

Minutes
State Board of Health Meeting
July 21, 2005 9:00 A.M.
The Omni Hotel at the James Center- Potomac Room G

Members Present: Dr. Jack Lanier, Chairman, Dr. Julie Beales, Scott Burnette, Dr. Jean Donovan, Dr. Barry Griffin, Jim Edmondson, Dr. Dick Grinnan, Dr. Craig Reed, Ed Spearbeck, Dr. Bhushan Pandya, Fred Hannett, and Dr. Bennie Marshall

Members Absent: Kandy Elliott

Staff Present: Dr. Robert Stroube, Dr. Jim Burns, Dr. Lisa Kaplowitz, Jeff Lake, Joe Hilbert, Robin Kurz, Matt Cobb, Treina Anderson

I. Call to Order

The meeting convened at 9:00 A.M. The April meeting minutes were approved as written. Craig Reed suggested that the minutes be sent to all of VDH's external constituent groups.

Dr. Lanier acknowledged a communication from Governor Mark Warner regarding the re-appointment of three board members: Jim Edmondson, Kandy Elliott, and Dr. Lanier and the new appointment of Dr. Bennie Marshall, succeeding Cora Gray.

II. Special Assignments

Dr. Lanier provided instructions to the board on how to complete the Special Assignments form.

III. Major Issues/Concerns to Bring to Board's Attention

A. Bennie Marshall, Ed.D., RN represents the Virginia Nurses' Association. The two major concerns/issues needing to be addressed are: 1) Workplace Advocacy Program and 2) elimination of health disparities. There are more than 60,000 registered nurses in Virginia.

B. Barry Griffin, DDS represents the Virginia Dental Association and the Old Dominion Dental Society. Issues of concern to those organizations are: 1) providing dental care to the underserved and 2) promotion of good oral health. There are 4,700 dentists licensed in Virginia. A priority of the two constituent organizations has been to obtain a single vendor to administer the Medicaid dental program. Medicaid's "Smiles for Children" Initiative is seen as a highly promising development

C. Jim Edmondson represents consumers. Major concerns and issues to address are 1) the upcoming changes to the State Medical Facility Plan process and regulations 2) issues surrounding proposed hospital in Loudoun County 3) prevalence of hepatitis C throughout the Commonwealth and 4) expanding health insurance coverage.

D. Dr. Lanier also represents consumers. Issues to address are 1) identify ways to proactively engage and energize the business community throughout the Commonwealth to make health and wellness a higher priority; 2) determine effective ways to collaborate with the Commonwealth's academic institutions to channel community-based research programs toward improving the health and well-being of Virginia residents; the application of quantifiable, results-oriented best practices should be a top

priority; and 3) determine ways to further educate and engage the statewide business community regarding the burden of chronic disease and the economic impact on the Commonwealth's workforce.

E. Ed Spearbeck represents the Virginia Pharmacists Association. The major issues/concerns to address are 1) prevention and treatment of chronic diseases, i.e. diabetes and asthma; 2) smoking cessation; 3) immunizations; and 4) medication therapy management. With appropriate management of prescription medications, pharmacists can help to improve the overall health of the citizens of the Commonwealth and save the state considerable healthcare dollars.

F. Bhushan Pandya, M.D. represents the Medical Society of Virginia (MSV). Issues to bring to the board are 1) funding for medical scholarships; 2) circulating registered nurses for physicians offices when surgery is performed; and 3) attempts to educate MSV about the activities of the board and vice versa. (Dr. Julie Beales, who also represents the MSV deferred to Dr. Pandya for identification of major issues.)

G. Jean Donovan, Ph.D. represents local government. Major issues to address are 1) local autonomy; 2) avoiding unfunded mandates; and 3) establishment of formal mechanisms for communicating with the Virginia Municipal League (VML) and the Virginia Association of Counties. Regarding biosolids, the VML supports and encourages beneficial recycle/reuse of biosolids on farms as a crop nutrient in accord with federal and state handling and disposal regulations. VML also supports local authority to monitor and reasonably regulate the land application of biosolids.

H. Dick Grinnan, M.D. represents the managed care industry. Major issues to address include effectiveness and quality of healthcare; and the need for the healthcare delivery and financing systems to work better together to assure effectiveness and safety objectives.

