

State Board of Health Nominating Committee
Minutes
June 6, 2013 – 8:30 a.m.
Perimeter Center, 9960 Mayland Drive
Richmond, Virginia 23233

Members present: Dr. Steven Escobar, Kay Curling, and Dr. Cathy Slusher

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 8:50 a.m.

State Board of Health
Minutes
June 6, 2013 – 9:00 a.m.
Perimeter Center, 9960 Mayland Drive
Richmond, Virginia 23233

Members present: Bruce Edwards, Chair; Paul Clements; Kay Curling; Jim Edmondson; Dr. Steven Escobar; Dr. Anna Jeng; Dr. Charles Johnson; Dr. Bennie Marshall; Dr. John Seeds; Dr. Cathy Slusher; Gail Taylor; and Amy Vest

Members absent: Eric Deaton; Dr. John deTriquet; and Dr. Mary McCluskey

VDH staff present: Cynthia Romero, MD, State Health Commissioner; Joe Hilbert, Director of Governmental and Regulatory Affairs; Bob Hicks, Deputy Commissioner for Community Health Services; Marissa Levine, MD, Chief Deputy Commissioner for Public Health; Catherine West, Administrative Assistant; Erik Bodin, Director, Office of Licensure and Certification; Gary Brown, Director, Office of Emergency Medical Services; Diane Woolard, PhD, Director, Division of Surveillance and Investigation, Office of Epidemiology; Laura Ann Nicolai, Division of Immunization, Office of Epidemiology; Allen Knapp, Director, Office of Environmental Health Services; Lauri Kalanges, MD, Acting Director, Office of Family Health Services; Dev Nair, PhD, Division of Policy and Evaluation, Office of Family Health Services; Lisa Park, Health Care Reimbursement Manager, Community Health Services; Darlene Rose, Administrative Assistant, Office of Licensure and Certification

Others Present: Allyson Tysinger and Robin Kurz, Attorney General's Office; Marty Kilgore and Heidi Hertz, Virginia Foundation for Healthy Youth

Call to Order

Mr. Edwards called the meeting to order at 9:00 a.m. Mr. Clements led those in attendance in the pledge of allegiance.

Welcome and Introductions

Mr. Edwards welcomed the public to the meeting. Dr. Romero introduced the VDH “agency stars” for the meeting: Lisa Park with Community Health Services and Darlene Rose with the Office of Licensure and Certification.

Following introductions, Mr. Hilbert 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 April 12, 2013 Board meeting. No corrections were noted. The minutes were approved by unanimous consent.

Commissioner’s Report

Dr. Romero provided the Commissioner’s report to the Board. She discussed Virginia’s selection to participate in the Excellence in State Public Health Law Program, which is sponsored by the Aspen Institute and the Robert Wood Johnson Foundation. Dr. Levine continued the Commissioner’s report by giving a public health preparedness update. This included a discussion of hazard vulnerability, lessons learned from large scale events such as Superstorm Sandy, development of metrics, regional coordination, and development of emergency response “playbooks” for use by VDH staff. Dr. Woolard continued the Commissioner’s report by talking about emerging infectious diseases. This included information concerning new strains of influenza, fungal meningitis, and the importance of maintaining good relationships between VDH, private clinicians, and hospitals in order to respond to disease outbreaks. There was a discussion concerning tuberculosis and polio.

Ms. Nicolai continued the Commissioner’s report with a presentation concerning outbreaks of measles and mumps, including VDH’s investigation and response to a mumps outbreak at the University of Richmond in early March 2013.

Mr. Knapp continued the Commissioner’s report by providing an update on the onsite sewage program. Onsite sewage systems serve about 1/3 of Virginia’s residents. Most of these systems are associated with private wells, and are often in close proximity to the well. In order to protect water quality, it is important for the onsite sewage systems to be well designed, constructed, and maintained. Historically, local health departments have played a significant role in the design of onsite sewage systems. In recent years, however, more and more design of onsite sewage systems has been performed by the private sector, particularly in certain regions of the state. This has coincided with tremendous advances in onsite sewage system technology. However, VDH continues to design systems, which has resulted in complaints that VDH employees are unfairly competing with the private sector. Mr. Knapp explained to the Board that VDH has embarked on a process of examining this program, including VDH’s appropriate role in designing and regulating onsite sewage systems, with a focus on which functions should be performed by the private sector and which functions should be performed by VDH. A particular area of emphasis is distinguishing between the work involved in designing systems and the work

involved in monitoring systems after they are installed to ensure that public health is protected. A series of stakeholder meetings will be convened across the state in order to help VDH develop recommendations.

