

**State of Board of Health
Minutes
April 17, 2009 – 9:00 a.m.
Perimeter Center, 9960 Mayland Drive
Richmond, Virginia 23233**

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

Members absent: Dr. Julie Beales; Scott Burnette; and Dr. Bhushan Pandya.

VDH staff present: 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; Phil Giaramita, Director of Communications; Dr. David Suttle, Director, Office of Family Health Services; Chris Durrer, Director, Office of Licensure and Certification; Carrie Eddy, Senior Policy Analyst, Office of Licensure and Certification; Dr. Michael Royster, Director, Office of Minority Health and Public Health Policy.

Others Present: Robin Kurz, Attorney General's Office.

Call to Order

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

Approval of Minutes

The minutes of the February 13, 2009 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/Budget Update

Dr. Burns provided the Commissioner's report on behalf of Dr. Remley, who was out of the country. The following items were discussed:

- Draft legislative joint resolution memorializing Dr. Carl Armstrong, which will be introduced during the 2010 General Assembly Session;
- Appointment of Dr. Diane Helentjaris as Acting State Epidemiologist;
- Summary of talks and presentations recently provided to stakeholder organizations by Dr. Remley; and
- Commissioner's Goals for 2009, which were included in her recent State of the Agency Address.

Federal Economic Stimulus legislation – Dr. Burns described funding for drinking water and immunization in detail. There was a brief discussion concerning data collection requirements in connection with this federal funding. There was also a brief discussion concerning the extent to which there was work going on at the state level in anticipation of federal stimulus funding for health information technology. Dr. Burns explained that the Secretary of Health and Human Resources has formed a workgroup to address a number of related issues, and to help ensure that the state receives its fair share of funding. VDH is working internally to develop a Request for Proposals for an electronic medical record for the agency.

Budget Update

Mike McMahon updated the Board on the provisions of the Governor’s Budget Bill that pertain to VDH.

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 told the Board that 10 of 17 fees that have been assessed do not fully cover the cost of the underlying service. On the other hand, seven fees – vital records administrative fee, vital records standard fee, bedding and upholstered furniture, Managed Care Health Insurance Plans quality assurance certification fee, private review agent registration fee, and Certificate of Public Need application fee, and three fees in the bedding and upholstered furniture program – do fully fund the costs of the underlying programs. In response to a question, Joan explained that indirect costs were included in VDH’s assessment. However, it was also explained to the Board that VDH does not have a true cost accounting system which includes time and effort data. Rather, VDH’s assessment was done retrospectively with a managerial accounting process. However, the methodology used by VDH is believed to provide a reasonable approximation of the results that would have been obtained using a cost accounting system.

There was a discussion concerning efforts by VDH to publicize the results of its fee assessment, such as by posting information to the website and/or communicating with the General Assembly. Dr. Burns said that VDH will make every effort to get this information publicized and on the website, provided that everyone agrees with that course of action.

Legislative Update

This was provided by Joe Hilbert. There was a request for clarification concerning the statutory exemptions to the restaurant smoking ban legislation. There were no other questions.

Overview of the Office of Drinking Water

Wes Kleene provided the presentation. There was a discussion concerning the geographic location of most of the “disadvantaged communities” for purposes of the Drinking Water State Revolving Fund. It was explained that while many are located in rural areas, there are also some in urban localities. It was clarified that VDH does not get involved in issues pertaining to water used by poultry processing facilities, rather, that is a responsibility of the Department of

Agriculture and Consumer Services. There was a brief discussion concerning the extent to which VDH is fast tracking plan approval in order to ensure that certain projects are “shovel ready.” It was explained that generally, VDH is not doing that unless the underlying project is extremely straightforward in nature.

Public Health Challenges: Frameworks for Sustainable Change

Dr. Kate Lapane, Chair, Department of Epidemiology and Community Health at the VCU School of Medicine, provided the presentation and answered questions from Board members.

Public Comment Period

There were comments from five members of the public:

- Brenda Clarkson, Executive Director, Virginia Association for Hospices
- Kathy Clements, Executive Director, Hospice of the Rapidan
- Becky Bowers-Lanier on behalf of Sue Ranson, President and CEO of Good Samaritan Hospice
- Marcia Tetterton, Executive Director, Virginia Association for HomeCare and Hospice
- Carter Harrison, representing the Alzheimer’s Association

Each of the individuals commented concerning the draft final amendments to the Regulations for the Licensure of Hospices. Ms. Clarkson, Ms. Clements, and Ms. Bowers-Lanier expressed various concerns with respect to the draft final amendments. Ms. Tetterton and Mr. Harrison spoke in support of the draft final amendments.

Regulations for the Licensure of Hospices (12 VAC 5-391) (Final Amendments)

These were presented by Chris Durrer, Director, Office of Licensure and Certification. There was extensive discussion concerning the draft final amendments. Issues discussed included:

- The appropriateness of VDH staff’s written response to certain public comments that were received.
- Whether or not the draft final amendments included any provisions that were not contained in the proposed amendments that had been published and issued for public comment.
- The appropriateness of provisions in the draft final amendments concerning pharmacy services, food service, pressure ulcer prevention, and the use of hospice facility space for administrative offices.
- The extent to which VDH currently receives complaints regarding hospice services.
- The significance of a six-bed threshold in triggering various provisions of draft final amendments.

