosche explained to the Board that there is a protocol in place that ensures that the physician or his designee are informed of the results in a timely manner. Mr. Beall seconded the motion. Mr. Edwards called for a vote on this motion to amend the proposed amendments as presented by VDH. The motion was approved unanimously by a voice vote.

There was discussion concerning provisions in the regulations concerning permissible disclosures of screening records by VDH, and whether the permissible disclosures should be expanded further. There was also discussion concerning the costs of newborn screening, who bears those costs, and how those costs are reimbursed. Ms. Macdonald told the Board that the cost for the panel of newborn screening tests is \$78, which is charged to the hospital by the Virginia Division of Consolidated Laboratory Services. She did not know details concerning any reimbursement by insurers. VDH absorbs the cost of referral and follow-up on screening results.

Dr. Slusher made a motion to delete the words “and published in Pediatrics 2012.130:587” in 12VAC5-71-10 as shown in the second paragraph on page six. Dr. Escobar seconded the motion. Dr. Slusher indicated that this was in keeping with the motion made earlier by Ms. Brosche so that the reference would not become obsolete. There was a discussion that having a specific place to look for a reference is helpful but as editions are constantly updated, a specific reference could take an individual to a less current recommendation. Dr. Levine indicated that

VDH has current recommendations on its website. Mr. Edwards called for a vote on this motion to amend the proposed amendments as presented by VDH. The motion was approved unanimously by a voice vote.

There was a brief discussion as to the rationale of why the regulations are codifying what hospitals are already doing and if the regulations cover home births. Dr. Peake and Ms. Macdonald indicated that having CCHD included in the regulations ensures that VDH receives data back, and that the Code of Virginia does not include home births in the group for screening. Dr. Seeds also asked what the rate of false positives are and the cost to follow-up. Ms. Macdonald indicated that VDH does not have specific cost information on the number of false positives. VDH is doing quality assurance on the data it receives. Ms. Brosche requested a yearly update on the number of refusals for newborn screening and Dr. Peake indicated that an update could be provided to the Board at its September 2015 meeting. There being no further discussion, Mr. Edwards then called for a vote on the main motion to approve the proposed amendments as amended during the foregoing discussions. The proposed amendments were approved unanimously by a voice vote.

Virginia Radiation Protection Regulations (12VAC5-490) – Notice of Intended Regulatory Action (NOIRA)

Mr. Harrison presented the NOIRA, which proposes to amend the regulations to include fees for the registration and inspection of non-medical x-ray equipment as well as a schedule for inspection frequency for this type of equipment. This type of equipment is not currently included in the regulations. The NOIRA also includes amendments to the current fee schedule for diagnostic x-ray machines that are inspected every three years. Dr. Escobar moved that the NOIRA be approved with Mr. East seconding the motion.

There was a discussion concerning whether there was any other current regulation of these x-ray machines. Mr. Harrison said no, they are registered but not regulated. Mr. Harrison also told the Board that there have been a number of incidents involving this type of equipment that had not been maintained properly. In response to additional questions from Board members, Mr. Harrison clarified that the requested fee would apply to each individual machine, and that there are some organizations (i.e., federal agencies) which operate such equipment that would be exempt from the fee. In response to a question from Mr. Edmondson, Mr. Orchel told the Board that VDH does not have any examples of incidents involving this type of equipment–related to improper maintenance–occurring on federal property.

There being no further discussion, Mr. Edwards then called for a vote on the motion to approve the NOIRA as presented by VDH. The NOIRA was approved unanimously by a voice vote.

Report of the Nominating Committee

Ms. Brosche provided the report of the Nominating Committee. The Committee was comprised of Ms. Brosche, Mr. East, and Mr. Kuhlman. The Nominating Committee recommended the

following slate of Board officers, to begin their terms at the end of the meeting today and ending at the conclusion of the Board's June 2016 meeting:

Chair – Bruce Edwards

Vice-Chair – Megan Getter

Executive Committee Member – Terry Brosche

Executive Committee Member – Amy Vest

Mr. Edwards opened the floor for other nominations. Hearing no other nominations, the Board received the Nominating Committee report as a motion to approve the slate of officers. There was a discussion of the powers of the members of the executive committee and its ability to act in place of or supplementing to the Board. Mr. Edwards provided the duties of the executive committee from the Board of Health's Bylaws. A comment was made by Mr. Edmondson that the executive committee is comprised entirely of members appointed by the previous Governor. Mr. Edwards remarked that nothing has been delegated to the executive committee that he was aware of in answer to a question from the Board. There being no further discussion, Mr. Edwards called for a vote on the motion to approve the slate of officers. The slate of officers was approved unanimously by a voice vote.

