

MINUTES OF THE PUBLIC HEALTH COUNCIL

Meeting of May 10, 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, May 10, 2017 - 9:00 AM

1. ROUTINE ITEMS

- a. Introductions
- b. Updates from Commissioner Monica Bharel, MD, MPH
- c. Record of the Public Health Council April 12, 2017 Meeting **(Vote)**

2. FINAL REGULATIONS

- a. Request for final approval of proposed rescission of 105 CMR 515.000, *Action Levels for Poisonous or Deleterious Substances in Food* **(Vote)**
 - b. Request for final promulgation of proposed amendments to 105 CMR 155.000, *Patient and Resident Abuse Prevention, Reporting, Investigation, Penalties and Registry* **(Vote)**
 - c. Request for final promulgation of proposed amendments to 105 CMR 156.000, *The Training of Nurses' Aides in Long-Term Care Facilities* **(Vote)**
 - d. Request for final promulgation of proposed amendments to 105 CMR 157.000, *The Registration and Operation of Temporary Nursing Service Agencies* **(Vote)**
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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

Attendance and Summary of Votes:

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

Date of Meeting: Wednesday, May 10, 2017

Beginning Time: 9:11AM **Ending Time:** 9:55AM

Board Member	Attended	Record of the Public Health Council April 12, 2017 Meeting (Vote)	Request for final approval of proposed rescission of 105 CMR 515.000, Action Levels for Poisonous or Deleterious Substances in Food (Vote)	Request for final promulgation of proposed amendments to 105 CMR 155.000, Patient and Resident Abuse Prevention, Reporting, Investigation, Penalties and Registry (Vote)	Request for final promulgation of proposed amendments to 105 CMR 156.000, The Training of Nurses' Aides in Long-Term Care Facilities (Vote)	Request for final promulgation of proposed amendments to 105 CMR 157.000, The Registration and Operation of Temporary Nursing Service Agencies (Vote)
Monica Bharel	Yes	Yes	Yes	Yes	Yes	Yes
Edward Bernstein	Yes	Yes	Yes	Yes	Yes	Yes
Lisette Blondet	Yes	Yes	Yes	Yes	Yes	Yes
Derek Brindisi	Yes	Yes	Yes	Yes	Yes	Yes
Harold Cox	Yes	Yes	Yes	Yes	Yes	Yes
John Cunningham	Yes	Yes	Yes	Yes	Yes	Yes
Michele David	Yes	Yes	Yes	Yes	Yes	Yes
Meg Doherty	Absent	Absent	Absent	Absent	Absent	Absent
Michael Kneeland	Yes	Yes	Yes	Yes	Yes	Yes
Paul Lanzikos	Yes	Yes	Yes	Yes	Yes	Yes
Lucilia Prates-Ramos	Absent	Absent	Absent	Absent	Absent	Absent
Secretary Francisco Ureña	Yes	Yes	Yes	Yes	Yes	Yes
Alan Woodward	Absent	Absent	Absent	Absent	Absent	Absent
Summary	10 Members Present, 3 Members Absent	10 Members Approved, 3 members Absent	10 Members Approved, 3 members Absent	10 Members Approved, 3 members Absent	10 Members Approved, 3 members Absent	10 Members Approved, 3 members Absent

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, May 10, 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; Derek Brindisi; Harold Cox; John Cunningham, PhD; Michele David, MD; Michael Kneeland, MD; Paul Lanzikos; and Secretary Francisco Ureña.

Absent member(s) were: Meg Doherty; Lucilia Prates-Ramos; and Alan Woodward, MD.

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

Commissioner Bharel called the meeting to order at 9:11 AM and made opening remarks before reviewing the agenda.

ROUTINE ITEMS

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

Commissioner Bharel began by informing the Council about the May issue of the *American Journal of Public Health*. She announced that it contains an article by Kevin Cranston, Betsey John, Dawn Fukuda, Dr. Liisa Randall, and Dr. Al DeMaria, Jr. with co-authors Dr. Kenneth Mayer of the Fenway Institute/Harvard Medical School and Dr. Jonathan Mermin of the CDC titled "Sustained reduction in HIV diagnoses in Massachusetts: 2000-2014" that documents a 47% reduction in annual new HIV diagnoses over that period. The article presents evidence of HIV reductions across race/ethnicity, exposure mode categories, for both men and women, and across most age groups. She applauded the staff of the Office of HIV/AIDS and their long-term collaboration with clinical and community-based providers, advocates, insurance carriers, and persons with HIV/AIDS to work toward and achieve this treatment-as-prevention effect.

Additionally, the Commissioner informed the Council that the Bureau of Infectious Disease and Laboratory Sciences (BIDLS) was recently awarded a grant by the CDC for \$350,000 annually to sustain and expand viral hepatitis surveillance, screening, and linkage to care. Massachusetts was one of 14 states selected out of 32 applicants for this competitive award. We received funding for surveillance and testing/linkage components. It will allow Massachusetts to continue to be a leading state in the area of hepatitis C surveillance, and will expand routine screening and targeted testing in emergency departments, correctional settings, needle exchange programs, community health centers, and substance use disorder treatment programs and to actively link diagnosed individuals with new curative treatments. She concluded by thanking Dr. Alfred DeMaria, Jr., Dr. Liisa Randall, Shauna Onofrey, Susan Soliva, and Cheryl Bernard-Dort for their work on this successful grant application.

