**MINUTES OF THE PUBLIC HEALTH COUNCIL**

**Meeting of November 12, 2014**

**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, November 12, 2014 9:00 AM**

1. **ROUTINE ITEMS:**
   1. Introductions
   2. Record of the Public Health Council Meeting October 8, 2014 **(Vote)**

**2. PRESENTATION**

a. Ebola Update

**3. PRELIMINARY REGULATION**

Informational Briefing on Proposed Amendments to 105 CMR 130.000 (*Hospital Licensure*), 105 CMR 140.000 (*Licensure of Clinics*) and 105 CMR 150.000 (*Licensing of Long-Term Care Facilities*)

**4. FINAL REGULATION**

Request for Approval for Final Promulgation Revisions to 105 CMR 225.000: *Nutrition Standards for Competitive Foods and Beverages in Public Schools* **(Vote)**

**5. FINAL REGULATION**

Request for Approval for Final Promulgation of the New Regulation 105 CMR 271.000: *Postpartum Depression Screening and Reporting* **(Vote)**

**6. FINAL REGULATION**

Request for Approval for Promulgation of Amendments to 105 CMR 700.000 (Implementation of M.G.L. c. 94C Controlled Substances Act) *Related to Use of the Prescription Monitoring Program* and to 105 CMR 721.000 (Standards for Approved Prescription Forms in Massachusetts) **(Vote)**

*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, November 12, 2014

**Beginning Time:** 09:00 AM

**Ending Time:** 11:00 AM

**Attendance and Summary of Votes:**

| **Board Member** | **Attended** | **Item 1b** | **Dr. Woodward Motion** | **Item 4** | **Item 5** | **Item 6** |
| --- | --- | --- | --- | --- | --- | --- |
|  |  | Record of the Public Health Council Meeting October 8, 2014 | Dr. Woodward made a motion to recognize Commissioner Bartlett’s dedication to the Department of Public Health | Request for Approval for Final Promulgation Revisions to 105 CMR 225.000: *Nutrition Standards for Competitive Foods and Beverages in Public Schools* | Request for Approval for Final Promulgation of the New Regulation 105 CMR 271.000: *Postpartum Depression Screening and Reporting* | Request for Approval for Promulgation of Amendments to 105 CMR 700.000 (Implementation of M.G.L. c. 94C Controlled Substances Act) *Related to Use of the Prescription Monitoring Program* and to 105 CMR 721.000 (Standards for Approved Prescription Forms in Massachusetts) |
| Cheryl Bartlett | Yes | Yes | Yes | Yes | Yes | Yes |
| Edward Bernstein | Yes | Yes | Yes | Yes | Yes | Yes |
| Derek Brindisi | Yes | Yes | Yes | Yes | Yes | Yes |
| Harold Cox | Absent | - | - | - | - | - |
| John Cunningham | Yes | Yes | Yes | Yes | Yes | Yes |
| Michele David | Yes | Yes | Yes | Yes | Yes | Yes |
| Meg Doherty | Absent | - | - | - | - | - |
| Michael Kneeland | Yes | Yes | Yes | Yes | Yes | Yes |
| Paul Lanzikos | Yes | Yes | Yes | Yes | Yes | Yes |
| Denis Leary | Absent | - | - | - | - | - |
| Lucilia Prates-Ramos | Yes | Yes | Yes | Yes | Yes | Yes |
| Jose Rafael Rivera | Yes | Yes | Yes | Yes | Yes | Yes |
| Meredith Rosenthal | Absent | - | - | - | - | - |
| Alan Woodward | Yes | Yes | Yes | Yes | Yes | Yes |
| Michael Wong | Yes | Yes | Yes | Yes | Yes | Yes |
| **Summary** | **11**  **Members attended** | **11**  **Approved with votes** | **11**  **Approved with votes** | **11**  **Approved with Votes** | **11**  **Approved with votes** | **11**  **Approved with votes** |

**PROCEEDINGS**

A regular meeting of the Massachusetts Department of Public Health’s Public Health Council (M.G.L. C17, §§ 1, 3) was held on Wednesday, November 12, 2014 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: Department of Public Health Commissioner Cheryl Bartlett (chair), Dr. Edward Bernstein, Mr. Derek Brindisi, Dr. Michele David, Dr. Michael Kneeland, Mr. Jose Rafael Rivera, Ms. Lucilia Prates-Ramos, Dr. John Cunningham, Dr. Alan Woodward, Dr. Michael Wong, Mr. Lanzikos

Absent member(s) were: Ms. Meg Doherty, Mr. Harold Cox and Mr. Dennis Leary, Dr. Meredith Rosenthal,

Also in attendance was Attorney Tom O’Brien, General Counsel at the Massachusetts Department of Public Health.

Commissioner Bartlett called the meeting to order at 9:06 AM and reviewed the agenda.

**ITEM 1: MINUTES**

b. Record of the Public Health Council Meetings of October 8, 2014

No comments or edits were made to the minutes. Commissioner Bartlett asked for a motion to approve the minutes from October 8, 2014. Mr. Rivera moved for approval and Dr. Woodward seconded. All approved.