Lunch Presentation

Ms. LePrell and Ms. Douglas provided the lunch presentation, titled "Harmful Algal Blooms and Public Health Risks in Virginia." Ms. LePrell commented that not all algae is bad, but they can produce toxins that are harmful and people can become sick as a result. This poses a risk to public health. Individuals can be exposed to these toxins through shellfish or fish consumption, as well as through recreational water exposure and drinking water. Pet mortality can also occur. VDH issues public health advisories when it learns of harmful algal blooms (HABs). VDH has developed guidance documents and public notification guidelines when HABs occur. Drinking water guidelines have been issued by the U.S. Environmental Protection Agency (EPA) for drinking water for certain HABs. Ms. LePrell also described to the Board VDH's work to monitor the Chesapeake Bay for HABs, and its work with Old Dominion University to monitor fresh water lakes for HABs.

Ms. Douglas talked about potential impact of HABs on water intake for public drinking water supplies. The waterworks themselves perform the monitoring, which consists primarily of sampling raw water. The VDH Office of Drinking Water (ODW) has surveyed all Virginia public drinking water systems concerning issues related to HABs. Some of the systems reported algal blooms but could not tell whether they were harmful. HABs typically result in taste and odor problems for drinking water supplies. ODW asked the systems if they are capable of removing HABs, and the waterworks confirmed that they do have those processes in place to treat HABs. ODW plans to follow up with individual water systems, identify those that are most vulnerable, provide technical assistance to waterworks regarding new EPA guidelines, and develop an online database for HAB events.

There was discussion concerning the presence of HABs in the Potomac River, and the potential for collaboration with Maryland to address the underlying issues. There was further discussion

concerning the impact of HABs on the safety of drinking water, as well as discussion concerning the relationship between organic run-off and HABs. Ms. Vest requested a list of the fresh water lakes that VDH is currently monitoring. Ms. LePrell said that she would provide that list. There was additional discussion concerning potential signs of HABs in backyard streams. Ms. LePrell told the Board that water discoloration or dead fish could be signs of HABs. VDH would advise avoiding contact with such water until a sample of the water can be tested.

Regulatory Action Items

Regulations for the Licensure of Hospitals in Virginia (12VAC5-410) – Fast Track Amendments

Mr. Bodin presented the fast track amendments which will amend the regulations to reflect changes in federal regulations. CMS issued a final rule on May 12, 2014 that enables a qualified dietitian or a qualified nutrition professional to become privileged to independently order both standard and therapeutic diets within the hospital and critical care hospital settings. The current regulations in Virginia are more restrictive than the federal regulations so the fast track amendments will remove restrictions that are more stringent than federal law. Based on further review of the NOIRA by OLC staff, the proposed language needs to be further revised to delete the word “qualified” in 12VAC5-410-260 F and 12VAC5-410-260 F 1. The reason to remove the word “qualified” is that the Virginia Department of Health Professions determines what qualifies as a dietitian in Virginia. Ms. Prichard moved that the fast track amendments be approved as amended with Dr. Seeds seconding the motion.

There was discussion as to whether the proposed amendments could result in some hospitals adding dietitians if they do not already have one. Mr. Bodin told the Board that hospitals are already required to have a dietitian on staff. There was further discussion concerning the fact that dietitians are not currently licensed in Virginia, rather they are registered and subject to registration requirements established by DHP. Ms. Getter asked if the proposed amendments would in any way remove collaborative interaction between the medical professional and the dietitian. Mr. Bodin said that the proposed amendments would not have that effect.

There being no further discussion, Mr. Edwards then called for a vote on the motion to approve the amended fast track amendments as presented by VDH. The fast track amendments were approved unanimously by a voice vote.

Member Reports

Hank Kuhlman – Consumer Representative. No report

Mary Margaret Whipple – Hospital Industry. She told the Board about the Virginia Hospital Week celebration which was held in May. Hospitals displayed posters and held events to tell the public more about hospitals and the great work they do.

Tommy East – Nursing Home Industry Representative. No report.

Dr. Benita Miller – Virginia Dental Association (VDA). No report.

Faye Prichard – Local Government. At the March 2015 Board of Health meeting, she advised the Board about the problem of the working poor living in hotels and motels. She thanked Bob Hicks, Deputy Commissioner for Community Health Services and his staff for the assistance that they have provided with addressing this issue. She also indicated that she believed that there will ultimately be legislation that is introduced to bring about a solution to the problem.

Dr. John Seeds – Medical Society of Virginia (MSV). He told the Board that MSV provided an update and that he would defer to Dr. Slusher to provide that update.

Amy Vest – Virginia Pharmacists Association. She expressed her appreciation and gratitude for the work that had been done by the two departing Board members; Dr. Cathy Slusher and Dr. Steve Escobar.

