**MINUTES OF THE PUBLIC HEALTH COUNCIL**

**Meeting of January 11, 2017**

**MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH**

**PUBLIC HEALTH COUNCIL**

**MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH**

**Henry I. Bowditch Public Health Council Room, 2nd Floor**

**250 Washington Street, Boston MA**

**Docket: Wednesday, January 11, 2017 - 9:00 AM**

1. **ROUTINE ITEMS**
   1. Introductions
   2. Updates from Commissioner Monica Bharel, MD
   3. Record of the Public Health Council December 14, 2016 Meeting **(Vote)**
2. **DETERMINATION OF NEED**
3. Baystate Medical Center, Inc. application for a significant change to its previously approved DoN Project No. 1-3B36 (Build out of 11,133 GSF of shell space, and 6,358 GSF of renovation). **(Vote)**
4. **FINAL REGULATIONS**
5. Request for final promulgation of proposed amendments to 105 CMR 300.000: *Reportable Diseases, Surveillance, and Isolation and Quarantine Requirements* **(Vote)**
6. Request for final promulgation of proposed amendments to 105 CMR 100.000: *Determination of Need* **(Vote)**

**4. PRESENTATIONS**

a. Informational briefing on proposed Determination of Need Program Guidelines addressing Community Health Initiatives

*The Commissioner and the Public Health Council are defined by law as constituting the Department of Public Health. The Council has one regular meeting per month. These meetings are open to public attendance except when the Council meets in Executive Session. The Council’s meetings are not hearings, nor do members of the public have a right to speak or address the Council. The docket will indicate whether or not floor discussions are anticipated. For purposes of fairness since the regular meeting is not a hearing and is not advertised as such, presentations from the floor may require delaying a decision until a subsequent meeting.*

**Public Health Council**

Presented below is a summary of the meeting, including time-keeping, attendance and votes cast.

**Date of Meeting:** Wednesday, January 11, 2016

**Beginning Time:** 9:08AM

**Ending Time:** 11:21AM

| **Board Member** | **Attended** | **Record of the Public Health Council December 14, 2016 Meeting (Vote)** | **Item 2a Determination of Need #1-3B36** | **Request for final promulgation of proposed amendments to 105 CMR 300.000: Reportable Diseases, Surveillance, and Isolation and Quarantine Requirements** | **Request for final promulgation of proposed amendments to 105 CMR 100.000: Determination of Need** |
| --- | --- | --- | --- | --- | --- |
| Monica Bharel | Yes | Yes | Yes | Yes | Yes |
| Edward Bernstein | Yes | Yes | Yes | Yes | Yes |
| Lissette Blondet | Yes | No present at time of vote | Yes | Yes | Yes |
| Derek Brindisi | Absent | Absent | Absent | Absent | Yes |
| Harold Cox | Yes | Yes | Yes | Yes | Yes |
| John Cunningham | Yes | Yes | Yes | Yes | Yes |
| Michele David | Yes | Yes | Yes | Yes | Yes |
| Meg Doherty | Yes | No present at time of vote | No present at time of vote | yes | Yes |
| Michael Kneeland | Yes | Yes | Yes | Yes | Yes |
| Paul Lanzikos | Yes | Yes | Yes | Yes | Yes |
| Lucilia Prates-Ramos | Yes | Yes | Yes | Yes | Yes |
| Secretary Francisco Ureña | Yes | Yes | Yes | Yes | Yes |
| Alan Woodward | Yes | Yes | Yes | Yes | Yes |
| **Summary** | **12 Members Present, 1 Member Absent** | **10 Members Approved, 1 member Absent, 2 Not present at time of vote** | **11 Members Approved, 1 member Absent, 1 Not present at time of vote** | **12 Members Approved, 1 Member Absent** | **12 Members Approved, 1 Member Absent** |

**Attendance and Summary of Votes:**

**PROCEEDINGS**

A regular meeting of the Massachusetts Department of Public Health’s Public Health Council (M.G.L. c. 17, §§ 1, 3) was held on Wednesday, January 11, 2017 at the Massachusetts Department of Public Health, 250 Washington Street, Henry I. Bowditch Public Health Council Room, 2nd Floor, Boston, Massachusetts 02108.

