**MINUTES OF THE PUBLIC HEALTH COUNCIL**

**Meeting of November 14, 2018**

**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 14, 2018 - 9:00 AM**

1. **ROUTINE ITEMS**
   1. Introductions
   2. Updates from Commissioner Monica Bharel, MD, MPH.
   3. Record of the Public Health Council October 10, 2018 Meeting. **(Vote)**
2. **DETERMINATIONS OF NEED**
   1. Request for significant change to an existing DoN held by Baystate Health, Inc. to build out shell space.  **(Vote)**
3. **FINAL REGULATIONS** 
   1. Request to promulgate amendments to 105 CMR 145.000, *Licensing of Out-Of-Hospital Dialysis Units in Massachusetts.* **(Vote)**
   2. Request to rescind 105 CMR 725.000, *Implementation of An Act for the Humanitarian Medical Use of Marijuana* pursuant to Chapter 55 of the Acts of 2017. **(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**

Attendance and Summary of Votes:

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

**Date of Meeting:** Wednesday, November 14, 2018

**Start Time:** 9:17am **Ending Time:** 10:20am

| **Board Member** | **Attended** | **Record of the Public Health Council October 10, 2018 Meeting (Vote)** | **DETERMINATIONS OF NEED**  **Request for significant change to an existing DoN held by Baystate Health, Inc. to build out shell space.  (Vote)** | **FINAL REGULATIONS**  **Request to promulgate amendments to 105 CMR 145.000, Licensing of Out-Of-Hospital Dialysis Units in Massachusetts. (Vote)** | **FINAL REGULATIONS**  **Request to rescind 105 CMR 725.000, Implementation of An Act for the Humanitarian Medical Use of Marijuana pursuant to Chapter 55 of the Acts of 2017. (Vote)** |
| --- | --- | --- | --- | --- | --- |
| Monica Bharel | Yes | Yes | Yes | Yes | Yes |
| Edward Bernstein | Yes | Yes | Yes | Yes | Yes |
| Lissette Blondet | Yes | Abstained | Yes | Yes | Yes |
| Derek Brindisi | Absent | Absent | Absent | Absent | Absent |
| Harold Cox | Yes | Yes | Yes | Yes | Yes |
| John Cunningham | Yes | Yes | Yes | Yes | Yes |
| Michele David | Yes | Yes | Yes | Yes | Yes |
| Meg Doherty | Absent | Absent | Absent | Absent | Absent |
| Michael Kneeland | Absent | Absent | Absent | Absent | Absent |
| Joanna Lambert | Yes | Abstained | Yes | Yes | Yes |
| Paul Lanzikos | Yes | Yes | Yes | Yes | Yes |
| Lucilia Prates-Ramos | Yes | Yes | Yes | Yes | Yes |
| Secretary Francisco Ureña | Absent | Absent | Absent | Absent | Absent |
| Alan Woodward | Yes | Yes | Yes | Yes | Yes |
| **Summary** | **10 Members Present, 4 Members Absent** | **8 Members approved, 4 members absent, 1 not present at time of vote** | **11 members approved, 3 members absent** | **10 members approved, 4 members absent** | **10 members approved, 4 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, November 14, 2018 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; Joanna Lambert; Paul Lanzikos; Lucilia Prates Ramos and Alan Woodward, MD.

Absent member(s) were: Derek Brindisi; Meg Doherty; Michael Kneeland, MD and Secretary Francisco Ureña.

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

Commissioner Bharel called the meeting to order at 9:17 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 she joined Governor Baker and Secretary Sudders in October to announce $36 million in new federal funding to combat the opioid epidemic. The funds will expand overdose education and naloxone distribution, office-based opioid treatment, access to medication-assisted treatment, and recovery support services.

The event announcing these funds was held at the offices of the Massachusetts Substance Use Helpline which is funded by DPH and will also receive some of these federal dollars. The Helpline provides information and referrals for people seeking treatment for substance use disorders, fielding nearly 14,000 calls last year. Also, we’ve made some important enhancements to the Helpline including:

* The website was redesigned to be more accessible and user-friendly. For example, it now has a stronger search function and has an online chat feature that allows people looking for treatment to ask questions and get resources in real-time.
* The website and all its functions are now also available in Spanish. There is also a series of video stories in both English and Spanish featuring real people who were brave enough to share their stories of recovery.

These funds come on the heels of DPH implementing an important part of the Governor’s recent opioid legislation: we issued a statewide standing order for naloxone. Now all pharmacies in the state can dispense naloxone without a prescription, and without their own pharmacy-specific standing order. The legislation also ensures people can purchase naloxone using their insurance coverage– whether or not they themselves will be the user of the medication.