I. Scott Burnette represents the hospital industry. Major issues to address include impact of health facilities, regulations on hospitals, and the growing number of uninsured individuals.

J. Craig Reed, D.V.M. represents the Virginia Veterinary Medical Association. Major issues to address include human/wildlife interactions, emergency preparedness, and food safety. Dr. Reed also mentioned the recent appointment of a new Commissioner for the U.S. Food and Drug Administration.

IV. Commissioner's Report

A. Dr. Robert Stroube briefed the board on the recent history of state funding for medical scholarships and loan repayment programs. The 2006-2008 Biennial Budget diverted \$560,000 (non-general funds) from the State Board of Medicine and appropriated the funds to VDH to help support medical scholarship and loan repayment programs. Those funds supplanted \$560,000 in general funds, taken away from VDH, which had previously supported those programs. The MSV would like to see the \$560,000 in funding returned to the Board of Medicine.

Dr. Stroube also reported that the Petition for Rulemaking previously received by the board; concerning the use of registered nurses, qualified by education and experience in perioperative nursing; to be present as circulating nurses in operating rooms; was being opposed by the MSV. This petition is still under Executive Branch review.

B. New VDH staff was introduced: Jeff Caldwell, Public Relations Manager, Dr. Jodie Wakeham, Director of Public Health Nursing, and Amanda Wattenmaker, Intern. Personnel changes of staff no

longer with VDH include Steve Sullivan, Budget Director, Jeff Wilson, Director of the Center for Virginia Healthy Communities and Bob Zukowski, Director of Accounting. There are new health directors in the Arlington and Three Rivers health district: Reuben Varghese and Thomas Irungu.

C. Lastly Dr. Stroube announced that Mayor Doug Wilder wrote a letter requesting the City of Richmond health district, which is currently locally administered, be returned to the state system starting October 1, 2005.

V. Strategic Planning

Joe Hilbert provided the board with a copy of the VDH strategic plan, which was submitted to the Department of Planning and Budget on July 15th. Mr. Hilbert also provided the board with a summary of the forty-two VDH service area plans. The presentation included identification of the VDH mission and vision statements and the ten agency goals.

VI. Chronic Disease Initiative

Joe Hilbert updated the board on the status of the initiative. Sixteen health districts have provided input regarding the initiative. Within VDH, various offices and divisions are meeting to improve collaboration on issues involving chronic disease. Mr. Hilbert presented the board members with a summary of the responses received regarding the chronic disease position paper. Responses were received from the March of Dimes, American Lung Association of Virginia, American Cancer Society, American Heart Association, Virginia Association of Free Clinics, Woodrow Wilson Rehabilitation Center, Virginia Association of Home Care, Virginia Rural Health Association, Virginia Dental Association, and the Department of Human Genetics at the VCU School of Medicine.

VII. Presentations

A. Patrick Finnerty, Director of the Department of Medical Assistance Services (DMAS) presented the board with an overview regarding recent developments in disease management and the Medicaid dental program. Mr. Finnerty reported that disease management is currently offered through all of the Medicaid's managed care organizations. DMAS recently contracted with Anthem to implement a pilot disease state management program for its fee for service Medicaid recipients. Under the "Smiles for Children" Program, all children (Medicaid and FAMIS) will be enrolled in a single program administered by Doral Dental USA. Mr. Finnerty also responded to questions concerning the adequacy of Medicaid reimbursement rates for various types of health care providers.

Mr. Finnerty reported that the Oral Access grant was awarded. Lastly, there was a question regarding whether any of the programs included bring dental providers to children at schools. Mr. Finnerty answered that this would be done through the local health departments only.

B. Mark Cruise, Executive Director of the Virginia Association of Free Clinics and Tom Connally, M.D., Medical Director of Arlington Fan Free Clinic presented to the board regarding the free clinics' approach to chronic disease prevention treatment and control. Mr. Edmondson asked what means the clinics use to recruit physicians. Mr. Cruise responded that clinics use a peer-driven recruitment model for general practitioners and specialists. A question was asked regarding eligibility checks. Every clinic has an eligibility screening to process. Patients that have insurance are not eligible for the services of the free clinics.

