MINUTES OF THE PUBLIC HEALTH COUNCIL

Meeting of June 8, 2022

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: \*\*\*REMOTE MEETING\*\*\* Wednesday, June 8, 2022 – 9:00AM**

***Note: The June Public Health Council meeting will be held remotely as a video conference consistent with St. 2021, c. 20, s. 20, which provides for certain modifications to the Massachusetts Open Meeting Law due to COVID-19.***

Members of the public may listen to the meeting proceedings by using the information below:

Join by Web: <https://eohhs.webex.com/eohhs/onstage/g.php?MTID=eb939fbdd288fa03009ee4739519b2f8b>

Dial in Telephone Number: 844-621-3956 Access code: 2534 679 1300

1. **ROUTINE ITEMS**
	1. Introductions.
	2. Updates from Commissioner Margret Cooke.
		* Review Data from the Biannual Opioid Report.
	3. Record of the Public Health Council Meeting held May 4, 2022. **(Vote)**
2. **PRELIMINARY REGULATIONS**
	1. Overview of proposed amendments to 105 CMR 164, *Licensure of Substance Use Treatment Programs.*
	2. Overview of proposed amendments to 105 CMR 120, *Massachusetts Regulations for the Control of Radiation.*
3. **REGULATIONS**
	1. Request to promulgate amendments to 105 CMR 130, *Hospital Licensure.* **(Vote)**
4. **PRESENTATIONS**
	1. Informational presentation on Tick-borne Disease Surveillance in Massachusetts.

*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.*

Attendance and Summary of Votes:

Presented below is a summary of the meeting, including timekeeping, attendance and votes cast.

Date of Meeting: June 8, 2022

Start Time: 9:08am Ending Time: 11:52pm

| **Board Member** | **Attended** | **First Order: Approval of May 4, 2022 Meeting Minutes (Vote)** | **Second Order: REGULATIONS: Request to promulgate amendments to 105 CMR 130, Hospital Licensure. (Vote)** |
| --- | --- | --- | --- |
| **Commissioner Margret Cooke** | Yes | Yes | Yes |
| **Edward Bernstein** | Yes | Yes | Yes |
| **Lissette Blondet** | Yes | Yes | Yes |
| **Kathleen Carey** | Yes | Yes | Yes |
| **Secretary Elizabeth Chen** | Yes | Yes | Yes |
| **Harold Cox** | Yes | Yes | Yes |
| **Alba Cruz-Davis** | Yes | Yes | Yes |
| **Michele David** | Yes | Abstained | Yes |
| **Elizabeth Evans** | Yes | Abstained | Yes |
| **Michael Kneeland** | Yes | Yes | Yes |
| **Joanna Lambert** | Absent | Absent | Absent |
| **Stewart Landers** | Yes | Abstained | Abstained |
| **Mary Moscato** | Yes | Yes | Yes |
| **Secretary Cheryl Poppe** | Yes | Yes | Yes |
| **Summary** | 13 Members Present; 1 Absent | 10 Members Approved; 1 Absent; 3 Abstained | 12 Members Approved; 1 Absent; 1 Abstained |

**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, June 8th, 2022 by the Massachusetts Department of Public Health, 250 Washington Street, Boston, Massachusetts 02108.

Members present were: Margret Cooke; Edward Bernstein, MD; Lissette Blondet; Kathleen Carey PhD; Secretary Elizabeth Chen, PhD; Harold Cox; Alba Cruz-Davis PhD; Michele David, MD; Elizabeth Evans, PhD; Michael Kneeland, MD; Stewart Landers, JD; Mary Moscato and Secretary Cheryl Poppe.

Also in attendance was Elizabeth Scurria Morgan, First Deputy General Counsel at the Massachusetts Department of Public Health.

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

**1. ROUTINE ITEMS**

*b. Updates from Commissioner Margret Cooke*

Commissioner Cooke proceeded to update the council on the following:

**Welcome New Member – Stewart Landers**

Commissioner Cooke welcomed the newest member to the Council, Stewart Landers. Stewart is a Senior Consultant with John Snow, Inc. and brings over 30 years of experience working on public health systems and practices related to HIV and AIDS, chronic disease, wellness, mental health and substance use disorder treatment, and LGBTQ+ health.