Previously, the Commissioner noted how the opioid epidemic has disproportionately impacted the African American community in Massachusetts. In response, we launched the 4th in a series of prevention campaigns yesterday designed to educate African American parents about the power of talking with their middle and high school students about the risks of misusing prescription pain pills, and provide tools to assist them in that effort.

The campaign includes print materials – examples of which are on the screen – and a new video that will appear on social media, transit, billboards, and television through mid-January.

Commissioner Bharel then went on to discuss the “Safe Asleep” campaign. Last month, she joined First Lady Lauren Baker, Secretary Sudders, DA Marian Ryan and Child Advocate Maria Mossaides to launch our new public campaign “Safe Asleep” which promotes putting infants to sleep on their backs.

Tragically, 30-40 babies die in Massachusetts every year while sleeping in unsafe positions. But through this campaign, we’re making sure families and caregivers get the message about how to keep babies safe. The campaign includes public transit ads in areas with the highest rates of sudden unexpected infant death. Advertising will also appear on Facebook, YouTube, and other online platforms through the end of this month. The materials acknowledge the love and fierce protection parents feel for their young children and reinforce how to keep babies safe while they sleep. A fun feature of the campaign is that it includes babies of parents who work for DPH; images of the campaign were shared with the council.

Also at the end of October, we launched our certification program for community health workers across the Commonwealth. The certification program is voluntary, and creates professional standards for this emerging workforce while promoting the role of CHWs to provide services that address health inequities. She then thanked those who were part of the development and promotion of CHW certification for their help and for their recognition of the importance of these workers.

Next, the Commissioner announced that the legislature recently appropriated Department of Public Health $10 million for the purpose of establishing a gun and violent crime prevention program addressing out-of-school youth and young adults aged 17-24. This funding recognizes gun violence as a critical health and safety issue, and underscore public health’s role in helping define prevention strategies and programming.

We recently released a Request for Information (RFI) to seek community feedback that will inform the design of these programs. We’re reviewing the feedback now to help us develop a Request for Response (RFR) soliciting services, which will be released later this year. The Commissioner informed the Council she will bring updates on this prevention work in the coming months.

In her role as Commissioner, she is a member of the Association of State and Territorial Health Officers (ASTHO). Over the past two years, she has worked with her counterparts from Regions I and II chairing an opioid prevention and treatment working group. Through our work, we developed and reported on a set of prevention and treatment best practices that can be used as a model for other states. Recently the Commissioner Bharel presented these best practices to ASTHO officials across the nation and they were very well received. The Commissioner informed the Council that she will provide them with a copy of the report, where they will see many of these strategies are already in place in Massachusetts.

Last month, the Commissioner joined Dean Cox and Dr. Woodward at the Massachusetts Medical Society’s Public Health Leadership Forum. This year’s meeting looked at drug pricing and the impact on health outcomes. The Commissioner was also invited to speak at last month’s Massachusetts Health and Hospital Association forum on the role of social determinants of health and cultural awareness in caring for populations and patients. She highlighted DPH’s commitment to health equity and eliminating health disparities, as well as the importance of using data as a tool in all of our work. Today, in Massachusetts, zip code is still the strongest predictor of how well we each live and how long we live. She noted that she is encouraged to see our health care systems discussing and elevating the issue of health equity, and we will continue to highlight DPH’s work promoting wellness and equal care for all.

On November 7th, DPH held its second annual Veterans’ Day Appreciation event. The Commissioner had the distinct privilege to honor DPH staff and others who have served or continue to serve our country. As a state agency responsible for the health of all of our residents, she made it a point to re-affirm our commitment to engage with our military veterans and their families; to continue to collaborate with veterans’ services, and continue to establish linkages with veterans’ organizations to make sure our veterans get the appropriate care and treatment they so deserve.

Finally, Commissioner Bharel announced our new Bureau Director for Health Care Safety and Quality, Elizabeth Daake Kelley. Elizabeth was most recently Deputy Director of Behavioral Health and Supportive Care at MassHealth. From 2008 to 2011, she served as the Director of Policy Development and Planning at BHCSQ and was its Interim Bureau Director for several months during that time. She has experience in the hospital setting serving as a senior planner and consultant for the Brigham and Women’s Emergency Service, and holds a Master in Public Health and a Master in Health Sector Management from Boston University. While we welcome Elizabeth Kelley, I’d like to also thank Elizabeth Chen for serving as Interim Director for the bureau.

With no further updates, the Commissioner asked the Council if they had any questions or comments.

With no questions or comments, the Commissioner proceeded with the docket.

Dr. David leaves the room at 9:17am and returns at 9:19am.

**1. ROUTINE ITEMS**

**c. Record of the Public Health Council October 10, 2018 Meeting (Vote)**

Commissioner Bharel asked if any members had any changes to be included in the October 10, 2018 meeting minutes.