Members present were: Monica Bharel, MD, MPH; Edward Bernstein, MD; Lissette Blondet; Harold Cox; John Cunningham, PhD; Michele David, MD; Meg Doherty; Michael Kneeland, MD; Paul Lanzikos; Lucilia Prates-Ramos; Secretary Franciso Ureña; and Alan Woodward, MD.

Absent member(s) were: Derek Brindisi

Also in attendance was Margret Cooke, General Counsel at the Massachusetts Department of Public Health.

Commissioner Bharel called the meeting to order at 9:08 AM and made opening remarks before reviewing the agenda.

**ROUTINE ITEMS**

**Updates from Commissioner Monica Bharel, M.D., MPH**

Commissioner Bharel began by announcing that Massachusetts was named the second healthiest state in the country in the 2016 America’s Health Rankings report. The report highlighted some of the Commonwealth’s strengths including a low prevalence of obesity, the highest rate of insurance coverage among residents, and a high number of primary care physicians. The Commissioner informed the Council that our Administration will also continue to support good health for all residents and importantly, address the current opioid epidemic which is one of our greatest health challenges and our top public health priority.

Commissioner Bharel then announced that Massachusetts was also recognized as first in the nation for public health preparedness. The Trust for America’s Health (TFAH), a non-partisan organization dedicated to saving lives by protecting the health of every community and working to make disease prevention a national priority, found Massachusetts to be the most prepared state in the nation when it comes to preventing, responding to, and recovering from public health emergencies such as disease outbreaks, bioterrorism, and natural and manmade disasters. The Commonwealth was identified as the only state to have met all 10 public health preparedness indicators in its report *Ready or Not 2016? Protecting the Public’s Health from Diseases, Disasters and Bioterrorism.* The indicators provide a snapshot of efforts to prevent and prepare for health threats in states and within the healthcare system based on high-priority areas and concerns, and were selected after consulting with leading public health and healthcare officials. Massachusetts’ score reflects work across the Department including on health security preparedness, flu vaccination, climate change readiness, food safety, healthcare associated infections, and state public health laboratory biosafety measures. The score also reflects our collaboration with the Massachusetts Emergency Management Agency which has put in place a system to support emergency access for healthcare staff and supplies during emergencies.

She went on to announce that the Bureau of Infectious Disease and Laboratory Sciences (BIDLS) Office of HIV/AIDS has expanded its pilot Pre-exposure prophylaxis, or PreP Drug Assistance Program (PrEP-DAP) to all income-eligible residents. The FDA has approved the use of Truvada, a combination antiretroviral medication, for primary prevention of HIV infection, and the PrEP-DAP is intended to lower financial barriers to the medication to encourage more persons at risk to adopt this highly effective HIV prevention strategy.

Commissioner Bharel reported that the Bureau of Substance Abuse Services recently awarded Veterans Inc., a national leader in ending homelessness for veterans and a provider of substance use disorder services, funds to open a co-ed 20-bed Clinical Stabilization Services (CSS) program in Shrewsbury. The program is expected to open in 2 weeks, and will play an important role in addressing substance use disorder in some of our most vulnerable service men and women.

She continued by reflecting on some of the collective efforts used to fight the ongoing opioid epidemic:

•Relaunched in August, the Department’s new Prescription Monitoring System, MassPAT, has been a resounding success. Nearly 2 million searches have been conducted to date. This tool is a vital clinical aid for prescribers in caring for patients, and a critical part of the fight against the opioid epidemic. As of December, Massachusetts has connected with 26 states to share patient prescription data, including New Hampshire, Vermont, New York, Connecticut and Rhode Island.

•Over 7,000 people were trained in the use of Naloxone in the 1st six months of 2016 (a 40% increase over the same period in 2015). Over 50,000 people in Massachusetts are now trained in the use of this lifesaving antidote.

•Over 1,500 overdose rescue reports – each a life saved- were received in 1st six months of 2016 (a 21% increase over same period in 2015).