Stewart is also an Assistant Clinical Professor at the Tufts University School of Medicine, in the Department of Family Medicine and Community Health, an Associate Editor for the American Journal of Public Health and serves on the Board of the Massachusetts Public Health Association, who he is representing on the Council.

**Dr. Kneeland Departure**

Commissioner Cooker wished a warm farewell to Dr. Michael Kneeland, who has served the Council for 9 years. Before turning to Dr. Kneeland for some parting words, Commissioner Cooke presented him with a Commissioner’s Citation for his service on the Council and read it aloud. She then turned it over to Dr. Kneeland and the other council members.

Dr. Kneeland expressed his gratitude to DPH staff over the years as well as all the leadership and fellow council members.

Dean Cox commended Dr. Kneeland for all his thoughtful contributions to the council and the Commonwealth.

Dr. David thanked Dr. Kneeland for his work and professional companionship.

Dr. Bernstein echoed all the sentiments said and thanked Dr. Kneeland for all his contributions.

**Secretary Poppe Award**

Commissioner Cooke congratulated Council member Cheryl Poppe, Secretary of the Department of Veterans’ Services, who was recently honored as the recipient of the William Joiner Institute’s Veterans Excellence Award. This award spotlights outstanding veterans who continue to serve their community. Secretary Poppe is a 30-year veteran of the Massachusetts National Guard who retired at the rank of Colonel in 2008.

**Gun Violence**

Commissioner Cooke then acknowledged the latest wave of gun violence in the country. Mass shootings continue to happen around the country, devastating families, communities, and the nation. Gun violence is a public health issue, and DPH continues to work on finding solutions to the root causes of gun violence.

In Massachusetts, through the Department’s Gun Violence Prevention Program, DPH partners with local initiatives in supporting communities as they strengthen their prevention efforts. Massachusetts has a long-standing and unwavering commitment to gun safety and violence prevention.

**Monkeypox**

Commissioner Cooke then updated the Council that on May 18th, the Department confirmed an infection of monkeypox virus, the first ever confirmed case in Massachusetts.

* Monkeypox is a rare infectious disease that typically begins with flu-like symptoms, such as fever, chills, headache, muscle aches, and swollen lymph nodes, and then progresses to a rash on the face or body.
* Most infections last 2-4 weeks, and people recover without treatment.
* Monkeypox is NOT easily spread person-to-person, but transmission can occur when a person is symptomatic, through direct contact with body fluids and lesions, indirect contact with clothing and bedding, or through prolonged face-to-face contact.
* In May 2022, the World Health Organization reported that multiple countries without endemic monkeypox had identified cases; many are in men who have sex with men.

No additional cases have been identified in Massachusetts since the single case in May, and the Department continues to monitor the situation and work closely with our relevant local, state and federal partners.

**Infant Formula**

The Commonwealth is proactively addressing the infant formula shortage and short-term supply issues to help families access safe, healthy feeding options for their infants. The Women, Infants, and Children, or “WIC” program here at DPH, a nutrition program for eligible Massachusetts families, is working closely with formula manufacturers and retailers.

In February, the Department requested and received three federal regulatory waivers from the US Department of Agriculture that provided additional flexibility in response to the shortages and as a result, Massachusetts’ WIC program has added 8 more formula brands and a total of 68 new formula products that are now covered by WIC benefits. Families who are experiencing challenges locating formula should contact their local WIC office, call the phone number on the back of their WIC card, or visit hhs.gov/formula.

**Summer Safety**

The Department has issued an annual precaution to keep everyone safe and healthy this summer, which address mosquito and tick bites, water safety, and other activities.

**COVID-19 - New Telehealth Platform**

Commissioner Cooke then provided an update regarding COVID-19. Last month, in collaboration with Color Health, the Administration launched a free telehealth service to help residents 18 years and older determine if Paxlovid is an appropriate treatment if they have tested positive for COVID-19 and have symptoms. This service is available in English, Spanish, Haitian Creole, and Portuguese and can be accessed at mass.gov/covidtelehealth.