Seeing none, the Commissioner asked for a motion to accept the minutes. Mr. Lanzikos made the motion and Dr. Bernstein seconded it. Ms. Lambert and Ms. Blondet abstained, all other present members approved.

**2. DETERMINATIONS OF NEED**

**a. Request for significant change to an existing DoN held by Baystate Health, Inc. to build out shell space. (Vote)**

Commissioner Bharel invited Nora Mann, Determination of Need Program Director, and Rebecca Rodman, Deputy General Counsel, to the table to present the DoN staff recommendation for a significant change request from Baystate Health to a previously issued DoN.

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

Dr. Woodward asked if the OR in this space was for emergency bypasses.

Dr. Ari Kugelmass, VP and Chief of the Cardiology Division at Baystate Medical Center, informed Dr. Woodward that the additional operating room will allow for additional vascular procedures, primarily. This whole project will place the cath labs in close proximity to the open heart rooms and that is an added advantage

With no further questions, the Commissioner asked if there is a staff recommendation for approval of this transfer of ownership is approved as amended. Mr. Lanzikos made the motion, Dr. Woodward seconded it. All present members approved.

Dr. Woodward noted that when he calculated the project cost per square foot it was over $18,000[[1]](#footnote-1)[1] a square foot, a cost which was substantially higher than the average cost per square foot for hospital construction. Dr. Woodward asked, therefore, if this high cost per square foot was due to the specialty equipment required in the proposed unit.

Dr. Kugelmass said he would defer to the architects but a lot of it is equipment.

Dr. Woodward asked about the percentage.

Lou Faassen, AIA, Manager of Planning, Design, and Construction informed him it is a tiered project and has been going on for a number of years. The particular threshold that they are at now requires a certain amount of infrastructure that will serve the facility for the next 1-2 phases of it. They have electrical switch gear that is being triggered by this project as well as an air handling unit. Those two particular projects and the infrastructure associated with it skews the cost associated with this work.

Dr. Woodward asked if he had any idea of the breakdown of cost per plan versus equipment in the $18,000 per square foot.

Mr. Faassen stated that he would have to look into it.

Dr. Woodward asked how many more square feet of unbuilt space do they have if this is 22,000 of it.

Mr. Faassen replied that there is about 130,000 square feet left which takes them over the 75% threshold for the building as a whole. He believes they have about 3-4 more chunks to utilize.

Dr. Woodward noted that amendment 1 was to eliminate two floors in the original proposal, which dropped the square footage to 630,000. 6 months later, the two floors were restored but instead of going back to 641,000 it went to 686,000. He asked for an explanation on those numbers.

Nina Edwards, Attorney from Barrett Singal, stated that when the building was originally designed it was the last buildable space on the campus. A lot of the design went into making the building work for the site and maximizing what can be done on that site. When they filed the first DoN they believed they had the best maximum design, after working out the actual plans and implementing the first phase of the project, plans changed. She discussed the various wings and the change in the height of those wings.

Dr. Woodward asked for clarification as to whether the square footage changed due to the surface area.

Ms. Edwards informed him that is correct, the surface area was higher.

Dr. Woodward stated that he was still perplexed by $18,000 per square foot and asked what the largest amount that they have approved is.

Ms. Mann replied that she didn’t have that information at hand but this amount is larger due the long term upgrades they are performing.

Dr. Bernstein asked what they had in mind for their community that would reduce their patient load.

Dr. Kugelmass stated that he would certainly like to reduce their patient load and that there is ongoing education on social determinants of health that is very active in the Baystate community. Cardiovascular disease is primarily a disease of acquisition through an unhealthy lifestyle. They provide easy access to patients of western Massachusetts when they need cardiovascular care.

Dr. Bernstein asked if they have thought about supporting the implementation of individual changes to prevent cardiovascular disease.

Tejas Gandhi, PhD, Chief Operating Officer, BMC replied that they have partnered with folks to provide a farmer’s marker in the spring. He also discussed transportation and access.

Mr. Lanzikos discussed casinos and if there was a plan to work with them.

Dr. Gandhi replied that they worked with the leadership at MGM in the past and discussed having a health center on site. He noted that with the opening of the casino, they will have a better opportunity to continue discussions.

Ms. Blondet commended them for the community engagement plan and asked them how email will be utilized.

Dr. Gandhi replied that he will have to get back to her on this.

Ms. Mann informed her they can make sure this information is provided.

Ms. Lambert asked if continued and steadied demand of cardiovascular service is quantified in the report.

Dr. Kugelmass replied that nationally there has been a decrease in the utilization, specifically in the cardiac catheterization. He noted that there are other factors that contribute to the need, particularly the aging population and the timing in which procedures can be completed.

Dr. Bernstein discussed the importance of investing in the community workforce and the promotion of individual advocacy.

With no further questions or comments, Commissioner Bharel asked if there is a motion to accept the staff recommendation to approve this significant amendment to Baystate Health’s previously issued DoN.

