

WASHINGTON STATE BOARD OF HEALTH

Final Minutes of the State Board of Health

November 9, 2022

Electronic meeting via ZOOM Webinar

State Board of Health members present:

Keith Grellner, RS, Chair

Kelly Oshiro, JD, Vice Chair

Elisabeth Crawford

Patty Hayes, RN MN

Socia Love-Thurman, MD

Temple Lentz, MOL

Tao Sheng Kwan-Gett, MD, MPH, Secretary's Designee

Dimyana Abdelmalek, MD, MPH

State Board of Health members absent:

Umair A. Shah, MD, MPH

Stephen Kutz, BSN, MPH

Melinda Flores

State Board of Health staff present:

Michelle Davis, Executive Director

Melanie Hisaw, Executive Assistant

Kelie Kahler, Communication Manager

Stuart Glasoe, Health Policy Advisor

Kaitlyn Donahoe, Health Policy Advisor

Molly Dinardo, Health Policy Advisor

LinhPhung Huynh, Department of Health

Lindsay Herendeen, Health Policy Analyst

Cait Lang-Perez, Health Policy Analyst

Miranda Calmjoy, Health Policy Analyst

Jo-Ann Huynh, Administrative Assistant

Hannah Haag, Community Outreach

Coordinator

Grace Cohen, Department of Health

Lilia Lopez, Assistant Attorney General

Guests and other participants:

Kelly Cooper, Legislative Affairs Director

Amy Ferris, Chief Financial Officer

Keith Grellner, Board Chair, called the public meeting to order at 9:31 a.m. and read from a prepared statement (on file). He then detailed operating procedure and ground rules for conducting a virtual meeting, and asked Board members to introduce themselves.

1. APPROVAL OF AGENDA

Motion: Approve November 9, 2022, agenda

Motion/Second: Member Hayes/Vice Chair Oshiro. Approved unanimously

2. ADOPTION OF OCTOBER 12, 2022, MEETING MINUTES

Motion: Approve the October 12, 2022, minutes.

Motion/Second: Member Hayes/Vice Chair Oshiro. Approved unanimously

3. **BOARD ANNOUNCEMENTS AND OTHER BUSINESS**

Michelle Davis, Board Executive Director greeted the Board members and said that Members Flores and Kutz send their regrets that they are unable to join the meeting. Ms. Davis said she is delighted to announce Dr. Dimyana Abdelmalek is our newest member, representing local health officers. Ms. Davis said this is Temple Lentz's last meeting with us since Member Lentz did not run for re-election. She said it has been a joy to work with Member Lentz, that we will miss Member Lentz and we are grateful for Member Lentz's leadership especially with Local Board of Health composition rule work.

Ms. Davis directed Board members to the meeting materials under tab 3. She announced that today's meeting is Molly's Dinardo's first since joining the staff in mid-October. Ms. Davis said the September cCMV newborn screening technical advisory committee meeting notes are in the meeting materials and reminded the Board of the full briefing it received at its October meeting.

Ms. Davis referred Board members to an email from the Department of Health (DOH) indicating it is extending the school reporting deadline for its annual school and childcare reporting plan. The deadline was extended from November 1 to December 1 to allow DOH to develop resources and to allow schools time to gather data needed to complete the report. She said the last item is the emergency rule for proprietary on-site sewage system treatment products. The Board adopted the emergency rule at the October Board meeting. Ms. Davis commented on the large volume of public comments related to COVID-19. She reminded Board members and the viewing public, that the Board reviewed the COVID-19 vaccine earlier this year and determined it would not add the vaccine to documentation requirements for school and childcare entry. She said the Board had not changed its position and this topic is not on the agenda.

4. **DEPARTMENT OF HEALTH UPDATE**

Tao Sheng Kwan-Gett, Chief Science Officer and Secretary's Designee, provided an update on the topics of Monkeypox (MPV), COVID-19, influenza (flu), and Respiratory Syncytial Virus (RSV) (presentation on file).

Member Kwan-Gett said MPV and COVID-19 cases are declining, but it is important not to be complacent. For COVID-19, the uptick of hospital admissions across the nation among individuals 70 years and older shows we cannot be complacent and need to keep moving forward with the state's COVID-19 response plan. Member Kwan-Gett said we are seeing a record-breaking number of visits in pediatric emergency departments for RSV. The wave is unusually early. The state is also seeing flu on the rise earlier than usual—more like what we would see in December or January each year.