C. Sallie Cook, M.D., Chief Medical Officer of the Virginia Health Quality Center (VHQC) presented to the board an overview of the Virginia Health Quality Center (VHQC). Dr. Cook described Medicare's 8th Scope of Work to the board. This represents an ambitious, challenging new plan to transform and dramatically improve the quality of health care for all patients. One particular focus of the 8th Scope of Work will be to reduce staff turnover in nursing homes and increase resident and staff satisfaction. Dr. Pandya asked how close Virginia is to having an electronic medical record (EMR). Dr. Cook responded that VHQC is working with national organizations to identify the top 20 EMR vendors, as measured against national standards for what must be included in an EMR.

D. Michael Lundberg, Executive Director of the Virginia Health Information (VHI) presented information regarding VHI's annual report. Mr. Edmondson asked what steps VHI is taking to disseminate information by means other than the internet. Mr. Lundberg responded that numerous other methods are used, including print publications

E. Scott Burnette stated that he would like for the board to support the consolidation of various health care quality data initiatives. He indicated the large number of such initiatives is posing a hardship for the healthcare industry.

F. The board made site visits to the Office of the Chief Medical Examiner (OCME) and the Division of Consolidated Laboratory Services. At the OCME, Dr. Marcella Fierro responded to questions from board members concerning workload and funding issues. Dr. Fierro stated that there is an expectation on the part of the public that OCME will complete all death investigations within 24 hours.

VIII. Regulatory Actions

A. Scott Winston and Michael Berg from the VDH Office of Emergency Medical Services (OEMS) presented a set of proposed regulations to the board concerning Financial Assistance for Emergency Medical Services (12 VAC5-31). The board approved the proposed regulations. Mr. Winston responded to questions concerning funding for non-profit EMS agencies, the structure of Virginia's "Four for Life" program, recruitment of EMS workers and coordination among EMS agencies at the local level.

Mr. Hannett asked how first responder funding is allocated by the federal government. Dr. Kaplowitz responded that the Virginia Department of Emergency Management (VDEM) receives this funding and law enforcement and five programs have been the main recipients to date. It is not clear what types of efforts EMS agencies have made in an attempt to receive a portion of this funding. Dr. Kaplowitz said that it is not out of the question that EMS agencies could receive some of these funds.

Mr. Winston and Mr. Berg then presented a set of proposed regulations concerning Regional EMS Councils (12 VAC5-31). The board approved the proposed regulations. OEMS staff responded to questions from the board concerning the reasons underlying the need for the proposed regulations and the effectiveness of the 11 regional EMS councils. Mr. Winston responded that there is a statutory requirement for these regulations and that various issues have highlighted the need for the regulations.

There was a discussion concerning the continued need for all eleven regional EMS councils and concerning the relative merits of a regional versus state level EMS planning structure.

Jim Edmondson questioned if OEMS knew of any private organizations, which were misusing grant funds received from the state. Mr. Winston stated that some private agencies have misused funds in the

past, but systems are now in place to make sure that the funds are used correctly. OEMS field representatives perform inspections every two years and follow up on the use of grant funds.

The board considered and approved the repeal of 12-VAC5-60, containing the state EMS plan. The plan has existed since the 1980s. OEMS staff explained that, rather than exist as a regulation, the plan should be in the form of a guidance document. This would help, for example, to keep the plan current with technological advances. The board will continue to have access to the plan, and it will be accessible on the OEMS web page. Dr. Grinnan inquired concerning the composition of the EMS advisory board. The EMS advisory board is comprised of twenty-eight members, appointed by the Governor. Dr. Stroube reported that the 2004 JLARC report of the EMS system will be distributed to the board members.

OEMS staff presented three proposed regulatory actions, each exempt from the Administrative Process Act requirements, because they are non-discretionary and required to comply with 2005 legislative changes:

1. A proposed change to 12VAC5-31-610 concerning certification through equivalency;
2. A proposed change to 12VAC5-31, deleting all references to the registration of early defibrillation services; and
3. A proposed charge to 12VAC5-31, deleting all reference to wheelchair inter-facility transport services.

The board approved all three of these regulatory actions.

B. Dr. David Suttle, Director of the Office of Family Health Services (OFHS) requested that the board 1) repeal regulations governing the newborn screening and treatment program (12 VAC5-70), effective March 2006; 2) approve proposed emergency regulations governing newborn screening services, effective March 2006 (12VAC5-71); and 3) approve a notice of intended regulatory action to begin the process to make the emergency regulations governing newborn screening services permanent. The board approved each of these regulatory actions.