•All of the 8,500 new medical, dental, and nursing graduates across the Commonwealth now benefit from first in the nation core competencies on for the Prevention and Management of Prescription Drug Misuse which are now incorporated within their curricula, and have been adopted by the Massachusetts League of Community Health Centers.

•Over 1,700 sober home beds have been certified in in 2016, providing sober, safe and healthy living environment that promotes recovery from alcohol and other drug use and associated problems.

She concluded by stating that in 2017, we will continue our efforts to combat the opioid epidemic by adding treatment beds and outpatient treatment options; by continuing our prevention education efforts for both general public and prescribers; and by making sure that life-saving interventions are available to those suffering from the medical illness of SUD.

Before proceeding, the Council was asked if they had any questions on the updates.

Dean Cox thanked Commissioner Bharel and noted that he especially appreciated the comments on the assessment from trust for America’s health. He specifically gave kudos to Kevin Cranston, Mary Clark, and Al DeMaria for their work. He further went on to state that it has been a considerable amount of time since they have received an updated on the Emergency Preparedness and proposed an update on where we are with that work.

Commissioner Bharel thanked him for his comment and noted that they will bring update to the Council in the near future.

Dr. Woodward said he noticed that the Commonwealth has the lowest rate of gun deaths in the country. He also inquired as to whether there was any additional information on the PHAB review.

Commissioner Bharel responded that the committee is in the review process and that we expect to hear from them early this spring and will update the Council as soon as we get feedback.

Dr. David stated that she was very pleased to hear that we are one of the healthiest states. She further stated that she was glad to hear Commissioner Bharel mention that one of the reasons is due to primary care and public health.

Commissioner Bharel thanked Dr. David for her comments and asked the Council if there were any further questions or comments. Seeing none, she proceeded with the agenda.

**1. ROUTINE ITEMS**

**c. Record of the Public Health Council December 14, 2016 Meeting (Vote)**

Commissioner Bharel asked if any members had any changes to be included in the December 14, 2016 meeting minutes.

Seeing none, the Commissioner asked for a motion to approve the minutes.

Dr. Woodward made a motion to approve, and Ms. Prates Ramos seconded the motion. All present members approved.

**2. DETERMINATION OF NEED**

**a. Baystate Medical Center, Inc. application for a significant change to its previously approved DoN Project No. 1-3B36 (Build out of 11,133 GSF of shell space, and 6,358 GSF of renovation). (Vote)**

Commissioner Bharel invited Nora Mann, Director of the Determination of Need Program, and Rebecca Rodman, Deputy General Counsel, to the table to present the staff recommendation for Baystate Medical Center’s determination of need application requesting a significant change to a previously approved determination of need project. She also noted that there are also several representatives of the applicant present, who will be available to answer any questions.

Before the presentation Commissioner Bharel asked Dr. Kneeland to leave the room as he has recused himself from participating on this application.

Dr. Kneeland exits the room at 9:19am.

Ms. Blondet arrives at 9:19am.

Upon the conclusion of Ms. Mann’s presentation, Council members were asked if they had any questions or comments.

Dr. Woodward stated that the since the original DoN was in 2007 and that this is currently the 6th amendment, is there a timeframe for when the Council can look at the completely new DoN rather than amending the original.

Ms. Rodman replied that the original plan has been built and licensed. She further stated that this is an amendment to it rather than a new DoN because it is putting new work in space that was originally built as shell space.

Dr. Woodward asked how much additional shell space is available and how many additional amendments will be necessary.

Ms. Kirsten Waltz of Steffian Bradley Architects responded to Dr. Woodward. She informed him and the Council that 156,553 shell space remains. The 4th floor is allocated shell space that will be look to the future for medical surgical beds. There is a north wing which is looked to for pediatric beds, this DoN amendment is the first part of the Children’s Hospital initiative. The final area is build out of the remaining OR space of the 2nd floor.

Dr. Woodward asked for clarification whether they already had plans for the three different service expansions.

Ms. Waltz replied that when they did the original DoN there was schematic design plans associated with that, while planning is still ongoing there are schematic plans available.