- The extent to which the number of hospice facilities may increase in Virginia.
- The appropriate linkage between staffing requirements and patient acuity.

After further discussion, the Board unanimously agreed to defer action on the draft final amendments. The Board directed VDH staff to issue the draft final amendments for another 30 day public comment period, per the provisions of the Virginia Administrative Process Act. The Board also directed VDH staff, following the close of that 30 day public comment period, to convene another meeting of all interested stakeholders for the purpose of reviewing the comments that were received, and for providing the stakeholders with revised draft final amendments to the regulations containing any further changes deemed appropriate by VDH. Finally, the Board directed VDH staff to bring a revised set of draft final amendments back to the Board for consideration as soon as possible, either in July or October, 2009.

Lunch Presentation

During lunch, the Board presented Dr. Lanier and Kandy Elliott with Resolutions of Commendation, signed by Governor Kaine, in recognition of their distinguished service on the Board.

Regulations Implementing the Virginia Organ and Tissue Donor Registry (12 VAC 5-475) (Proposed Amendments)

Dr. David Suttle, Director, Office of Family Health Services, presented the proposed amendments. The Board unanimously approved the final amendments.

Guidelines for General Assembly Nursing Scholarships and Loan Repayment Program Requiring Service in a Long-Term Care Facility (12 VAC 5-507) (Permanent Replacement Regulation)

Dr. Michael Royster, Director, Office of Minority Health and Public Health Policy, presented the replacement regulation. The Board unanimously approved the regulation, but directed VDH staff to make one change to the regulation. In section 30, the Board unanimously agreed to change “60 days” to “90 days”. This provision governs the period of time within which a recipient must begin employment following graduation.

Regulations Governing the Virginia Physician Loan Repayment Program (12 VAC 5-508) (Permanent Replacement Regulation)

Dr. Michael Royster, Director, Office of Minority Health and Public Health Policy, presented the replacement regulation. There was a brief discussion concerning the number of Health Professional Shortage Areas and Medically Underserved Areas in Virginia. The Board unanimously approved the regulation.

Member Reports

Dr. Jack Lanier – Consumer

He thanked the staff from VDH and the Attorney General's Office for their support during his tenure on the Board. He thanked the Board for the support that it provided to his students over the years. Dr. Lanier told the Board that he and one of his graduate students will be presenting a poster, including information pertaining to infant mortality, at an upcoming conference in Turkey.

Barbara Favola – Local Government

The Virginia Association of Counties (VACO) is moving forward with its Go Green Initiative. If VDH has any educational or promotional information concerning the public health benefits of a healthy environment, Ms. Favola requested that those items please be shared with VACO and the Virginia Municipal League.

Dr. Charles Johnson – Virginia Dental Association

The Virginia Dental Association will hold its Mission of Mercy (MOM) dental clinic on April 18-19 in Onley on the Eastern Shore. The VDA now has a page on its website to recruit volunteers and donations for MOM.

Dr. Bennie Marshall – Virginia Nurses Association

The VNA is continuing to examine minimum lift policies and staffing requirements. She told the Board that the California Nurses Association, which is a labor union, is trying to recruit VNA members.

David Summers – Virginia Association of Health Plans

No report.

Kandy Elliott – Nursing Home Industry

The long term care industry continues to struggle with reimbursement issues. The impact of limited reimbursement will become more problematic as the population continues to age.

Dr. Craig Reed – Virginia Veterinary Medical Association

He is very interested in working with VDH staff on a legislative/regulatory proposal to strengthen Virginia's rabies prevention and control system. Such a proposal is currently under development at the staff level.

Ed Spearbeck – Virginia Pharmacists Association

He briefed the Board concerning expected premium, co-pay, and deductible increases for Medicare Part D. Mr. Spearbeck also noted that prescription/dispensing of generic pharmaceuticals is increasing.

Jim Edmondson – Consumer

COPN is still an issue. Mr. Edmondson continues to participate on two VDH workgroups: the State Medical Facilities Task Force, and the Healthcare Associated Infections Committee. He also commented on VDH's outreach to minority populations, specifically the need to develop new types of communication strategies, and the need to work harder to implement those strategies.

Fred Hannett – Corporate Purchaser of Health Care

He discussed certain aspects of national health care reform. President Obama does not yet have a specific proposal, but he is working with Congress on developing a core set of principles. One of the key points of discussion is whether there should be a "public plan". There is a great deal of uncertainty concerning the impact of a public plan on other segments of the health insurance market. The tax treatment of health benefits is also under discussion.

Other Business

David Summers provided the report of the Nominating Committee. The following slate of officers for the year beginning July 1, 2009 was recommended:

Chairman – Fred Hannett

Vice-Chairman – Dr. Craig Reed

Executive Committee Member – Jim Edmondson

Executive Committee Member – Dr. Julie Beales

The Board unanimously approved the Nominating Committee report.

The requirement for the Board members to complete state conflict of interest training by the end of the July Board meeting was discussed. VDH will provide the Board members with the option of completing the training on their own time prior to the July meeting.

An orientation for new Board members will be scheduled sometime during the summer. All Board members will be invited to attend.

Adjourn

The meeting adjourned at approximately 2:10 p.m.