Member Kwan-Gett said hospitals are under strain for a variety of reasons (workforce shortages, RSV activity, etc.). The Department is concerned that flu and COVID-19 together will cause severe strain on our healthcare system. He emphasized that we need to do more to keep people out of the hospital, including encouraging COVID-19 boosters. He provided website and phone contact information that the public can use to make a vaccine appointment.

Amy Ferris, Chief Financial Officer, and Kelly Cooper, Legislative Affairs Director, provided an overview of the Department's legislative and budget proposals for the 2023 – 2025 biennium (presentation on file). They said these requests to the legislature align with the Department's transformational plan, which focuses on five strategic priorities: health and wellness; health systems and workforce transformation; environmental health; emergency response and resilience; and global health.

Ms. Ferris said the Department is requesting over \$800 million in state resources and over \$100 million in spending authority to other fund sources. She said \$335 million of the proposal is for continuation of COVID-19 response resources. They shared the services, programs, authority, data systems, and infrastructure that these investments would support (materials on file)

Ms. Cooper said the legislature provided increased funding to the state's public health system in the 2021 – 2023 operating budget and indicated it would increase investment in the foundational public health system in the upcoming biennium. The Department's proposal would realize the legislature's commitment. Kelly Cooper said these investments would help the state's public health system maintain necessary services, right-size programs, maintain data systems and other infrastructure, and fully fund efforts to meet new statutory requirements.

Board members did not have questions or comments.

5. PUBLIC COMMENT

Chair Grellner opened public comment at 10:39 a.m. and gave 3 minutes per commenter.

J Polehn stated their opposition to the COVID-19 vaccine and effects, government spending, and equity and inclusion.

Jodi Wilke stated their opposition to the COVID-19 vaccine and effects, government accountability, and pharmaceutical companies.

Ken Harp stated their opposition to the COVID-19 vaccine and effects and provided comments on the Advisory Committee on Immunization Practices (ACIP) and Emergency Use Authorization (EUA) and stated their position on vaccine safety.

Natalie Chavez stated their opposition to the COVID-19 vaccine and effects and provided personal stories about vaccine efficacy and injuries.

Chair Grellner closed public comment at 10:56 a.m.

Additional Public Comment at 12:49 p.m.:

Lisa Templeton stated their opposition to COVID-19 vaccine and effects, and provided comments on COVID-19 messaging, data, and ACIP recommendations.

Robert Runnells stated their opposition to the COVID-19 vaccine and effects, and provided comments on ACIP recommendations, vaccine efficacy, and policy.

Chair Grellner closed public comment at 12:55 p.m.

6. EMERGENCY RULE – NOTIFIABLE CONDITIONS, COVID-19 REPORTING, WAC 246-101-017

– POSSIBLE ACTION

Tao Sheng Kwan-Gett, Chief Science Officer and Secretary’s Designee, invited Kaitlyn Donahoe, Board Staff, to provide a briefing on a proposed ninth emergency rule to extend the designation of COVID-19 as a notifiable condition. Ms. Donahoe provided background on the topic, which covered prior emergency rules, the contents of a proposed ninth emergency rule, the overall regulatory landscape for COVID-19, proposed future disease surveillance, and next steps (presentation on file).

Ms. Donahoe said the Board has adopted eight prior emergency rules on COVID-19 since July 2020. She said the rules generally designate COVID-19 as a notifiable condition and require reporting from health care providers and facilities, laboratories, local health jurisdictions (LHJs), and the Department of Agriculture. Ms. Donahoe said that rules have shifted over time based on evolving guidance from the U.S. Department of Health and Human Services as well as feedback from regulated entities and LHJs. She said staff are not recommending changes to the rule language, which reflects the same requirements as the eighth emergency rule.

Ms. Donahoe said the state has a woven landscape of rules and requirements for COVID-19 reporting to ensure: (1) regulated entities are in compliance; and (2) public health is collecting the necessary information to respond effectively to the pandemic. Kaitlyn discussed permanent rulemaking for the Notifiable Conditions rule (chapter 246-101 WAC), which become effective on January 1, 2023. Ms. Donahoe recommended that the Board adopt a ninth emergency rule on COVID-19 to ensure compliance with reporting through the end of 2022, and that the Department of Health may issue a provisional reporting letter that clarifies reporting requirements for COVID-19 in the permanent rule and the federal CARES Act. Ms. Donahoe said these actions would allow for collection of COVID-19 test results and additional patient data through the end of the public health emergency.

Patty Hayes, Board Member, thanked staff for presenting complex information in an understandable way.