Commissioner Bharel then discussed Science Day, an event hosted by the Bureau of Infectious Disease and Laboratory Sciences to recognize some of the amazing work that staff is currently engaged in. She then invited Dr. Monina Klevens, Director of Research and Evaluation for BIDLS, to speak more about some of the presentations from that day.

At last month's meeting Commissioner Bharel provided an example of the Department's recent release of new and innovative Community Profiles describing the environmental health of each of our 351 cities and towns. As part of these Community Profiles, the Department recently developed new lead progress reports for each community. The Massachusetts Medical Society featured these lead progress reports in a recent issue of its weekly Vital Signs newsletter. These progress reports are derived from information available on the Department's Environmental Public Health Tracking website. Additionally, the Department's Childhood Lead Poisoning Prevention Program recently did a mass mailing to almost 4,000 pediatricians and family practice physicians across the state that included a community-specific lead progress report. The reports are also accessible to anyone online by using the Childhood Lead Poisoning Prevention Program's Community Progress tool on the Environmental Public Health Tracking website.

The Bureau of Community Health and Prevention awarded 141 contracts totaling over \$34 million annually to 68 community-based organizations across the state providing sexual and domestic violence services in the Commonwealth. These contracts are for three years, supported by funds transferred to DPH from the Department of Children and Families in the FY17 state budget last July.

The comprehensive procurement involved both residential and community-based services, and the contracts cover a range of services, including emergency shelter and transitional housing, rape crisis counseling, intimate partner abuse education, support for children exposed to domestic violence, and families affected by substance misuse and trauma.

Awarding these contracts allowed DPH to infuse a public health framework around sexual and domestic violence services, and give priority to culturally tailored, geographically accessible programs that incorporate emerging best practices.

The Department is confident that the agencies chosen will provide crucial support and services to survivors. Commissioner Bharel concluded by thanking the staff in the Division of Sexual and Domestic Violence Prevention and Services and across BCHAP who contributed to this significant and impressive effort.

Commissioner Bharel concluded her updates by announcing Lydie Ultimo's departure from the Department. Ms. Ultimo is leaving DPH to be the new Vice President for Addiction Services at Bay Cove – a position well-deserved based on her commitment to and experience with substance use disorder prevention and treatment. Ms. Ultimo joined the Bureau of Substance Abuse Services in 2008. She took the helm at BSAS at a critical time in addressing the opioid crisis in this state. Over the last year she stepped in to lead our Office of Health Equity. She has brought new vision to the Office, infusing the department's work with a critical focus on health equity and the social determinants of health and spearheading our efforts to address homelessness from a public health perspective. While we are

deeply saddened by her departure, we are excited to celebrate her incredible contributions to DPH and we wish her well on this next adventure.

The Commissioner then asked the Council if they had any questions regarding the updates. Seeing none, she proceeded with the docket.

1. ROUTINE ITEMS

c. Record of the Public Health Council April 12, 2017 Meeting (Vote)

Commissioner Bharel asked if any members had any changes to be included in the April 12, 2017 meeting minutes.

Seeing none, the Commissioner asked for a motion to accept the minutes. Dean Cox made the motion and Dr. Kneeland seconded it. All present members approved.

2. FINAL REGULATIONS

a. Request for final approval of proposed rescission of 105 CMR 515.000, Action Levels for Poisonous or Deleterious Substances in Food (Vote)

Commissioner Bharel then asked Michael Moore Director of the Food Protection Program within the Bureau of Environmental Health; and Kay Doyle, Deputy General Counsel for the Department, to present on the proposed rescission of 105 CMR 515.000: *Action Levels for Poisonous or Deleterious Substances in Food*.

Upon conclusion of Mr. Moore's presentation, the Council was asked if they had any questions.

Dr. Bernstein asked what plan is in place if federal standards are lowered.

Ms. Doyle replied that we would be able to adopt regulations under the 515 code that would bring our standards back up to a level that is acceptable according to our subject matter experts. This can be done on an emergency basis, if necessary.

Dr. Bernstein asked if there will be ongoing monitoring of the federal regulations.

Mr. Moore and Ms. Doyle replied in the affirmative.

With no further questions, Commissioner Bharel asked for a motion to approve the rescission of 105 CMR 515.000.

Ms. Blondet made the motion, Mr. Lanzikos seconded the motion. All present members approved.

