

**State of Board of Health
Minutes
January 25, 2008 – 9:00 a.m.
Perimeter Center, 9960 Mayland Drive
Richmond, Virginia**

Members Present: Jack O. Lanier, Dr. P.H., Chairman; Dr. Julie Beales; Dr. Craig Reed; Kandy Elliott; Ed Spearbeck; Dr. Charles Johnson; Scott Burnette; Fred Hannett; Dr. Bushan Pandya; David Summers; and Barbara Favola

Members Absent: Dr. Bennie Marshall and Jim Edmondson

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; Joan Martin, Deputy Commissioner for Administration; Joe Hilbert, Executive Advisor; Martha Pulley, Policy Advisor; Catherine West, Administrative Assistant; Michael McMahon, Deputy Director, Office of Financial Management; Dr. Michael Royster, Director of Minority Health and Public Health Policy; Diane Powers, Director of Communications; Robert Hicks, Director, Office of Environmental Health Services; Dr. Carl Armstrong, Director, Office of Epidemiology; Chris Durrer, Director, Office of Licensure and Certification; Kathy Wibberly, Office of Minority Health and Public Health Policy.

Others Present: Matt Cobb, Robin Kurz and Nelson Daniel, Attorney General's Office; Chris Bailey, Senior Vice President, Virginia Hospital and Healthcare Association

Call to Order

Dr. Lanier convened the meeting at 9:00 a.m. He introduced Dr. Karen Remley, the new State Health Commissioner, to the Board. Dr. Remley told the Board that she was very honored to have been appointed State Health Commissioner. Dr. Remley discussed her vision for how the Virginia Department of Health could best position itself to effectively address a number of health issues that are important to the Governor, including health workforce, access to care, quality, transparency, prevention, and long term care. She also told the Board that consideration and development of innovative, creative approaches to the delivery of public health services would be a focus of her attention. Dr. Remley thanked Dr. Burns for his leadership as Interim State Health Commissioner during the transition period.

Approval of Minutes

The minutes of the October 20, 2007 Board meeting were approved unanimously.

Commissioner's Report

Dr. Remley asked Dr. Burns to provide the Commissioner's Report. The report addressed several topics, including recent personnel changes, transfer of the biosolids program to the Department of Environmental Quality (DEQ), the loss of Medicaid and Medicare funding for

Seven Hills Nursing Home, the National Emergency Preparedness Report, responses to recent disease outbreaks, and the Agency Risk Management and Internal Control Standards (ARMICS).

There was a brief discussion concerning VDH's continuing role in the biosolids program. Dr. Burns explained that VDH is committed to providing DEQ with any help they request. VDH will be working with the local health directors to develop the necessary protocols in order to respond effectively to any future request for assistance.

The Board had some questions concerning the situation surrounding the Seven Hills Nursing Home. There was a discussion concerning how the VDH nursing home licensure and certification program is administered.

Budget Update

Michael McMahon presented the budget update. There were questions from Dr. Reed and Barbara Favola concerning user fees collected by VDH, the type of accounting structure that VDH has in place for such fees, and the extent to which VDH can discreetly identify all of the different user fees that are collected.

The Board directed VDH to provide additional information at the next meeting, to include: each separate fee that is assessed (type and dollar amount), the total amount of revenue collected as a result of each fee, the specific VDH program that each fee supports, and the cost of assessing and collecting each fee.

VDH will present this report at the next Board meeting.

Legislative Update

Joe Hilbert presented the legislative update. There was a discussion concerning the various bills that have been introduced to prohibit smoking.

Virginia Atlas for Community Health /Virginia Community Health Entrepreneurs Program

Chris Bailey, Senior Vice President at the Virginia Hospital and Healthcare Association, provided this presentation. There was a brief discussion of how VDH staff could participate in the Community Health Entrepreneurs Program. The focus of the program would be how to use health status information contained in the Virginia Atlas for Community Health as a basis for training individuals on how to bring about health improvements in their local communities.

VDH Rural Health Program

Dr. Michael Royster briefed the Board on the various components of this program. There was a discussion whether the recent decision of the U.S. Centers for Medicaid and Medicare Services to withhold reimbursement to hospitals due to certain types of adverse events would apply to critical access hospitals. Kathy Wibberly told the Board that that issue is still being debated. There was also discussion concerning whether or how Virginia Acute Stroke Telehealth (VAST)

project sites would be reimbursed. Kathy told the Board that there has been a lot of discussion about reimbursement among VAST stakeholders. Finally, there was discussion about health workforce issues and Virginia's ability to retain more of the physicians that are educated and trained within the Commonwealth. Kathy told the Board that VDH is considering ways to collect better data to help evaluate issues affecting physician retention rates.