Motion: The Board adopts a ninth emergency rule to extend the designation of COVID-19 as a notifiable condition and the required reporting of essential testing and demographic data to do the necessary public health response to COVID-19. The Board directs staff to file a CR-103E to extend WAC 246-101-017 without lapse, effective December 16, 2022, and subsequently rescind the rule effective December 31, 2022 when the permanent rules take effect. The Board further directs staff to work with the Department of Health to assist with and facilitate communication to regulated entities to ensure continued compliance and understanding of complexity so they can be in compliance with HHS guidance through the end of the declared public health emergency.

Motion/Second: Hayes/Love-Thurman. Approved unanimously

**7. REQUEST FOR DELEGATION FOR RULEMAKING, CHAPTER 246-491, VITAL STATISTICS, CERTIFICATES
– POSSIBLE ACTION**

On behalf of the Department of Health, Dr. Tao Sheng Kwan-Gett, Chief Science Officer and Secretary's Designee, requested delegated rulemaking authority from the Board for chapter 246-491 WAC to bring rules in line with current state and federal laws.

Molly Dinardo, Board Staff, gave an overview of the relevant Vital Statistics rules and rationale for rulemaking (presentation on file). Ms. Dinardo said RCW 43.20.050(4) allows the Board to delegate rulemaking authority to the Department in some circumstances. The Board delegates rulemaking authority on a case-by-case basis based on criteria outlined in Board Policy Number 2000-001.

Ms. Dinardo said the Department would like to propose and adopt changes to WAC 246-491-029, which sets forth the specific information collected in the confidential section of live birth and fetal death certificates. Amending this rule assures consistency with current state and federal laws, including changes to the Uniform Parentage Act (UPA), a new vital statistics law (Chapter 70.58A RCW), House Bill 1031, and the 2014 statistical standards from the National Center for Health Statistics. These anticipated rule revisions are expected to support policy and programmatic changes made to other vital statistics rules. With delegated rulemaking authority, the Department would notify interested parties by email, provide the proposed rule language to interested parties, and post rulemaking information on the Department's Vital Statistics webpage.

There were no questions or comments from Board members.

Motion: The Board delegates to the Washington State Department of Health rulemaking authority to make changes to WAC 246-491-029, as appropriate, to align with current law and National Center for Health Statistics standards.

Motion/Second: Member Hayes/Member Lentz. Approved unanimously

**8. UPDATE - BOARD COMPLAINT POLICY
– POSSIBLE ACTION**

Kelly Oshiro, Board Vice Chair, gave a brief overview of the Board Complaint Policy and introduced Kaitlyn Donahoe, Board Staff, to discuss proposed revisions. Ms. Donahoe reminded the Board that members elected to form an ad hoc committee to workshop language in the policy. She recapped that the ad hoc committee met in September 2022 and discussed the proposed revisions from the group. Ms. Donahoe noted that much of the revisions are editorial, and substantive revisions pertain to the Board's responsibility to follow up with complainants and the subject of the complaint upon final disposition.

Patty Hayes, Board Member, asked for clarification on language related to Board member recusal during the complaint process. Members and staff discussed adding

language to the policy, making it clear that a Board member would recuse themselves if they were consulted by staff during the preliminary investigation. Ms. Davis provided historical context of the involvement of a Board member during the preliminary investigation. Chair Grellner reflected that under Robert's Rule of Order, recusal is somewhat subjective, and that he understands the desire for clarity as well as the desire to acknowledge the varying levels of engagement.

Dimayana Abdelmalek, Board Member asked for additional information on how complaints are usually resolved. Ms. Davis recalled that the Board has received complaints on illegal drug labs and whether the health officer appropriately closed and provide appropriate signage, whether or not a health officer required proof of immunization in their own community, and recently a complaint alleging a local public health organization inappropriately released a health officer from their agency. Ms. Davis explained that the resolution of these complaints varied from preliminary investigations informing Board action to involving a third-party investigator and the Office of Administrative Hearings (OAH).

Lilia Lopez, Assistant Attorney General, discussed the possibility of adopting procedural rules to facilitate the process of the Board calling a hearing.

Chair Grellner and Member Hayes discussed proposed revisions to the language regarding conflicts of interest in the policy.

Member Kwan-Gett asked for clarification regarding conflicts of interest if a Board member participates in an investigation. Ms. Lopez highlighted the Administrative Procedures Act and the separation of someone involved in the investigation process as a decision maker.

Chair Grellner, Member Hayes, and Lilia Lopez provided guidance to staff on further revisions to the complaint policy.