There was a discussion concerning VDH's role in the onsite sewage program and the need to ensure that public health is protected.

Dr. Romero concluded the Commissioner's report by giving an update about recent key personnel changes within VDH:

- Dr. Marissa Levine, Chief Deputy Commissioner for Public Health;
- Allen Knapp, Director of the Office of Environmental Health Services;
- Dr. Donald Stern, Acting Director, Henrico Health District; and
- Dr. Molly O'Dell, Acting Director, West Piedmont Health District.

Obesity Prevention Overview

At the Board's April 2013 meeting, there was a discussion about obesity prevention. In response to the Board's request for an overview in this area, Dr. Kalanges spoke to the Board about VDH's obesity prevention efforts. Her presentation focused on data sources and programmatic efforts. Data sources include the Virginia Youth Survey, the Behavioral Risk Factor Surveillance System (BRFSS), the Virginia Wellness Related Fitness Test (VWRFT), and the WIC program. There was a discussion concerning the importance of obesity data to inform and evaluate obesity prevention strategies and activities.

Dr. Kalanges provided the Board with an overview of various obesity prevention programs administered by VDH and the Virginia Foundation for Healthy Youth (VFHY). This included information concerning VDH's "Health Eating/Active Living" program and VFHY's "Weight of the State" conference.

Mr. Hilbert continued the obesity prevention overview by discussing the Interagency Task Force on Obesity and Nutrition. One of the key objectives of the task force is to promote greater collaboration and coordination within state government in the areas of nutrition and obesity prevention. Mr. Hilbert briefed the Board on the status of the task force's pilot project with the Monroe Building Cafeteria. The goal of the pilot project is to improve the nutritional environment for state employees.

Mr. Hilbert then briefed the Board on efforts to respond to the Board's request, made following the April meeting, to develop a legislative proposal to collect obesity data in public schools. He reviewed for the Board the key aspects of the VWRFT, including the collection and reporting of body composition data. He told the Board that, while four of the five components of the VWRFT are mandatory for schools to perform, the fifth component—body composition—is optional. In addition, data reported to the Department of Education (DOE) for all five components is optional. In practice, however, virtually all schools administer the body composition component, but less than 1/3 of the schools voluntarily report body composition data to DOE.

Prior to proceeding with development of a legislative proposal, Mr. Hilbert recommended that the Board send a letter to the President of the State Board of Education, requesting that it consider requiring schools to collect and submit body composition data to DOE. Mr. Hilbert presented a draft letter to the Board. There was further discussion concerning the importance of this data to obesity prevention efforts, as well as the importance of promoting greater use of the data that is already being voluntarily reported.

Mr. Edmondson made a motion to send the letter as drafted by VDH to the Board of Education, which was seconded by Dr. Slusher. The motion was approved unanimously by the Board by a show of hands.

Mr. Hilbert then presented to the Board draft legislation that would make the VWRFT mandatory, and also a draft letter from the Board to Secretary Hazel explaining the provisions of the draft legislation.

Dr. Slusher made a motion to send the letter as drafted by VDH to Secretary Hazel which was seconded by Mr. Clements. Mr. Edmondson suggested that the word “I” be changed to “we” throughout the letter so that the letter will give a stronger appearance of coming from the Board and not from the Chair individually. The motion was approved unanimously by the Board by a show of hands.

Abortion Facility Licensure Status Report

Mr. Bodin provided the Board with this update. The licenses for all 20 abortion facilities in Virginia expired in April, 2013. Nineteen of those facilities applied for licensure renewal, and all 19 were renewed. Mr. Bodin presented information concerning all complaints that have been submitted against abortion facilities since the beginning of the licensure program. VDH recently received one additional complaint, which was not reflected in the written information provided to the Board. In order to preserve VDH’s unannounced survey process, Mr. Bodin was unable to share any additional information with the Board about that particular complaint. Mr. Bodin told the Board that VDH is now beginning the second year of the abortion facility licensure program. At the end of the second year, all licensed facilities will have to comply with the design and construction requirements of the regulations.

Mr. Edmondson asked about the nature of the 20 complaints that OLC has received with regard to abortion facilities. Mr. Bodin indicated that the complaints primarily pertained to infection control, and use and storage of medication. Mr. Bodin also indicated that, upon investigation, 19 of the 20 complaints were not substantiated. In addition, the one substantiated complaint did not constitute a violation of the regulations.