Luncheon Speaker

The Honorable Aneesh Chopra, Secretary of Technology, was the Board's luncheon speaker. Secretary Chopra discussed the status of health information technology in the Commonwealth. Secretary Chopra briefed the Board on the work of the Virginia Health Information Technology Council. He also briefed the Board concerning an unsolicited public-private partnership proposal to enhance the State Employee Health Plan, and lower costs, through greater use of technology.

Public Comment

There were not any members of the public who were present or signed up to provide comments to the Board.

Board Regulatory Action Items

12 VAC 5-490 Radiation Protection Regulations: Fee Schedule for X-Ray Program (Proposed Amendments)

Dr. Carl Armstrong presented the proposed amendments to the Board. There was a discussion concerning VDH's objective for the program to be self-sufficient utilizing revenue from the increased fees. The Board approved the proposed amendment unanimously.

12 VAC 5-90 Regulations for Disease Reporting and Control (Proposed Amendments – Reporting by laboratories of MRSA)

Dr. Carl Armstrong presented the proposed amendments to the Board. There was a discussion concerning whether the emergency regulations for the reporting by laboratories of MRSA, which are currently in effect, might expire prior to the proposed amendments being approved as final amendments. The Board was advised that, pursuant to the Virginia Administrative Process Act, there is an option for extending emergency regulations for an additional six months beyond the customary 12 month effective period.

There was additional discussion concerning the medical practice need for these amendments, as opposed to the need to respond to public concern. Dr. Armstrong responded that the proposed amendments are a reasonable compromise that responds to the need of the public health system to obtain better information regarding MRSA rather than requiring every single case of MRSA to be reported.

The Board approved the proposed amendments unanimously.

12 VAC 5-411 Regulations for Inpatient Hospital Licensure (Notice of Intended Regulatory Action)

Chris Durrer presented the Notice of Intended Regulatory Action (NOIRA) to the Board. The Board approved the NOIRA unanimously.

12 VAC 5-120 Regulations for Testing Children For Elevated Blood-Lead Levels (Proposed Amendments)

Robert Hicks presented the proposed amendments to the Board. There was a discussion concerning why the proposed amendment language was specific as to a particular piece of equipment (i.e., the LeadCare II instrument), given the continued advance of medical technology. There was further discussion that making the proposed language more generic would help eliminate the need for future amendments to this language as medical equipment technology continues to evolve.

Dr. Burns suggested that the phrase "...the CLIA waived LeadCare II instrument..." be stricken and replaced with "...a CDC approved, CLIA waived test..."

The Board unanimously approved the proposed amendments, subject to this modification. The approval will be made by the Commissioner on behalf of the Board.

12 VAC 5-611 Onsite Sewage Regulations (Notice of Intended Regulatory Action)

Robert Hicks presented this NOIRA to the Board. The Board approved the NOIRA unanimously.

12 VAC 5-612 Regulations for the Onsite Sewage Indemnification Fund (Notice of Intended Regulatory Action)

Robert Hicks presented this NOIRA to the Board. He told the Board that VDH receives about two indemnification fund claims a month. VDH approves about 40 percent of the claims. The Board approved the NOIRA unanimously.

12 VAC 5-650 Onsite Sewage Systems – Civil Penalties (Notice of Intended Regulatory Action)

Robert Hicks presented this NOIRA to the Board. He explained that there are about 1 million on-site sewage systems in Virginia.

There was a discussion concerning the extent to which other states have enacted civil penalties of this type. Mr. Hicks responded that Virginia is probably at the forefront among other states in terms of using this type of approach to enforcing its on-site sewage regulations.

There was further discussion concerning examples of types of violations that would be subject to the civil penalties. Dr. Burns explained that the purpose of the civil penalties will be to obtain

the attention of on-site system owners in order to implement corrections to the violations. The civil penalties are not intended to be a revenue source.

The Board approved the NOIRA unanimously.

Discussion of Future Board Priorities

The Board unanimously approved the following statement:

The priority public health issues to be addressed by the Virginia State Board of Health are as follows:

- *Prevention and control of chronic disease;*
- *Reduction of disparities in health care and health status*
- *Improvement of Virginia's public health infrastructure; and*
- *Improvement in the health and well-being of all Virginians.*

The Board will utilize numerous approaches to achieve these priorities, including:

- *Facilitating public/private partnerships;*
- *Coordinating and collaborating with community partners;*
- *Supporting improved access to preventive and primary care services;*
- *Educating the public concerning the importance of health promotion and protection policies and programs; and*
- *Advising the Governor, Secretary of Health and Human Resources, and State Health Commissioner on public health policy issues.*

The Board directed VDH to post this revised statement on the Board's page on the VDH website and to send this revised statement to VDH office directors and local health directors for their information. The Board also agreed that each member should use this statement of priorities as talking points in explaining the Board's role and function to various constituent and stakeholder groups.