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

**2. FINAL REGULATIONS**

**a. Request to promulgate amendments to 105 CMR 145.000, Licensing of Out-Of-Hospital Dialysis Units in Massachusetts. (Vote)**

Commissioner Bharel then invited Marita Callahan, Director of Policy and Health Communications at the Bureau of Health Care Safety and Quality; Sherman Lohnes, Director of the Division of Health Care Facility Licensure and Certification within the Bureau; and Beth Scheffler, Complaint Unit Manager within the Division, to request approval to promulgate amendments to the Department’s regulation overseeing out-of-hospital dialysis.

Upon the conclusion of their presentation, the Council was invited to ask questions or comment.

Dr. Bernstein asked what is the current status of home dialysis.

Ms. Scheffler replied that while they don’t have specific numbers at this time, she stated that units do have that as a modality option and it is encouraged.

Dr. Bernstein asked if there was anything in these regulations that would prohibit or decrease the opportunity for home dialysis.

Ms. Scheffler replied that there isn’t and that they would be encouraged to be evaluated for home hemodialysis.

With no further questions, the Commissioner asked if there is a motion to approve the proposed amendments to the regulation.

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

**b. Request to rescind 105 CMR 725.000, Implementation of An Act for the Humanitarian Medical Use of Marijuana pursuant to Chapter 55 of the Acts of 2017. (Vote)**

The Commissioner then asked Beth McLaughlin, Deputy General Counsel, and program attorney for the Medical Use of Marijuana Program, to the table to request approval to rescind the Department’s medical marijuana regulation prior to the Program’s transfer to the Cannabis Control Commission, as required by state law.

Following, Ms. McLaughlin’s presentation, the Council was invited to ask questions or comment.

Dr. Cunningham asked if medical marijuana use for minors would be covered in the Cannabis Control Commission’s statute.

Ms. McLaughlin replied that the statue requires that there a strict divide at the co-locations where recreational and medical sales occur. She informed him that it is not just restricted to adults.

Mr. Lanzikos asked if they anticipated that the regulations would be comparable to DPH’s regulation. He also asked what would happen to staff that work with the program.

Ms. McLaughlin informed him that they had public hearing and shared draft regulations. She noted that the regulations will largely be transferred and not many changes were made for the foreseeable future. They are required by law to take over the staff for the program.

Mr. Lanzikos asked when the new regulations would come into effect.

Ms. McLaughlin replied that they are looking at a filing date for November 30th and they are working with the Commission on a final transfer date which will occur before December 31st. Our regulation, 105 CMR 725 would go way and their regulation would go into effect at the same time ours is rescinded.

Dr. Cox asked if they would be able to speak with the Cannabis Commission and if they can present to the Council.

Commissioner Bharel stated they can bring this request to the Cannabis Commission and they can provide a presentation on what DPH has done in regard to medical marijuana.

Dr. Woodward stated that with recreational marijuana being approved for adults over 21, will there be a medical marijuana for 21 and over or will if focus on pediatrics. He inquired because he wondered why those who would need medical marijuana would not participate in recreational marijuana.

Ms. McLaughlin informed him that they are still receiving applications for medical marijuana. There are prescriptions, different strains, no taxation, and a difference in CBD and THC levels.

Commissioner Bharel also stated that in other states both programs continue to exist.

Dr. Bernstein asked about the purity for recreational versus medical marijuana and if there was a higher standard.

Ms. McLaughlin informed him that the testing protocols are the same and the CCC has adopted the Department’s testing protocols. However, there are different strains that may be more valuable for those seeking medicinal marijuana rather than recreational.

Mr. Lanzikos asked about the testing laboratories and whether there are different labs for recreational and medicinal marijuana.

Ms. McLaughlin informed him that they use the same laboratories.

Dr. Cunningham asked if the certification of the laboratories will remain with the Department.

Ms. McLaughlin replied that the Department will not certify those laboratories, everything will be transferred the Cannabis Control Commission.

With no further questions, I would now like to ask if there is a motion to approve the rescission, provided the rescission be timed with the promulgation of the Cannabis Control Commission’s regulation overseeing medical marijuana.

Ms. Prates Ramos made the motion, Mr. Lanzikos made the motion. All present members approved.

With no further presentations, the Commissioner reminded the Council that the next meeting is Wednesday, December 12, 2018 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 10:20AM.

1. [1] Note – this is an accurate transcript of what was said and discussed at the meeting. However the cost per square foot discussed was based upon the capital expenditure for the entire project whereas the cost per square footage calculation for this amendment is based only upon the proposed increase in approved maximum capital expenditure. Therefore, the correct cost per square foot for this portion of the project is $1,661 per GSF based upon the following calculation: $37,605,439/GSF 22,640. [↑](#footnote-ref-1)