Matrix of Pending Regulatory Actions

Mr. Hilbert reviewed the summary of all pending VDH regulatory actions. Since the April 2013 meeting, the Commissioner approved a fast track action to repeal the Regulations for Authorized Onsite Soil Evaluators (12VAC5-615) on the Board’s behalf while the Board was not in session. Mr. Hilbert also advised the Board that VDH posted on the Virginia Regulatory Town Hall three

Notices of Petition for Rulemaking within the required 14-day time frame of receipt of the petitions. The three petitions are:

- Request to amend regulations concerning general building and physical plant requirements for hospitals, contained in Regulations for Licensure of Hospitals (12VAC5-410-650) on the grounds that the regulation conflicts with the provisions of § 32.1-127.001 of the Code of Virginia.
- Request to amend regulations concerning architectural drawings and specifications requirements for nursing facilities, contained in the Regulations of Licensure of Nursing Facilities (12VAC5-371-410), on the grounds that the regulation conflicts with the provisions of § 32.1-127.001 of the Code of Virginia.
- Request to promulgate regulations for the licensure of plastic surgery centers.

Mr. Hilbert further advised the Board that the public comment period for all three petitions ended on May 26, 2013. Two hundred comments were received on the petition for the Regulations for Licensure of Hospitals; no comments were received for the other two petitions. The Board has 90 days from the date of the end of the public comment period to post its decision of whether to grant or deny the petitions.

Public Comment

Seven citizens read a prepared statement in support of the three petitions for rulemaking received by the Board (as discussed above). Each citizen read a two minute segment of the statement.

Report of the Nominating Committee

Dr. Escobar provided the report of the Nominating Committee. The committee was comprised of Dr. Escobar, Dr. Slusher, and Ms. Curling. The Nominating Committee recommended the following slate of Board officers for the year beginning July 1, 2013 and ending June 30, 2014:

Chairman – Bruce Edwards

Vice-Chairman – Paul Clements

Executive Committee Member – Eric Deaton

Executive Committee Member – Dr. Steve Escobar

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. Dr. Marshall commented that she was disappointed that there were no women nominated for the executive committee positions. The slate of officers was approved by a show of hands, with 11 Board members voting in favor of the motion and one abstention (Dr. Marshall).

The Board recessed for lunch. Mr. Edwards announced that the lunch would not be a working one, that no action items would be discussed during the lunch period.

Board Action Items

Designation of Regional Emergency Medical Services (EMS) Councils

Mr. Brown presented the designation of regional EMS councils. The Code of Virginia outlines the establishment and designation of EMS councils. The standards for the councils have been approved by the Board of Health. Mr. Brown told the Board that this action item pertains to entities that have applied to be re-designated as EMS councils. Dr. Escobar moved that the re-designations be approved with Dr. Johnson seconding the motion. The motion was approved unanimously by the Board by a show of hands.

Regulatory Action Items

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

Dr. Kalanges presented the proposed amendments, which updates the list of disorders that newborns are screened for by adding severe combined immunodeficiency (SCID) to the panel. The testing is performed by the Division of Consolidated Laboratories. The screening is an imperative diagnostic tool for diagnosing disorders that cannot be found during a physical examination. The Virginia Genetics Advisory Committee recommended adding the SCID test to the panel, thus necessitating an amendment to the regulations. There will be an increase in the fee that DCLS charges hospitals for newborn screening. This increase is partly a result of adding SCID to the panel. Twenty-six comments were received during the public comment period for the proposed amendments; all 26 comments supported the proposed amendments. Dr. Slusher asked if an additional dry spot card would need to be done. Dr. Kalanges indicated that it would not. Dr. Marshall moved that the proposed amendments be approved with Dr. Johnson seconding the motion. The motion was approved unanimously by the Board by a show of hands.

Regulations for the Conduct of Human Research (12VAC5-20) – Proposed Amendments

Dr. Kalanges presented the proposed amendments. The proposed amendments update the current regulations to bring them into alignment with the Code of Virginia and with federal regulations. There was one comment received during the public comment period for the proposed amendments that was not applicable to the regulation.

There was a brief discussion of the role of medical researchers at universities and other medical centers, particularly concerning stem cell and genetic research, with regard to the regulations. Dr. Kalanges and Dr. Nair explained that the regulations only deal with research that is specific to VDH which is reviewed by VDH's internal review board. The regulations do not apply to research performed by entities other than VDH. Research conducted by VDH includes work done by the cancer registry, surveillance, and data collected by the Centers for Disease Control and Prevention's BRFSS survey. Mr. Edmondson moved that the proposed amendments be approved with Dr. Jeng seconding the motion. The motion was approved unanimously by the Board by a show of hands.