Dr. Woodward replied that in essence, unless there is a new building, there will be significant amendments to the 2007 DoN going further.

Ms. Waltz replied that is correct.

Dr. Cunningham asked about the CHI and whether the plan from 2007 will be possibly looked at in order to use the funds in a different way.

Ms. Mann responded that there is regular reassessment by our CHI staff.

Dr. Bernstein asked if they have been compliant with CHI.

Ms. Mann stated that is correct and that they submit reports and will continue to submit reports to staff.

Ms. Blondet noted that in the summary a matching grant program is discussed. She asked for staff to expand on what the matching grant program entails.

Ms. Mann replied that this is something outside of the DoN staff, specifically, but more information can be provided at a later date by Community Health staff.

Mr. Ben Wood, Director of the Office of Community Health Planning and Engagement, replied to Ms. Blondet. He informed her that Baystate is interested in understanding their role as an anchor institution and investing in projects that have broad support with other anchor institutions. This is actually built off of previous DoN where they invested in a community development corporation and received community investment tax payer dollars back from the state. They are reinvesting those dollars back into a community health program in Hamden County.

With no further questions or comments from the Council, Commissioner Bharel asked for a motion to accept the staff recommendation for approval of the Baystate Medical Center, Inc. request for a significant change to its previously approved Determination of Need.

Dr. David made the motion and Dr. Bernstein seconded it. All present members approved.

**3. FINAL REGULATIONS**

**a. Request for final promulgation of proposed amendments to 105 CMR 300.000: *Reportable Diseases, Surveillance, and Isolation and Quarantine Requirements* (Vote)**

Dr. Kneeland returns at 9:40am.

At this time Commissioner Bharel invited Kevin Cranston, Assistant Commissioner and Director of the Bureau of Infectious Disease and Laboratory Sciences, Dr. Al DeMaria, State Epidemiologist and Medical Director for the Bureau, to the table to present proposed amendments to 105 CMR 300.000: Reportable Diseases, Surveillance, and Isolation and Quarantine Requirements and request approval of these changes from the Council.

Upon the conclusion of the presentation, the Council was asked if they had any questions or comments.

Ms. Doherty arrives at 9:48am.

Dean Cox stated that he sits on the Boston Public Health Commission Board and asked for confirmation as to whether they refer back to the advisory council for HIV.

Mr. Cranston responded that they do as well as other advisory bodies.

Dean Cox then referred to 300.180 and asked whether it resolves the ongoing conversation about interactivity of the data.

Mr. Cranston replied that they believe it does the great majority of infections are currently being reported by BPHC to the Maven system through this data exchange. It was jointly developed by BPHC and DPH. By sharing information in a bidirectional way each agency has a full data set.

Dr. Woodward commended the team and inquired how they disseminate updates to various labs, clinicians, etc.

Dr. DeMaria replied that they have extensive mailing lists, various partners like the Medical Society that provide relevant dissemination of the information. They also use the local public health departments, educational seminars, as well as Maven.

Mr. Cranston followed up stating that one of the strengths of Maven is its availability to update work flows in order to prompt boards of health to follow up with clinicians.

Dr. Woodward asked if hospital and commercial labs are reporting to local public health routinely.

Mr. Cranston replied that they report through the electronic laboratory system to us. They may do additional reporting to other entities but their primary responsibility through the regulation is to utilize ELR system.

Secretary Ureñas asked if all local boards of health are on Maven.

Mr. Cranston replied that about 95% of local health boards are on Maven. The remaining cities and towns that have yet to be added are very small, have low population, and low reporting that simply don’t have the capacity yet. He further noted that secure fax line is available.

With no further questions or comments from the Council, Commissioner Bharel asked for a motion to accept the amendments to 105 CMR 300.000.

Dean Cox made the motion, seconded by Dr. Woodward. All present members approved.