**Opioid Report**

Commissioner Cooke then turned to data in the opioid report that is released twice a year, and includes data on opioid-related overdose deaths, opioid-related EMS incidents, substance exposed newborns & maternal opioid use, and opioid prescribing as part of ongoing surveillance of, and in response to, the opioid epidemic. These data provide snapshots in time using confirmed and estimated data to help the Department respond effectively based on the most recent information available.

The Commissioner was joined by Deirdre Calvert, Director of Bureau of Substance Addiction Services, Abigail Averbach, Assistant Commissioner and Director of Our Office of Population Health, and Dana Bernson, Director of Special Analytic Projects at the Office, who were available to respond to specific questions about the data.

Commissioner Cooke then proceeded to present the opioid data.

Upon the conclusion of the updates, Commissioner Cooke then asked if the Council members had any remarks or questions before proceeding.

Ms. Blondet asked if there is a threshold for capturing alcohol rates and if that data be broken out by race/ethnicity.

Dana Bernson stated the data will show presence of alcohol if detected in screening by the medical examiner. Data can be broken down by race/ethnicity for certain substances.

Dr. David asked if the alcohol data is combined with other substances or can it be detected on its own.

Ms. Bernson stated that all substances can be detected in addition to alcohol, which includes any combination.

Dr. Evans asked if there are plans to coordinate with counties on what can be done differently to improve these patterns and trends. She also asked if the PMP data can be analyzed to understand how accessible these medications are for individuals. She then asked how the co-use of opioids and stimulants can be addressed in terms of policy.

Ms. Calvert stated that DPH works with counties and ensures there is access to treatment centers, including mobile sites, delivery services and other access points. There is a focus on an upcoming grant DPH is receiving to address stimulant use disorder, including multiple trainings to address tribal stimulant use. There is a fentanyl test strip clearing house available to test product.

Ms. Bernson stated there is additional data regarding buprenorphine prescribing and is available on the state data platform, the Population Health Information Tool (PHIT).

Dr. Evans thanked DPH for the data and asked how the council can support these efforts and help address the current trends.

Ms. Calvert stated community engagement work should be improved as well as a continued effort to remove the stigma associated with SUDs and she is open to partnerships to work further on these efforts.

Mr. Landers reiterated the importance of the fentanyl test strip access and stated that identifying substances that are trending is important to know for targeting mitigation efforts.

Ms. Blondet stated that access to naloxone for more individuals is critical and the same level of access should be available for fentanyl strips. She also asked if the data reflect the location of the death or place of residence of the individual.

Ms. Averbach stated the data is based on the individual’s place of residence, but DPH can review the place of death as well.

Ms. Bernson stated that in the full data set, it is broken down by both the city or town of residence and the place of death.

Dr. Bernstein reiterated that one death is one too many as stated earlier by the Commissioner. He also asked how many overdose deaths were positive for COVID. He also requested treatment engagement data to be available by race/ethnicity. Lastly, he added a comment to focus on ways to mitigate the loss of life, specifically in communities of color.

Mr. Calvert stated BSAS has that data and can share with the council.

Dr. Bernstein suggested to focus on supply of substances containing fentanyl in addition to all the other work being done.

With no further questions or comments from the council members. Commissioner Cooke then turned to the docket.

**1. ROUTINE ITEMS**

*c. May 4, 2022 Minutes (Vote)*

The Commissioner asked if there was a motion to approve the May 4, 2022 minutes.

Secretary Poppe made the motion, which was seconded by Ms. Blondet. Dr. David, Dr. Evans, and Mr. Landers abstained.

All other present members approved.

**2. PRELIMINARY REGULATIONS**

*a. Overview of proposed amendments to 105 CMR 164, Licensure of Substance Use Treatment Programs.*

Commissioner Cooke invited Deirdre Calvert, Director of our Bureau of Substance Addiction Services (BSAS), to present an overview of proposed amendments to the Department’s regulations regarding substance use disorder treatment programs. She was joined by Erica Weil, Director of Quality Assurance and Licensing for the Bureau.