Motion: The Board adopts the proposed revisions to Policy 2015-001, Responding to Complaints Against a Local Health Officer or Health Administrator, along with revisions agreed upon at today's meeting, and directs staff to finalize the policy with the Board's Chair and Executive Director.

Motion/Second: Member Hayes/Member Lentz. Approved unanimously.

9. PETITION – ADDING MPS II TO CHAPTER 246-650 WAC, NEWBORN SCREENING – POSSIBLE ACTION

Kelly Oshiro, Board Vice Chair, gave a brief introduction to the petition process and stated that a few weeks ago, the Board received a petition to add Mucopolysaccharidoses Type II (MPS II) as a condition for newborn screening in Chapter 246-650 WAC.

Molly Dinardo, Board Staff, gave a brief overview of the Board's authority and the typical process for adding new conditions to the newborn screening panel. Ms. Dinardo said that under RCW 70.83.050, the Board can adopt rules for newborn screening. If the Board receives a petition regarding a particular condition, staff will conduct a preliminary

review of the condition, also known as a qualifying assumption analysis. In this analysis, the condition is assessed against 3 guiding principles that govern all aspects of the evaluation of a candidate condition. These principles are: 1) Evidence, the decision to add a condition must be evidence based, 2) Accessibility, all children who screen positive should have reasonable access to diagnostic and treatment services, 3) The benefits of screening should outweigh the harms. Once staff conducts the qualifying assumption analysis, they will bring this information back to the Board, and the Board will decide whether to convene a Technical Advisory Committee (TAC) if the Board determines there is enough information to do so. Preparation for TAC takes 6 months of research at minimum. The TAC will then vote to recommend the inclusion of a condition to the panel using the Board's 5 newborn screening criteria.

Ms. Dinardo mentioned that because of the timing of the petition request, and the timing of the Board's November meeting, staff could not complete a preliminary review to the extent typically done for prior conditions. As such, the information provided to the Board was not as in-depth as what Board members might have heard in other meetings.

Dr. John Thompson, Department of Health, gave a brief overview of MPS II. Dr. Thompson referenced the addition of MPS II to the federal Recommended Uniform Screening Panel and provided some details outlined in the Association of Public Health Laboratories (APHL) New Disorders Report on MPS II. He also mentioned that although the federal group has already conducted a rigorous review of MPS II, staff will need to review their extensive report, and conduct additional research as needed (for example, get testing data from some of the other states that are already testing for MPS II or through pilot studies, published literature, etc.).

Chair Grellner asked for clarity on the Board's options regarding the petition request. He said it sounds like the Board has three options – either deny the petition outright, accept the position to move forward with adding the condition, which would bypass the process the Board typically follows, or follow the Board's policies to convene a TAC and possibly add the condition at another time. Dr. Thompson clarified that another option would be to deny the petition and conduct the qualifying assumption analysis. Dr. Thompson mentioned that usually, Department or Board staff, sometimes graduate students, conduct the preliminary review to see if there is enough data to move to a TAC. Since the federal group has done a thorough review, the Board could decide to skip that step and move straight to convene a TAC based on the work of the federal committee.

Vice Chair Oshiro asked Dr. Thompson how long the qualifying assumption analysis usually takes. Dr. Thompson responded that due to current resources and staffing turnovers, a qualifying assumption analysis could take about 3-months.

Socia Love-Thurman, Board Member, inquired if MPS II was previously brought to the Board for review, and currently, how many states include the condition in their newborn screening panels. Dr. Thompson confirmed that this was the first time this condition had been brought to the Board, and wasn't sure which states currently screen for MPS II but would look into it.

Elisabeth Crawford, Board Member, requested clarification on how the information on Board action would be communicated to the petitioner if Board was to deny the petition and move forward with the information already available. Dr. Thompson asked Kaitlyn Donahoe, Board Staff, to weigh in on this process. Ms. Donahoe confirmed that the Board has a policy for handling rulemaking petitions. Based on this policy, staff draft an official letter to the petitioner with the Board's determination and rationale for accepting or denying the petition, with the next steps outlined. Ms. Donahoe also noted that the petitioner could appeal the Board's determination to the Governor's Office.

Dr. Thompson responded back to Member Love-Thurman's previous question regarding states currently screening for MPS II. There are two states, and these are Illinois and Missouri.