**ITEM 2: PRESENTATION**

a. Ebola Update

Following the presentation, Commissioner Bartlett opened the floor for discussion.

Dr. Wong thanked the Ebola team for being proactive in this process. Dr. DeMaria’s comments were the best example of how the messaging is getting lost in the media and how difficult it is to get Ebola; DPH has helped counteract some of the hysteria of the media. The numbers of physicians and health care workers trained to go into these facilities who are in high risk situations have not become infected. There are only 2health care workers in the United States that had direct contact and have become infected.

Dr. Woodward thanked the work of the team, commenting that Ebola is has low probability, but would be a high impact situation. He commended DPH on its work, but also commented on the need to work with the media to change the messaging. Dr. Woodward had concerns a month ago about training and providing resources to 72 acute care hospitals. Development of the collaborative system is a reasonable compromise and serves well for hospitals. Do we have ambulance teams ready to go if there is a patient at a hospital and would the hospital be sending that patient to a federal facility? Commissioner stated that we have 7 hospitals in the collaborative, and that in touring MGH they are prepared to care for a patient for 21 days, and fully expect the others that she tours in the collaborative to be prepared as well. Commissioner mentioned that low risk patients will be maintained in community hospitals while infection is ruled in or out, while a high risk would be transferred to a system hospital, in consultation with DPH. Mary Clark noted that we are working with MEMA and public safety, and providing PPE guidance EMTs and paramedics, for private and municipal services.. Working on how to transport patient, releasing and receiving patients and working on algorithm with the collaborative hospsitals on how the process will work.

Dr. Woodward asked for a point of personal privilege. Dr. Woodward wanted to make a motion on behalf of Public Health Council to formally recognize and commend Commissioner Bartlett for leadership and remarkable accomplishments on a myriad of complex organizational, operational and critical public health issues during her 19month tenure and wish her success in her future endeavors. Dr. Woodward made the motion, Dr. Bernstein seconded and all approved.

**ITEM 3: PRELIMINARY REGULATION**

Informational Briefing on Proposed Amendments to 105 CMR 130.000 (*Hospital Licensure*), 105 CMR 140.000

(*Licensure of Clinics*) and 105 CMR 150.000 (*Licensing of Long-Term Care Facilities*

Following the presentation, Commissioner Bartlett opened the floor for discussion.

Dr. Wong asked for a point of clarification that with so many new technologies and ways of administering a flu vaccination, that it would be almost impossible that a hospital cannot get a vaccine.

Dr. Woodward pointed out that under Definitions (B), that personnel are vaccinated no later than December 15, 2009. He recommends that DPH state, “December 15 of each year.” Dr. Woodward recommended an additional change that the language for institutions to require that up to and including all health care workers would be included to receive vaccination.

Dr. Cunningham asked for a point of clarification on the language and the intent of requiring wearing a mask. Dr. Madeleine Biondolillo, Associate Commissioner, stated that the intent is that an individual who declines vaccination may be required to wear a mask, and that is at the discretion of the facility.

Additionally, Dr. Cunningham recommended a change to the definition of seasonal influenza and will reach out with that information.

**ITEM 4: FINAL REGULATION**

Request for Approval for Final Promulgation Revisions to 105 CMR 225.000: *Nutrition Standards for Competitive*

*Foods and Beverages in Public Schools* **(Vote)**

Following the presentation, Commissioner Bartlett opened the floor for discussion.

Dr. Cunningham asked why the limit of the of 8oz of juice, instead of aligning with the federal guidance of 12 oz for middle and high school students, expressing concern that the portion size may be inadequate for older students and an extra 4oz of juice didn’t seem to be as concerning as some of other foods and beverages, Claire Santarelli responded that the portion size of 8oz reflected feedback from stakeholders who were concerned that 4oz was inadequate while also maintaining consistency with health recommendations of limiting juice intake to 1 cup (8oz) daily.

Additionally Dr. Cunningham asked the rationale behind limiting the portion size of nuts but not dried fruits such as cranberries, blueberries, and tart cherries. Claire Santarelli explained that both will be subject to the calorie standard, and that when served together in a combination product, the portion restriction will apply. Additionally, this portion restriction is an opportunity to teach students about appropriate portion sizes..

Dr. Bernstein asked if there were any studies as to how school lunches affected the performance of students. While DPH may not have information that goes far enough to Dr. Bernstein’s question, there is literature of these types of studies that shows a correlation. A student who drinks only cranberry juice is likely not performing well as a student that eats a balanced meal.

Dr. David mentioned that there are studies coming out that non-fat free milk provides a health benefit, and that limiting to fat free milk may not be beneficial. Ms. Santarelli mentioned that flavored milk will be fat free, but non-flavored milk will acceptable at 1%, and this is the USDA standard.

Dr. Wong spoke to the fact that he is personally becoming more cognizant of labels, and things that he thought were healthy have more sugar than he thought. He hopes that this conversation of healthy meals would continue in the home.