Upon conclusion of the presentation, Commissioner Cooke asked the council members if there are any questions or comments.

Secretary Poppe thanked the department for all their hard work. She asked how an individual in a facility can get directly connected to the next step in the program.

Ms. Calvert stated that the individual has the right to refuse a step-down treatment, but there is a warm handoff to the next level of care that meets their needs if they choose to proceed. There may be other issues if they are civilly committed but that is the overall goal.

Ms. Weil stated the hope is that there is a partnership between the program and patients to promote a smooth transition without interruption in service and directly connect them with desired services.

Secretary Poppe commented that this connection is vitally important and thanked BSAS for the information.

Dr. Evans asked if the Opioid Treatment Program (OTP) central registry encompasses everyone that receive FDA-approved medications and if the data be analyzed routinely.

Ms. Calvert stated all three forms of medication are available at OTPs and commended the great services that they provide for patients. BSAS receives data and will be planning to analyze when available.

Dr. Evans asked if the take home doses will be made more available and if there will be guidance for providers to determine which patients should receive them and when.

Ms. Calvert stated that DPH provided a blanket waiver to be less restrictive for providers, it is at the discretion of the provider if they decide to access the waiver. BSAS is actively working with the OTPs during this process to provide guidance for providers. The threshold is set by the federal government and providers are looking at the waivers and federal regulations.

Dr. Carey asked what the staffing plan is in conjunction with these regulations.

Ms. Calvert stated they are actively focused on workforce development and staffing. DPH is funding and supplementing existing workforce initiatives and capacity building initiatives to promote diversity and inclusion. DPH is also investing in cross training and other issues that are of concern for recruiting and maintaining staff.

Dr. Bernstein asked if the regulations exempt individuals that are already licensed.

Ms. Weil stated that within the scope section of the regulation, it includes providers that operate under a state entity, or a program that holds a license from another jurisdiction, or a penal facility, so all facilities are encompassed by these regulations.

Dr. Bernstein asked if all licensed facilities required to report data to maintain their license.

Ms. Calvert stated yes.

Ms. Weil stated there is an existing requirement on which types of data are shared with DPH.

Dr. Bernstein asked if the PMP can be a valuable addition to this work and to what extent is methadone allowed in other settings to make it more accessible.

Ms. Calvert stated that there is a survey coming out soon. Though she agrees that methadone should be more readily accessible, and that there are many regulations and it can be difficult to provide in additional settings.

No further questions or comments from the council members.

**2. PRELIMINARY REGULATIONS**

*b. Overview of proposed amendments to 105 CMR 120, Massachusetts Regulations for the Control of Radiation.*

Commissioner Cooke invited Jack Priest, Director of the Radiation Control Program, to present an overview of proposed amendments to the Department’s regulations regarding radiation.

He was joined by Joshua Daehler, Radioactive Materials Unit Supervisor for the Program.

Upon conclusion of the presentation, Commissioner Cooke asked the council members if there are any questions or comments.

Dr. Carey asked how the behavior is monitored regarding radiation on the part of the provider and what are the penalties.

Mr. Priest stated there is a team of radiation inspectors and they follow an inspection schedule with a standard protocol. If there is a violation it depends on complexity of that violation and DPH uses a challenge board and consults with the Bureau of Health Care Safety and Quality. The report will be brought back to be reviewed and analyzed for corrective actions for licensees and the state to prevent a duplication error.

No further questions or comments from the council members.

**3. REGULATIONS**

*a. Request to promulgate amendments to 105 CMR 130, Hospital Licensure. (Vote)*

Commissioner Cooke invited invite Elizabeth Kelley, Director of the Bureau of Health Care Safety and Quality, to present on a request to promulgate amendments to the Department’s regulations regarding hospital licensure.

Upon conclusion of the presentation, Commissioner Cooke asked if Council members had any questions.

Secretary Poppe asked if wayfinding includes when a hospital is under renovation.