Motion: The Board declines the petition for rulemaking to add MPS II as a condition for newborn screening in Chapter 246-650 WAC, and directs staff to work with the Department of Health to perform a qualifying assumption analysis to evaluate MPS II for inclusion in WAC 246-650-020 and then report back to the Board so the Board can determine whether to establish a technical advisory committee to evaluate MPS II against the Board's criteria for adding conditions to the newborn screening rule.

Motion/Second: Member Hayes/Member Lentz. Passed unanimously.

Member Dr. Kwan-Gett stated his support of the motion, and noted that Technical Advisory Committees (TACs) tend to be personnel and time-intensive. He asked if the qualifying assumption analysis alone would provide enough information for the Board to decide about adding MPS II as a newborn screening condition.

Ms. Davis replied that while TACs resource-intensive, they provide critical information for the Board's rulemaking process. She said the TACs are multidisciplinary, which contributes to a deeper level of understanding of the topic, and include cost-benefit analyses, whereas qualifying assumption analyses do not. Ms. Davis explained that it is especially important to understand the impact on the healthcare system and state budget for newborn screenings since all babies in Washington state are screened, and 50 percent of families are on Medicaid.

Chair Grellner thanked Ms. Davis and stated support of the motion for similar reasons. He also said that it is advisable for the Board to follow established procedures and not set a new precedent in this area.

10. LEGISLATIVE STATEMENT

Michelle Davis, Board Executive Director, gave a brief overview of the Board's legislative statement, which is intended to provide guidance to staff regarding policy positions on issues that may come before the Legislature. She said that during Legislative session, Board staff will review the daily bill introductions to identify legislation that impacts the Board's statutory authority or the public health system, as well as the focused priority areas on this statement. Ms. Davis said that she will send to Board members a marked up 2023 statement for their comments and suggestions. She directed Board members to finalize their comments within the first week of December,

so a proposed final draft Legislative Statement can be presented for adoption and approval at the January 2023 Board Meeting.

Chair Grellner thanked Executive Director Davis for her comments. He then asked whether the crab biotoxin legislation was passed last year and whether it needed to be included in the Legislative Statement.

Stuart Glasoe, Board Staff, replied that the bill had been making good progress but ultimately failed to pass. Stuart is eager to support it again this coming year.

Chair Grellner said that staff could keep that item in the Legislative Statement. He noted, however, that the Local Health Officer item could be removed, and that an item regarding pool rules could be added. He said he looked forward to making these comments formally once the draft is sent out.

Member Hayes thanked Ms. Davis for the overview and looks forward to the draft statement as well. She said she would like to see a statement around reproductive health, as well as more content in the maternal child health section. Member Hayes wishes to see discussion of bills that affect childhood or family trauma and mental health associated with the pandemic.

11. PROPOSED 2023 MEETING SCHEDULE – POSSIBLE ACTION

Michelle Davis, Executive Director, reviewed the proposed 2023 meeting schedule for the Board and requested Board members' approval for the dates. She said that once the federal emergency order is lifted, staff will reach out to the Board with an updated list of meeting locations for hybrid meetings as well as calendar holds for the meeting dates.

Motion: [The Board approves the proposed 2023 meeting schedule.](#)

Motion/Second: [Member Crawford/Member Love-Thurman. Approved unanimously](#)

12. BOARD MEMBER COMMENTS

Keith Grellner, Board Chair, called for any comments.

Chair Grellner expressed thanks, good luck and good health to Member Lentz for serving on the board.

Member Lentz said it has been an honor and pleasure to serve on the Board and thanked the fantastic staff. She looks forward to following the Board as a private citizen.

Chair Grellner thanked public commenters for their civility. He hopes with the new year, civility can return to our work and meeting places. He talked about the years of instability, bullying, shaming, and how it needs to stop. Chair Grellner talked about the harm to communities and how children in schools are picking up on this legacy set before then. He said we need to give a better example how to live and get along in a democracy and a community.

Chair Grellner referred to an earlier commenter that asked the Board to ignore the equity efforts, and the Chair stated he does not agree. Chair Grellner talked about an article in the paper about the blatant and overt racism in our youth, saying it is not ok to disparage other people, regardless of political or other opinion. He appealed the Board to encourage our youth to be strong and civil and appealed leaders to set the tone and help lead the way.

ADJOURNMENT

Keith Grellner, Board Chair, adjourned the meeting at 1:05 p.m.

WASHINGTON STATE BOARD OF HEALTH

Keith Grellner, Chair

To request this document in an alternate format or a different language, please contact Kelie Kahler, Washington State Board of Health Communication Manager, at 360-236-4102 or by email at kelie.kahler@sboh.wa.gov TTY users can dial 711.

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