Dr. Catherine Slusher – Medical Society of Virginia (MSV). She informed the Board that MSV would be meeting with Erik Bodin to discuss proposed changes to the managed care health insurance plan regulations. These changes involve making the physician credentialing process more efficient, transparent, and faster. She also told the Board that MSV has representatives on several of the Governor’s task forces, including those on substance abuse, graduate medical education, and certificate of public need.

Dr. Steven Escobar – Virginia Veterinary Medical Association (VVMA). He expressed his enjoyment of working with the Board.

Brad Beall – Consumer Representative. No report.

Megan Getter – Public Environmental Health Representative. No report.

Jim Edmondson – Corporate Purchaser of Health Care. He expressed his appreciation for the expressions of concern that the Board extended to him. He also shared with the Board his observation after working with health providers recently, that their awareness of hygiene and cleanliness issues within their practices has increased. Mr. Edmondson also stated that he continued to be disturbed by the General Assembly’s refusal to deal with Medicaid issues.

Linda Hines – Managed Care Health Insurance Plans. She told the Board that in April 2015 Virginia partnered with CMS to enroll Virginians who are dual eligible in a pilot demonstration program in order to provide care coordination to those individuals. She indicated that starting in 2016, the program will expand to those that are non-dual eligible long term care recipients to be enrolled in managed care. Looking forward, in July 2017 the program will expand to include children.

Theresa Brosche – Virginia Nurses Association (VNA). She told the Board that the VNA is working collaboratively with VDH’s Office of Minority Health and Health Equity (OMHHE) to carry out the 100 Congregations for Million Hearts initiative, a faith-based hypertension prevention campaign. The initiative’s goal is to engage at least 100 congregations. She also told the Board that she had viewed a documentary video about food deserts shared by OMHHE with Medical Reserve Corps volunteers and WIC employees in the Spotsylvania area. She told the

Board that the video was excellent and led to a great discussion. She also shared information with the Board about several American Nurses Association initiatives aimed at creating a healthier work environment for nurses.

Bruce Edwards – Emergency Medical Services (EMS) Representative. He informed the Board that the State EMS Advisory Board will be creating a new committee to deal with concerns for the elderly population. He also told the Board about the Interstate Compact for EMS Personnel Licensure which will help address the problems associated with EMS personnel crossing state boundaries.

Other Business

Ms. Brosche told the Board about the Virginia Task Force (VA-TF1) International Urban Search and Rescue (USAR), one of two Federal Emergency Management Agency urban search and rescue teams within the USAR organization that are certified to go overseas within the US Agency for International Development. In Virginia, the VA-TF1 has 200 specially trained career and volunteer fire and rescue personnel from the Fairfax County Fire and Rescue Department that assist in this effort. Some VA-TF1 members were deployed following the earthquake in Nepal. They stayed for several weeks and assisted in many ways including extrication, life-saving procedures, and transfer of the 15-year old boy many of you may have heard about in the news. Ms. Brosche indicated that she teaches with one of the VA-TF1 members and was kept up-to-date about the team's activities. Ms. Brosche wanted to share with the Board and publicly thank the VA-TF1 members for their inspiring efforts to help those affected by the Nepal disaster.

Mr. Hilbert told the Board that at its last meeting the legislative update mentioned HB2316. This bill will facilitate a merger between two health systems in Southwest Virginia. The bill requires the Board to promulgate regulations within 280 days. VDH expects emergency regulations will be on the September 2015 Board of Health meeting agenda. The bill takes an established entity, the Southwest Virginia Health Authority (SWVHA), and uses it as a focal point in a process under which two or more hospitals can submit a cooperative agreement to the SWVHA, which will then come to the Commissioner for review and approval. VDH is in the process of appointing a regulatory advisory panel to provide input. VDH anticipates that a recommendation from the SWVHA concerning a proposed cooperative agreement will be submitted to VDH before regulations are enacted. VDH wants to bring this to the Board's attention because it expects that this action will receive a high amount of scrutiny.

Mr. Edwards then told the Board that he supports free speech. He indicated that a difference in opinion does not mean a difference in principle. He said that sometimes, someone can speak that can go off on tangent, and there may come a time when someone goes off center. Roberts Rules of Order gives the chair the flexibility to call down a speaker because they are out of order. Mr. Edwards wants the Board to understand and support him on that.

Mr. Edwards then recognized Dr. Escobar and Dr. Slusher and told the Board that this was their last meeting. Mr. Edwards read Certificates of Recognition for both Dr. Escobar and Dr. Slusher, expressing gratitude for their service on the Board. Mr. Edwards then presented the certificates to them.

Adjourn

The meeting adjourned at approximately 1:46 p.m.