Member Reports

Dr. Charles Johnson (Virginia Dental Association). Dr. Johnson discussed the Mission of Mercy (MOM) dental program. A total of 31 MOM projects have been held across the state since the program began in 2000. The next will be held in March on the Eastern Shore. He also discussed the Richmond City Mobile Dental Van Project and dental services provided by free clinics.

Ed Spearbeck (Virginia Pharmacists Association). Mr. Spearbeck discussed pharmacy issues pertaining to electronic health records and Medicare Part D.

Dr. Bushan Pandya (Medical Society of Virginia). Dr. Pandya told the Board that MSV supports a comprehensive ban on smoking in public places, supports legislation to improve the financial

soundness of the Commonwealth's Birth Related Neurological Injury Compensation Fund, and that MSV has joined the Health Coverage coalition.

Barbara Favola (Local Government). The Virginia Association of Counties is paying a great deal of attention to the various mental health reform bills that are pending in the General Assembly. A key issue with this legislation is maintaining a balance between the rights of individual patients and public safety.

Dr. Craig Reed (Virginia Veterinary Medical Association). Dr. Reed said that the VVMA is looking at how to expand access to veterinary care in underserved areas. He explained that, in some medically underserved rural areas, veterinarians do occasionally provide primary medical care to certain individuals.

Dr. Reed told the Board that VVMA is continuing to strongly urge people to ensure that their pets are properly vaccinated. More and more coyotes are moving into suburban areas of Virginia.

Fred Hannett (Corporate Purchaser of Health Care). Mr. Hannett serves on the board of the Health Information Management Systems Society, and will be attending their national conference.

Kandy Elliott (Nursing Home Industry). Ms. Elliott briefed the Board on the difficulty experienced by long term care facilities in trying to find physicians, podiatrists, and dentists who are willing to serve their residents. She also briefed the Board concerning Project Access.

Dr. Julie Beales (Medical Society of Virginia). Dr. Beales told the Board that there are many significant issues in gerontology that need to be addressed. Medication management among the elderly population is a particularly difficult issue.

Scott Burnette (Hospital Industry). Mr. Burnette said that VHHA was very concerned about HB502, pending in the General Assembly. He told the Board that the bill was introduced as a result of a report prepared by Riverside Health System and distributed to the General Assembly concerning the certificate of public need (COPN) program.

There was a discussion concerning any appropriate role for the Board in terms of advocating for and/or improving the COPN program. Dr. Burns explained that the COPN statute is a creation of the General Assembly, that the state's main interest in COPN stems from its impact on Medicaid costs (e.g., nursing homes), and that VDH is essentially caught in the middle of the ongoing debate between COPN proponents and opponents. Dr. Burns also told the Board that the public policy discussion concerning COPN is not directly related to VDH's primary mission.

Mr. Burnette told the Board that VHHA is willing to work with VDH and the Board on the amendments to the inpatient hospital licensure regulations.

He also told the Board that Dr. Charles Devine, Director of the Southside Health District, would be speaking to the local Chamber of Commerce concerning the 100th anniversary of VDH.

Dr. Jack Lanier (Consumer Representative). Dr. Lanier told the Board that he is a member of the American Hospital Association's Special Advisory Group on Improving Hospital Care for Minorities. He also told the Board that he attended a press conference, at VDH's request, pertaining to the issuance of emergency regulations for reporting of MRSA. Dr. Lanier also recently attended the National Forum on Quality Improvement in Health Care which focused on the elimination of medical errors. He also recently attended a public hearing sponsored by the Senate Education and Health Committee's Special Subcommittee on Public Smoking Legislation.

Evaluation of Board Meeting

The Board members were generally positive in their evaluation of the meeting. Fred Hannett requested that the Commissioner' report focus on issues and events that have been particularly significant for VDH.

Other Business

The next Board meeting will be held on Friday April 18. The meeting will be held in Richmond at a site to be determined. The agenda will consist of a brief business meeting in the morning to be followed by a tour of the State Emergency Operations Center located in Chesterfield County.

The Board also intends to have a two day meeting, either in July or October, located in a different part of the state. The meeting would include a day of site visits in the area.

The Board unanimously approved the appointment of the following members to a Nominating Committee charged with bringing back of slate of Board officers at the April meeting:

- Kandy Elliott, Chair,
- Scott Burnette,
- Craig Reed,
- David Summers, and
- Julie Beales.

Adjourn

There being no further business, the meeting adjourned at 3:29 p.m.