

Minutes (Draft)
Scientific Advisory Committee
Subcommittee on Breath Alcohol
August 4, 2008 at 9:20 a.m.
DFS Biotech 8, Conference Room

Subcommittee Members Present:

Dale Carpenter, Ph.D
Alphonse Poklis, Ph.D

Scientific Advisory Committee Members Present:

Barry Fisher, Chairman

Staff Members Present:

Ms. Alka Lohmann, Breath Alcohol Section Chief
Ms. Carisa Onorato, Administrative Specialist
David Barron, Ph.D Director of Technical Services
Ronald Layne, Director of Administration and Finance
Guinevere Cassidy, Legal Assistant

Call to Order:

Carisa Onorato called the meeting to order at 9:20 a.m. Carpenter, Ph.D (Carpenter) was designated Chairperson for the Breath Alcohol subcommittee meeting.

Overview of the Protocols for the New Breath Alcohol Instrumentation:

Carpenter and Poklis, Ph.D (Poklis) accepted the agenda. Carpenter opened the discussion to Ms. Lohmann to present the Breath Alcohol procedures manual. Ms. Lohmann gave a brief overview of the breath alcohol protocols. The protocols for the breath alcohol procedures for the new instrument have been put into the final format. Ms. Lohmann advised that the changes to the protocols were highlighted in yellow from the previous copy that the subcommittee members received. An overview was given to the subcommittee on the training progress of the Commonwealth's Breath Alcohol Operators. Ms. Lohmann presented the new training manual to the subcommittee members. Ms. Lohmann discussed that the testing protocol for running a breath test has not been changed from the Intoxilyzer 5000, and then she went into an explanation of those protocols. Ms. Lohmann next went into the explanation of the calibration and certification procedures for the breath alcohol instruments and the certificates of accuracy.

Carpenter inquired about the four different points in the certification procedure. Ms. Lohmann responded with all the values for the four points (.02, .08, .15, and .25), and that they are being done with the dry gas cylinders for the new instruments.

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48 Carpenter inquired what the highest reportable value for a subject would be on the new
49 instrument. Ms. Lohmann responded that the highest reportable value would be a .50 and went
50 into explanation.
51
52 Carpenter inquired to whether the acceptance of a new firmware version is instrument specific or
53 for that firmware. Ms. Lohmann responded that acceptance testing is for that firmware version.
54 She then went into an explanation of the testing protocols of the acceptance of new firmware.
55
56 Carpenter made a point for clarification on the worksheet, about the difference for the firmware
57 version and the software version. He asked if there was a different designation for both the
58 firmware and software version. Ms. Lohmann clarified that yes that there are two numbers and
59 went into an explanation of the software versus the firmware.
60
61 Carpenter asked Ms. Lohmann to speak on the big picture of the process for the new instruments
62 being received by the Department of Forensic Science (DFS), being put into the field, and how
63 they will be maintained. Ms. Lohmann went into an explanation on how the instruments are
64 currently maintained and how the new instruments will continue to be maintained.
65
66 Carpenter inquired how many instruments DFS owned. Ms. Lohmann answered that DFS will
67 own 220, 20 of which will be for training.
68
69 Carpenter inquired if that means there will be 440 site visits per year. Ms. Lohmann clarified that
70 actually approximately 400 site visits, because 20 instruments are on-site training instruments.
71 Ms. Lohmann then discussed that 200 instruments in the field is an increase to what is currently
72 in the Commonwealth, and that the new sites have yet to be determined.
73
74 Poklis inquired as to what the biggest anticipated technical problem will be with the new
75 instruments, will it be dry gas? Ms. Lohmann answered that the majority of the inquiries will
76 come in will be about the dry gas because it is new. Ms. Lohmann went into an explanation of
77 the National Institute of Standards and Technology (NIST) traceability and certification process
78 of the instruments.
79
80 Poklis inquired about how DFS is going to handle testimony about the dry gas. Ms. Lohmann
81 gave detail about how she has already spoken with the new judges, to the Commonwealth's
82 Attorney's Association, and the plan for doing regional training for judges and Commonwealth
83 Attorney's. Operators will not be expected to testify about dry gas.
84
85 Poklis inquired as to what the classic challenges and what are defense experts going to bring up
86 about dry gas. Ms. Lohmann explained that she's received no information from other states that
87 are currently using the instrument on classic defenses and believes the science is simple enough
88 to explain.
89
90 Discussion ensued about defense experts and dry gas, and Ms. Lohmann went into how it would
91 be explained in the courtroom.
92

93 There discussion on the use of dry gas verifications and the use of wet bath simulators. An
94 explanation was given on how these would be used in both the field and the lab.

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96 The subcommittee recessed at 9:34 a.m.

97
98 The subcommittee reconvened at 9:38 a.m.

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100 Carpenter and Poklis recommended that Ms. Lohmann read through each of the protocols in
101 each section and give an explanation.

102
103 Ms. Lohmann read over and gave explanations for each section of the Breath Alcohol Procedures
104 manual. The subcommittee members fully discussed these sections with Ms. Lohmann.
105 Discussion also ensued on the current process for breath alcohol operator training.

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107 The subcommittee recessed at 10:30 a.m.

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109 The subcommittee reconvened at 10:56 a.m.

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111 At the subcommittee's request Ms. Lohmann gave a tour of the Breath Alcohol Lab.

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113 The tour was completed at 11:12 a.m.

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115 The subcommittee recessed at 11:15 a.m.

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117 The subcommittee reconvened at 11:15 a.m.

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119 Barry Fisher, Chair of the SAC and David Barron, Ph.D DFS Technical Director joined the
120 meeting at that time.

121
122 Carpenter gave a brief summary on the work completed during the subcommittee meeting and
123 the recommendation that will be given to the full scientific advisory committee. Poklis
124 concurred with the summary and recommendations.

125
126 Poklis then discussed the recommendations that the subcommittee would like Ms. Lohmann and
127 the Breath Alcohol Section to consider.

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130 Recommendation for the SAC and FSB:

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132 Fisher: "Dale could I ask that you make a motion at tomorrow's meeting recommending the
133 adoption of these procedures. I don't know that you need to go into these other things because
134 they're not germane specifically to the procedures but you've talked to the staff and you're just
135 raising these issues so they don't have to deal them later on in a courtroom situation, when some
136 defense expert or AI comes out..."

137
138 Poklis: "I don't easily show up in criminal cases in the Commonwealth."

139

140 Carpenter: "I guess we will make that motion that the Committee approve the procedures as
141 written knowing they are living documents that will become more thorough with time and it
142 gives all of the elements of a solid breath testing program are in place."

143

144 Poklis: "I think most of our recommendations are just in fact to give themselves credit for a
145 bunch of work that they've done that they make sure it is documented."

146

147 Fisher: "Well, if you want to say something nice to the staff, I don't know why you'd want to,
148 but if a thought crossed your mind."

149

150 Poklis: "We want to keep them on their toes."

151

152 There was discussion on the status of the other Scientific Advisory subcommittees.

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154 There were no other questions or comments from the members of the subcommittee or the
155 Scientific Advisory Committee.

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157 Public Comment:

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159 There were no members of the public in attendance; therefore there was no public comment.

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161 Adjourn:

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163 The meeting was adjourned at 11:24 a.m.