Ms. Kelley explained that revisions to the regulations always require access to the Emergency Department (ED) with no exceptions, so yes, this would include during a renovation.

Dr. Kneeland asked if there will be periodic DPH reviews to ensure hospitals will comply with the proposal.

Ms. Kelley stated there are several mechanisms in place to ensure all regulatory and sub-regulatory requirements are being met as well as a process for citing with a requirement to submit correction that must be approved by DPH.

Dr. Kneeland suggested there be a focused review periodically of light and signage along with a site visit of a day and night be reviewed regularly by DPH.

Ms. Moscato asked if the training of ED staff includes persons with disabilities and elderly patients.

Ms. Kelley confirmed that it does.

Ms. Blondet asked why all the concerns from the workgroup have not been addressed.

Ms. Kelley stated that most of the concerns are explicitly addressed in the regulation and some of the concerns are more appropriately addressed in the guidance.

Mr. Landers made a comment about a difficult personal experience when assisting a loved one to the ED and was told he could not wait inside with the patient and reported it was not a good experience.

Dr. Bernstein stated that this is an important regulation that should ensure a that another death outside of an ED does not happen again.

Ms. Kelley stated that with the changes included in this regulation, such an incident is much less likely. She commended the workgroup for their contributions.

Ms. Blondet asked if the comments and concerns from the workgroup can be reviewed and addressed before voting on this regulation.

Ms. Kelley stated that the comments and concerns from public comment and the workgroup have been addressed comprehensively, as appropriate to the regulations and in accordance with industry standards. The sub-regulatory guidance will be available soon and will address concerns that are not specifically covered in the broader regulations.

Commissioner Cooke asked when the sub-regulatory guidance will be issued.

Ms. Kelley stated they will be available this summer and will be shared with the council.

Ms. Blondet reiterated the importance of bringing the voices of the community to their conversations.

Dr. Kneeland asked if there can be best practices for hospitals made available as part of this work.

Ms. Kelley agreed to include and share best practices in addition to the guidance when available.

Dean Cox left at 11:01am.

Commissioner Cooke stated that during COVID there have been so many situations in which such best practices have been helpful.

Commissioner Cooke asked if there is a motion to approve the regulations.

Dr. Cruz-Davis made the motion, but then withdrew for further discussion.

Ms. Blondet asked if this regulation can be held until the next PHC meeting in July until the sub-regulatory guidance is available.

Ms. Kelley stated that the guidance may not be available for the next meeting. She suggested DPH can continue to meet with the workgroup during this period to incorporate concerns and that the council proceed with this vote today.

Dr. Bernstein asked if the letter shared with council members from a resident was addressed before or after changes were made.

Ms. Kelley stated that one letter was available before the changes and there was an additional letter after the changes but some of those concerns were considered.

Dr. Carey asked for an example of an item that was not included but can be addressed in the sub-regulatory guidance.

Ms. Kelley raised an example of the of signage placement. During the workgroup’s meetings, there was discussion on how far apart signs should be placed to find where they need to go – this would vary between facilities.

Ms. Scurria Morgan stated that hospital campuses vary and are not standard, and therefore will need more tailored direction for some items, which will be addressed in sub-regulatory guidance.

Ms. Kelley stated that sometimes, depending on the layout and size of a hospital’s grounds, the fastest way to get to a patient may be to call 911 for transportation, especially if it is a large campus.

Dr. Bernstein stated that this is a serious issue, and a 911 call is not acceptable for a patient in distress while on campus. He stated there should be proper lighting and communication to address a patient in need on site.

Ms. Kelley stated there are many variables depending on the nature of the campus to find patients in distress. If the patient cannot make the call, the staff of the hospital can call 911 to ensure the fastest access the patient. Policies and procedures are in place to determine the best way for patients to access the care they need in times of distress. These are the distinctions that need to be addressed in policies and procedures for each facility.

Dr. Cruz-Davis stated that a large campus could benefit from using an ambulance to expedite access but on a small campus there would be a different approach to ensure immediate action, and that each hospital should be able to use the approach that is most appropriate for their circumstance.