**3. FINAL REGULATIONS**

**b. Request for final promulgation of proposed amendments to 105 CMR 100.000: Determination of Need (Vote)**

At this time, Commissioner Bharel invited Nora Mann, Director of the Determination of Need Program, Jay Youmans, Senior Advisor to the Commissioner, Tom Mangan, Deputy Director of Government Affairs for the Department, Ben Wood, Manager of Community Health Planning and Engagement for the Bureau of Community Health and Prevention, and Rebecca Rodman, Deputy General Counsel to the table to present proposed amendments to 105 CMR 100.000: *Determination of Need* and provide an informational overview on the Determination of Need Program’s Guidelines addressing Community Health Initiatives.

Prior to their presentation Commissioner Bharel highlighted some of the work that has been done since revisions to this regulation were originally brought to the Council.

Since we initially brought this regulation to the Public Health Council back in August, we have held 7 public meetings across the Commonwealth, as well as three public comment periods, soliciting feedback on both the proposed regulation and related sub-regulatory guidelines.

As discussed in August, the Department’s goal was to modernize and streamline these regulations and infusing public health within their core and linking them to other critical regulatory functions across state government. At the same time, we’ve added significant elements of accountability, predictability, and a vision for tackling the Commonwealth’s underlying social determinants of health.

The comments from a wide array of stakeholders show overwhelming support for our overall approach. Some of these comments also provided an opportunity to further refine language in the regulation. Commissioner Bharel concluded by asking Ms. Mann to present the changes made to the regulation.

Upon conclusion of the presentation, the Council was asked if they have any questions or comments.

Ms. Blondet congratulated the team and thanked them for their work.

Ms. Doherty stated that she was blown away by the work and the amount of effort that was put into this to bring Determination of Need up to today’s standards.

Commissioner Bharel thanked the Council for their acknowledgment of the staff’s hard work.

Dr. David congratulated the team and thanked them for putting an emphasis on CHI as well as class and health disparity part of this work.

Dr. Cunningham stated that was curious to what commenters thought needed to be strengthened.

Mr. Youmans informed him that some comments from the Boston University School of Public Health acknowledged that certain restrictions in the statute would not allow for additional measures to be taken within the regulation. This included, allowing DPH to take proactive steps for example, limiting a healthy system that might be too large.

Dr. Bernstein congratulated the team as well and noted that he didn’t see a definition of health equity.

Mr. Youmans noted that in the application that Ms. Mann and the team are compiling for release upon promulgation of the regulation, there is a glossary of terms that includes the definition of health equity in relation to defining public health value. He noted that our definition of health equity was pulled from a national source.

Mr. Wood confirmed that it is a commonly used definition by Dr. Margaret Whitehead.

Dr. Bernstein suggested that it be included in the regulation.

Ms. Rodman suggested that it remain in the guidance so that it can be changed as the definition expands.

Ms. Mann noted that the concept of equity has expanded in profound an important ways and leaving it defined in the application form allows us to be more responsive to the needs.

Mr. Youmans thanked Dr. Bernstein for his suggestion and stated that if he is referencing the desire to add accountability around health equity it is important to note that the language and definitions included in the application would be enforceable in the standard conditions that have been outlined. He further explained that it allows the Council to adjust those measures and the definition as our understanding of this concept and the new DoN regulation evolves.

Dr. Woodward commended the staff and requested that in a period of 2-3 months, or whenever they determine is correct, to present to the Council the criteria and the factors in which they now have authority as well as roles and responsibilities.

Commissioner Bharel thanked Dr. Woodward and informed him that a presentation can certainly be provided.

Mr. Youmans acknowledged several staff members that are not at the table for their work in this regulation: Halley Reeves, Sanori Usprung, Carlene Pavlos, Torey McNamara, and Jen Barrelle. He also thanked the stakeholders for their engagement in this process.

Dean Cox asked if was appropriate to put the Council’s role in the implementation guidelines to assure that it is absolutely clear.

Ms. Rodman believes they can draft something, it was expected that as they present the first application after the promulgation of the regulation they would walk through the process with the Council.

Dr. Woodward further explained that when he mentioned presentation he also expected to have an excerpted section of criteria that explains their charge and role.

Mr. Lanzikos also commended the staff and also requested that as they provide subregulatory guidelines to providers it would be beneficial to have that presented to the Council as well.