After no further comments, Commissioner Bartlett asked for a motion to approve the regulations. Dr. Wong moved for approval and Dr. Woodward seconded. All approved.

**ITEM 5: FINAL REGULATION**

Request for Approval for Final Promulgation of the New Regulation 105 CMR 271.000: *Postpartum Depression Screening and Reporting* **(Vote)**

Following the presentation, Commissioner Bartlett opened the floor for discussion.

Ron Benham, Director, Bureau of Family Health and Nutrition, thanked Dr. Woodward for his recognition of Commissioner Bartlett. Mr. Benham thanked the Commissioner for her dedication to the department as well.

Dr. Woodward asked for clarification that this regulation is asking physicians, with no mandated compensation, to add a billing code to collect data only. Dr. Woodward asked if this was done in other instances. Beth Buxton, Program Director for Post-Partum Depression stated that to her knowledge, there is no other dummy billing code, however, this idea was through the health plants as a way to be less burdensome way to collect the information.

After no further comments, Commissioner Bartlett asked for a motion to approve the regulation. Dr. Woodward moved to approve and Dr. Bernstein seconded. All were in favor.

**ITEM 6: FINAL REGULATION**

Request for Approval for Promulgation of Amendments to 105 CMR 700.000 (Implementation of M.G.L. c. 94C Controlled Substances Act) *Related to Use of the Prescription Monitoring Program* and to 105 CMR 721.000 (Standards for Approved Prescription Forms in Massachusetts) **(Vote)**

Following the presentation, Commissioner Bartlett opened the floor for discussion.

Mr. Rivera had heard that there was a potentially a Naloxone shortage within the state. Deborah Allwes, Director, Bureau of Health Care Quality and Safety commented that the bureau has heard that some hospitals and pharmacies are experiencing a shortage. DPH is working with hospitals, and we believe that this will be a short term shortage. Mr. Rivera comment that on the advisory council, the recovery community is not included, and he would recommend expanding to include someone.

Dr. Woodward had a couple of minor comment, and that the changes are appropriate. An issue of benzodiazepines and adding other opioids it would be useful for advisory committee and see if benzos are really an issue of mis-prescription. If not, then maybe take them off of the list. The issue of poly-substance abuse may be prescribing or may be another issue.

Regarding discipline, Dr. Woodward mentioned that the primary account holder is responsible, disciplinary action through personal issues is through the department, where other action is through the licensure board. Ms. Allwes clarified that an investigation would occur in both cases in that a delegate may misuse the PMP, then the action may come through the board.

Dr. Bernstein asked about information about patients are in need of emergent care and balancing with patient harm. Ms. Allwes mentioned that we are allowing people to have professional discretion. We do not want to regulate to harm a patient, but that you use clinical judgment. The advisory board will play an important role in this.

Commissioner Bartlett asked for an update on the numbers of physicians registered with the PMP. Ms. Allwes stated that at this point, three-quarters of the prescribers are registered, and anticipate that by spring time all prescribers will be registered. DPH is providing training on how to use the PMP, reference guides, and videos. The PMP does not work of if you have access but if you don’t know how to use. After no further comments, Commissioner Bartlett asked for a motion to approve the regulations.

After no further comment or questions, Commissioner Bartlett asked for a motion to accept the regulation. Mr. Rivera made the motion to adjourn, Dr. Cunningham seconded. All were in favor.

Commissioner Bartlett provided an updated regarding the Quincy Medical Center Closure. They have filed notice of intent to close with the date to be set. By regulation we have the authority to require that they file 90 days prior to closing, and we will keep you updated,

The Commissioner also thanked the Public Health Council for all their work and that she had enjoyed working with them.

Commissioner Bartlett asked for a motion to adjourn. Dr. Woodward made the motion and Mr. Rivera seconded.

The meeting adjourned at 11:00AM on a motion by and passed unanimously without discussion.

LIST OF DOCUMENTS PRESENTED TO THE PHC FOR THIS MEETING:

1. Docket of the meeting
2. Minutes of the Public Health Council meeting of October 8, 2014
3. Informational Briefing on Proposed Amendments to 105 CMR 130.000 (*Hospital Licensure*), 105 CMR 140.000 (*Licensure of Clinics*) and 105 CMR 150.000 (*Licensing of Long-Term Care Facilities*)
4. Request for Approval for Final Promulgation Revisions to 105 CMR 225.000: *Nutrition Standards for Competitive Foods and Beverages in Public Schools*
5. Request for Approval for Final Promulgation of the New Regulation 105 CMR 271.000: *Postpartum Depression Screening and Reporting*
6. Request for Approval for Promulgation of Amendments to 105 CMR 700.000 (Implementation of M.G.L. c. 94C Controlled Substances Act) *Related to Use of the Prescription Monitoring Program* and to 105 CMR 721.000 (Standards for Approved Prescription Forms in Massachusetts) (Vote)

7. Copies of all power point presentations (emailed upon conclusion of the meeting)

Commissioner Cheryl Bartlett, Chair