Ms. Blondet recommended that the council postpone the vote until the sub-regulatory guidance is available for review and all items can be addressed with more specificity.

Dr. Kneeland asked the council if it is worth tabling the vote if it will delay the implementation of the regulation.

Commissioner Cooke stated it will delay the implementation for at least one month.

Mr. Landers asked if there is specific action that should take place prior to voting on this issue, such as an additional meeting.

Ms. Blondet clarified she did not necessarily suggest an additional meeting.

Ms. Kelley suggested DPH meet with the workgroup in parallel with sub-regulatory guidance development to keep the current timeline to implement the regulation while addressing all issues.

Secretary Chen raised what the overall PHC member role is for when there is a gap between public input and regulation revisions.

Ms. Kelley stated that all the appropriate concerns in the letter have been included in the regulations. She asked if there is a specific outstanding issue that has been raised via the letter that the council would like addressed.

Ms. Scurria Morgan stated that the regulation process relies on the DPH staff to accommodate these concerns and continue to work on developing the sub-regulatory guidance to address more details. If the council does not vote today these regulation improvements will be delayed.

Ms. Blondet asked if the council approves the regulations, can there be an assurance the workgroup will be involved with the sub-regulatory guidance process.

Ms. Moscato stated that she cross referenced some of the items in the letter and the regulations, and they were comprehensive and appropriately addressed. She suggested to continue with the vote if the sub-regulatory process includes workgroup input.

Ms. Kelley clarified that it would be the hospitals’ responsibility to determine the fastest route to access a patient in distress, but protocol can vary depending on the size and operations of the campus.

Dr. Bernstein clarified if it’s the hospitals responsibly to reach a patient in distress, rather than the patient’s responsibility to call 911 to secure their own transport.

Ms. Kelley stated yes.

Ms. Moscato stated that there are no two facilities alike and written policies and procedures for each will vary widely depending on their needs.

Ms. Blondet asked what the timing is of the filing.

Ms. Scurria Morgan stated the regulations go into effect when published in the register either this week or next week.

Alison Mehlman, Chief Deputy General Counsel for the Department, stated that the regulation will be filed this coming Friday and will be in effect for the next publishing period.

Secretary Chen stated her support for this vote to move forward and stated she recognized that there is a “gap” and hoped that it can be bridged moving forward.

Commissioner Cooke asked the council if they can proceed with the vote and have assurance from DPH that the sub-regulatory information with input from the workgroup will be shared when it is available and present to the council.

Ms. Scurria Morgan stated that DPH will engage with the workgroup on the sub-regulatory guidance and asked if this assurance would be sufficient to proceed today with the vote.

Ms. Kelley stated she is happy to come back to the PHC with the sub-regulatory guidance information.

With no further questions, the Commissioner asked if there is a motion to promulgate amendments to 105 CMR 130.

Dr. Carey made of the motion, which was seconded by Dr. Cruz-Davis. Mr. Landers abstained. All other present members approved.

Dr. Carey stated that it would be helpful to see what the outstanding questions and concerns are that still need to be addressed in the sub-regulatory guidance.

Dr. Bernstein left at 11:36am

Ms. Blondet left at 11:39am

Secretary Chen left at 11:39am

**4. PRESENTATIONS**

*a. Informational presentation on Tick-borne Disease Surveillance in Massachusetts.*

Commissioner Cooke welcomed back Dr. Catherine Brown, State Epidemiologist and State Public Health Veterinarian, to provide the annual update on tick borne disease surveillance in Massachusetts.

Dr. David asked when more tests will become available.

Dr. Brown stated they are already available to practitioners.

Dr. David asked how to order them and what are they called.

Dr. Brown replied that the test is called the modified two-tiered test.

With no further questions, Commissioner Cooke reminded Council members that the next meeting would be held on Wednesday July 13, 2022.

Commissioner Cooke then asked if there was a motion to adjourn. Dr. David made the motion which was seconded by Secretary Poppe. All present members approved.

The meeting was adjourned at 11:52am.