Dr. Cunningham asked about for clarification on the transfer of ownership as to whether the applicant has to have performed satisfactory on all previous DoNs.

Mr. Youmans stated that that is true and are requiring compliance with state, federal, local law including past performance with DoNs.

Dr. Cunningham asked if that includes DoNs that are ongoing.

Staff confirmed that is correct.

Mr. Youmans stated that this new regulation would have no impact on applications that are currently pending with the Department or filed prior to this going into effect. However, as it relates to new applications this would have impact and we would be able to look back at past performance of DoN.

Dr. Cunningham asked whether it includes the old and the new owner.

Ms. Rodman replied that we cannot hold new purchaser to the actions of the seller. We can consider the background of the seller and the facility but cannot the purchases accountable.

Dr. Cunningham asked if the purchaser inherits the obligations of the sellers’ DoN.

Ms. Rodman confirmed that is true.

Ms. Blondet asked about the CHI percent and why it was 5%.

Mr. Youmans has said it was standard set based on precedent of Weld-Cellucci administration.

Dr. Bernstein expressed concern on the longevity due to funds.

With no further questions, Commissioner Bharel asked if there is a motion to accept the revisions to 105 CMR 100.000, the Determination of Need regulation.

Ms. Doherty made the motion, Mr. Lanzikos seconded it. All present members approve.

**4. PRESENTATIONS**

**a. Informational briefing on proposed Determination of Need Program Guidelines addressing Community Health Initiatives**

Dr. Kneeland leaves at 10:46am and does not return.

The Commissioner asked Ben Wood to present on the framework for the Determination of Need Program Guidelines addressing Community Health Initiatives.

Upon the conclusion of his presentation, the Council was asked if they had any questions or comments.

Dean Cox leaves at 10:57am and does not return.

Mr. Lanzikos thanked Mr. Wood for his work and the presentation and noted the importance of the population shift for LTC. He inquired what do you anticipate would be the reporting back to the Council in terms of the specific and overall impact of the initiatives.

Mr. Wood noted that they were considering a two part evaluation, local and statewide evaluation. Some standards are yet to be developed but at least annually they will be reporting back on the specific projects that they are funding.

Mr. Youmans reminded the Council that with the standard condition with the accountability measures applies to this as well. The PHC will have broader discretion to assure compliance with this.

Ms. Blondet is concerned about the CHNA having a central role in participation and the inconsistencies of CHNA.

Mr. Wood stated that it is an issue with terminology. CHNA in this case being community health needs assessment rather than community health network areas.

Dr. David congratulated the team and commented on the shared communication between the AGO and DPH. She asked if the AG is on board with this plan and the model.

Mr. Wood stated that they cannot speak for the AGO but there has been great conversation that alludes to a very strong alignment.

Mr. Lanzikos asked what is the implementation plan and timeline.

Mr. Wood said the guideline would become effective as soon as the regulation is promulgated.

Mr. Lanzikos asked if there would be public hearings.

Ms. Rodman replied that these subregulatory guidelines do not need a public hearing before they are final but they did have stakeholder comments and hearing.

Mr. Lanzikos asked if they are planning to hold workshops or informational sessions.

Mr. Wood started that they have a plan to host a webinar to let folks know about the new application process.

Mr. Lanzikos mentioned the importance of getting the community engaged in the process.

Dr. Bernstein inquired on the timeline in terms of developing this need.

Ms. Mann replied that it has to do with the expectations they are in the application explaining that before an applicant comes to them with a proposed plan they have to demonstrate an assessment by both the hospital and the community.

Mr. Lanzikos asked about what happens to CHNAs currently functioning.

Mr. Wood replied that the preexisting relationships with community health network areas will be one way in which applicants can fulfill those standards.

With no further comments, Commissioner Bharel thanked the team for their work. She reminded the Council that the next meeting is scheduled for Wednesday, February 8th, 2017 at 9AM. She asked for a motion to adjourn.

Dr. Bernstein made the motion, Ms. Blondet seconded. All present members approved.

The meeting adjourned at 11:21am.