Member Reports

Jim Edmondson – Consumer Representative. Mr. Edmondson told the Board that this was his last meeting as a member of the Board, as he is not eligible for reappointment. He read a prepared statement to the Board to share his thoughts about his tenure on the Board.

Amy Vest – Virginia Pharmacists Association. She reported that the Virginia Pharmacists Association is preparing for its 132nd annual convention. She also reported that pharmacists are getting more involved in providing vaccines needed for international travel.

Dr. Charles Johnson – Virginia Dental Association. He reported that the Virginia Dental Association is holding its 2nd annual Virginia State University Cares project on June 15. The project will provide services such as dental care, mammography, blood glucose testing, as well as hearing and vision screenings. Services will be offered for up to 600 individuals. Due to the large turnout last year, there will be a pre-registration offered on June 14.

Dr. Anna Jeng – Public Environmental Health Representative. No report.

Paul Clements – Nursing Home Industry Representative. He discussed workforce and quality of care issues pertaining to long term care.

Kay Curling – Corporate Purchaser of Health Care. She discussed the importance of employee wellness issues, including obesity prevention, within the context of the implementation of national health care reform.

Dr. Steven Escobar – Virginia Veterinary Medical Association (VVMA). He briefed the Board on issues pertaining to compounding pharmacies. He discussed a meeting that was recently held by the Board of Pharmacy related to compounding. Dr. Escobar told the Board that there are federal statutory provisions relating to compounding pharmacies that need to be addressed.

Dr. Bennie Marshall – Virginia Nurses Association (VNA). She discussed nursing scope of practice issues. She also updated the Board on the status of VNA's strategic plan, as well as its efforts to increase membership and promote continuing education.

Gail Taylor – Consumer Representative. She said that she is grateful to have been able to serve with the individuals on the Board and that she will take with her the knowledge of all of the hard work that the Board is involved in.

Dr. John Seeds – Medical Society of Virginia. He told the Board that the size of the current and projected physician workforce is still an issue. He also said that the shortage of physicians will push patients to the local health department for services.

Dr. Catherine Slusher – Medical Society of Virginia. She told the Board that Tdap has become an important vaccine, particularly for pregnant women. She stated that there are conflicting opinions concerning the best time to provide the vaccine (i.e., the beginning or end of

pregnancy). She told the Board that VDH recommends that it be given at end of pregnancy. VDH will be working to provide recommendations on a consistent basis to all OB/GYNs.

Bruce Edwards – Emergency Medical Services (EMS) Representative. He briefed the Board on the recent State EMS advisory board meeting. He also discussed additional funding appropriated for EKG machines and poison control centers. Poison control will receive a net increase in funds.

Other Business

There was a discussion concerning the possibility of the Board calling a special meeting to discuss, consider, and decide whether or not to grant the three petitions for rulemaking that are currently pending. Mr. Edmondson and Dr. Jeng both called for the Board to schedule a special meeting. Mr. Edwards requested that Ms. Tysinger brief the Board on the requirements for calling a special meeting. Ms. Tysinger explained that, pursuant to the Board's Bylaws, a special meeting can be called either by the Chair or by any three members of the Board. She also explained that a special meeting would also have to comply with statutory requirements concerning public notice and a quorum.

Dr. Escobar asked for more information concerning the public notice requirements, and other logistical requirements involved with holding a special meeting. Mr. Hilbert explained that the meeting notice would have to be posted at least seven days prior to the meeting date, the Board members would have to be polled concerning their availability and an appropriate meeting location would need to be identified.

Dr. Escobar stated that the alternative to a special meeting would be for Dr. Romero to act on behalf of the Board, as she is authorized to do by statute.

Mr. Edwards asked the Board members to consider whether any of them wished to call a special meeting to consider the petitions for rulemaking, and to let Mr. Hilbert know.

Mr. Edwards recognized Mr. Edmondson and Dr. Marshall and told the Board that this was their last meeting as they have both served two four-year terms and are not eligible for reappointment. Mr. Edwards read Certificates of Recognition for both Mr. Edmonson and Dr. Marshall, expressing gratitude for their service on the Board. Mr. Edwards then presented the certificates to Mr. Edmonson and Dr. Marshall.

Adjourn

The meeting adjourned at approximately 1:33 p.m.