2. FINAL REGULATIONS

b. Request for final promulgation of proposed amendments to 105 CMR 155.000, Patient and Resident Abuse Prevention, Reporting, Investigation, Penalties and Registry (Vote)

The Commissioner invited Lauren Nelson, Director of Policy and Quality Improvement for the Bureau of Health Care Safety and Quality; Sherman Lohnes, Director of the Division of Health Care Facility

Licensure and Certification within the Bureau of Health Care Safety and Quality; and Rebecca Rodman, Deputy General Counsel to present proposed amendments to 105 CMR 155.000, *Patient and Resident Abuse Prevention, Reporting, Investigation, Penalties and Registry*, and request approval of these changes from the Council.

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

Ms. Blondet inquired as to whether they could add Community Health Workers as one of the listed professions.

Ms. Rodman replied that this is based on the statutory language and covers the worker within long-term care facilities and rest homes and cannot be expanded.

Mr. Lanzikos asked if under the scope of the regulation were the other facilities assisted living residences, specifically referring to the commenters' request for an expansion.

Ms. Nelson replied that although she does not have the full comment at hand, they did reply stating that the list was limited and should be expanded to other long-term facility types, for example long-term rehab.

Mr. Lanzikos recommended sharing the comment with the Executive Office of Elder Affairs so that they might take appropriate consideration within their scope.

Ms. Rodman replied that there is voluntary reporting and that this regulation is not the only way in which we receive reports to investigate.

Dr. Bernstein asked for an example of what changes would best be addressed through subregulatory guidance.

Ms. Nelson replied that the definition of "immediate reporting" is expounded upon and the process of reporting as well as the expectation has also been included in the guidance.

Ms. Blondet stated that she understands that it is voluntary reporting however; she informed them of her hopes for more visibility for Community Health Workers.

Mr. Lanzikos suggested compiling a guide to help people determine which agency a specific issue should be reported to.

With no further questions, the Commissioner asked if there is a motion to approve amendments to 105 CMR 155.000.

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

2. FINAL REGULATIONS

c. Request for final promulgation of proposed amendments to 105 CMR 156.000, The Training of Nurses' Aides in Long-Term Care Facilities (Vote)

Commissioner Bharel then requested that staff remain at the table to review proposed amendments to 105 CMR 156.000, The Training of Nurses' Aides in Long-Term Care Facilities, and request approval of these changes from the Council.

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

Dr. Cunningham asked if the current time frame of 90 days rather than 120 days implies that we are stricter than the federal standard. He then asked if there was a programmatic reason for the 120 day timeframe on the federal level.

Mr. Lohnes replied that the 120 day timeframe is a federal law that they cannot speak their reasoning for that however, 90 days is a state statute that was passed prior to the federal law.

Dr. Cunningham inquired if there was an impact to having a 90 day timeframe.

Mr. Lohnes informed him that generally speaking most facilities are hiring aides who are already trained and certified and they therefore do not believe there will be a negative impact on nursing staff.

Mr. Lanzikos asked how is the provision monitored by surveyors and how do we have confidence that the training is occurring in accordance with the regulation.

Mr. Lohnes replied that it is a part of the standard survey protocol to look at the qualifications of staff. Also, on complaint investigations they routinely pull a number of staff records to see if registry, CORI, and training have been completed.

Mr. Lanzikos if the training facility has to submit a roster of those who have completed the program to the Department.

Mr. Lohnes replied that that information is collected by the Department under the nurse aide framing and testing program. If surveyors had any questions they can certainly go back to the source database to review.

Mr. Lanzikos asked if most facilities are in compliance under these regulations.

Mr. Lohnes informed him that generally speaking most facilities are in compliance with the staffing qualification requirements.

Dr. Bernstein asked if we have numbers for those who have not complied.

Mr. Lohnes informed him that if there were a situation in which an aide was not certified in the proper amount of time, it would be a cited deficiency but it is not something that is anticipated as widespread. He then stated that there is a database with that information.

With no further questions, the Commissioner asked for a motion to approve amendments to 105 CMR 156.000.

Secretary Ureña made the motion, Dr. Bernstein seconded it. All present members approved.

2. FINAL REGULATIONS

d. Request for final promulgation of proposed amendments to 105 CMR 157.000, The Registration and Operation of Temporary Nursing Service Agencies (Vote)

Commissioner Bharel asked staff to remain at the table to review proposed amendments to 105 CMR 157.000, The Registration and Operation of Temporary Nursing Service Agencies, and request approval of these changes from the Council.

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

Seeing none, the Commissioner asked for a motion to approve amendments to 105 CMR 157.000.

Dr. Cunningham made the motion, Dean Cox seconded it. All present members approved.

Prior to adjourning the meeting, Mr. Lanzikos asked what the status is for the regulatory review.

Ms. Cooke replied that we are about 3/4th of the way done. She thanked the Council for their time and patience while review is being completed.

Commissioner Bharel also thanked the legal and program staff for their hard work in the review.

Dr. Kneeland asked about a recap for how the Marathon went.

Commissioner Bharel informed him that they could provide that information but overall the day went well.

With no further comments, the Commissioner reminded the Council that the next meeting is scheduled for Wednesday, June 14th at 9am. She then asked for a motion to adjourn.

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

The meeting adjourned at 9:55AM.