Jim Edmondson asked what the provisions are regarding parents that opt out of the tests due to religious preference; and how does the system deal with the long-term affects of costs for the state? Dr. Suttle answered that there are no regulations that address opting out of tests due to religion. Mr. Edmondson also asked if there are any provisions for the state or courts to mandate testing. Robin Kurz, Attorney General's Office, answered that this is not an issue the state or courts address until abuse or neglect is considered, at which point the Department of Social Services could become involved. It was noted that the current regulations limit testing to the use of blood. Development fluid or tissue testing methods would require change in regulations. Scott Burnette noted that this regulation represents an unfunded mandate on hospitals. Robin Kurz brought to the board's attention the proposed definition of "resident." Dr. Lanier requested that the legal counsel look into this issue to determine if the proposed definition raised any potential legal issues. Ms. Kurz stated that the language can be revised. She offered a suggestion relating to a resident's ability to get tests done in Virginia, but not necessarily to receive treatment or care management in Virginia. The board approved the regulations, subject to Ms. Kurz's developing a revised definition for "resident". The board stated its intent that the State Health Commissioner will approve the emergency regulations on the board's behalf, upon finalizing the definition "resident".

C. Nancy Hofheimer, Director of the Center for Quality Health Care Services and Consumer Protection requested that the board approve the final regulations for the licensure of home care organizations (12

VAC5-381). Ms. Hofheimer responded to questions concerning licensure fee increases and the objectivity of VDH facility inspectors. Ms. Hofheimer stated that all providers receive due process with respect to VDH inspection findings. The board approved the regulatory action.

VIII. Emergency Preparedness and Response (EP & R)-Declaration Concerning VDH's Interests in and Control over Medical Reserve Corps/Citizens

The 2005 General Assembly enacted legislation expanding liability protections for volunteers who help respond to emergency situations. In furtherance of those protections, the board was asked to approve a declaration of VDH's interest in Medical Reserve Corps. The board approved the declaration.

Dr. Lisa Kaplowitz, Deputy Commissioner for EP & R stated there is a need for volunteers with all types of emergency training. A key barrier issue for volunteers in liability, i.e., will they be sued for actions they take while acting as a volunteer. A question was raised regarding how many volunteers are currently volunteering. Dr. Kaplowitz answered that the number of volunteers varies by district. Dr. Kaplowitz to provide the board with the number of volunteers by district. A question was asked regarding who recruits for volunteers. Dr. Kaplowitz answered that the district health departments recruit for volunteers through the Department of Health Professions.

X. Other Business

A. Dr. Stroube discussed the issue of the local medical examiners' fee of \$50. The board had previously approved an increase in the fee to \$150, subject to appropriation. However, that fee increase was not included in the Appropriation Act. The Secretary of Human Resources requested the board to approve the increase again, so that it can again be considered for inclusion in the budget. The board re-approved the increase.

B. The October board meeting scheduled for Chincoteague, VA, October 20-21, 2005. Mr. Hilbert reiterated a prior suggestion that the board consider holding its April 2006 meeting in Southwest Virginia.

C. The board assistance may be needed to review the feedback from stakeholders concerning the chronic disease initiative.

D. Dr. Lanier requested that staff develop a one-page meeting evaluation form for use at future board meetings. Treina Anderson volunteered to develop the document with Mr. Hilbert's review.

E. There was a brief discussion concerning the State Medical Facilities Plan (SMFP). Jim Edmondson made a motion for the board to establish a committee to review the final SMFP regulations prior to their consideration by the entire board at the October 2005 board meeting. The motion was seconded by Ed Spearbeck. Matt Cobb, with the Attorney General's office, advised the board not to establish such a committee. Jim Edmondson subsequently withdrew the motion.

F. Public comment regarding biosolids was received from Mr. C. W. Williams. He stated that biosolids are harmful to the public. He feels that the health, safety, and welfare of the public are VDH's responsibility. He stated that there are cases where sludge is on public roads, near where a heart transplant patient -with prescribed oxygen- lives. Mr. Williams states that citizens' complaints and concerns are not being responded to VDH. Mr. Williams also stated that there is no documented safe

buffer zone for the land application of sewage sludge. The board noted that, in every case, there has been follow-up with citizens in order to address their concerns.