

Minutes for Governor's Advisory Committee for the Lead Poisoning Prevention Program

June 12, 2017

Meeting Called to Order – 1:09 P.M.

Attendance – Members present: Sharon Cameron, Marc Dohan, Kristine Heytel, Dr. Louis Fazen, Leon Bethune, Cassandra Farquherson, Jessica Reyes, Dr. Hilary Branch, Robert Tommassino, and Dr. Sean Palfrey

DPH: Jana Ferguson, Deputy Director, Bureau of Environmental Health; Terry Griffin, Acting Director, BEH Childhood Lead Poisoning Prevention Program (CLPPP); Dr. Alicia Fraser, Assistant Director, BEH Environmental Epidemiology Program; Jim Ballin, Deputy General Counsel, Office of General Counsel

Introductions – DPH, Members of the of Advisory Committee

Presentation – Ms. Griffin presented updates and reminders that the Governor's Advisory Council was still in session - Dr. Reyes is still the Chair, and that comments were a matter of public record and that Open Meeting Law requirements must be met. Members were reminded to disclose Conflicts of Interest and that the meeting is being recorded. Minutes will be posted online.

Dr. Fraser presented childhood blood lead screening rates and levels for 2016 and discussed the Community Lead Progress Reports, which were mailed to pediatric health care professionals. There are electronic versions online on the Environmental Public Health Tracking (EPHT) portal.

Dr. Fazen asked whether the progress reports can be made available to Local Boards of Health (LBOH).

Dr. Fraser responded that the Progress Reports are on the EPHT and available for LBOH and the public. In addition, BEH is conducting interviews with LBOH to identify information that could be used to create a report more specifically for LBOH.

Dr. Fazen inquired as to why BEH provided the information by community rather than by zip code.

Dr. Fraser replied that we have the data, but zip codes are challenging for surveillance. Census data is available at the census tract and block group levels and we would need to match zip codes to those groupings

Dr. Fazen asked whether Dr. Fraser envisioned an automatic prompt to remind Doctor's to screen and to check their community screening rates.

Dr. Fraser replied that these reports were meant to provide in-service information to health care providers about high risk communities in MA.

Ms. Griffin reminded GAC members that health care providers are also able to look up the address of the child's residence in the CLPPP LeadSafeRegistry to see if there are lead hazards identified in the child's home.

Dr. Reyes asked how CLPPP responds to concerns about lead in water. She indicated that she has been asked several questions about lead in drinking water.

Ms. Griffin reported on how CLPPP is integrating lead in water and lead service line testing into the case management activity. Dr. Fraser and Ms. Ferguson explained DPH's partnerships with the Department of Environmental Protection (DEP), including data sharing and working with schools and local health departments.

Ms. Farquerson stated that the Lynn school system sent letters to the parents that the school system tested was tested and that the water had elevated levels of lead.

Ms. Heytel asked who is notified of a lead service line. Ms. Griffin said that this is recorded on the cover sheet of the lead inspection report.

Ms. Heytel asked if there are resources for lead service lines.

Ms. Griffin replied that this changes town by town, but that there are some resources available.

Dr. Reyes inquired as to whether CLPPP knew the history of plumbing codes and whether lead service lines had to be lead and what the prevalence of lead service lines is in the state.

Dr. Fraser indicated that BEH is not familiar with the plumbing code history and the communities and larger water systems, such as MWRA, have information about where lead service lines are in their areas.

Dr. Branch indicated that in her practice working with children who have lead poisoning, lead in drinking water is a very rare contributor and rarely the cause of elevation. She recommended that public messages should be about greater sources of lead exposure, rather than water.

Mr. Dohan inquired about the towns with low screening rates and asked what is CLPPP doing in those areas.

Dr. Fraser discussed the focus groups with health care providers in some of the communities with lower screening rates.

Mr. Dohan indicated that it would be great to engage other community groups/stakeholders to advocate for increased screening. Dr. Fraser and Ms. Griffin thanked him and said that this would build on the work the CLPPP contracted Community Health Workers and Public Health Nurse were engaged in across the state.

Mr. Dohan said that this was good news and said it wasn't very clear why the screening rates were low in some communities and speculated that perhaps this had something to do with low equity in homes and whether owners were not interested in deleading.

Dr. Fraser indicated that this is one of the questions we are trying to answer with the focus groups.

Dr. Fraser then presented an update on the national LeadCare testing systems recall and the impacts in Massachusetts.

Dr. Palfrey asked whether DPH still supports LeadCare II as an approved test.

Dr. Fraser responded that DPH believes that it's still fine for capillary screening, but we no longer recommend it for venous screening unless the issues are resolved.

Ms. Griffin presented an update on the proposed amendments to 105 CMR 460.000, comments received during the public comment period, and proposed changes in response to the comments.

Dr. Fazen referenced comments received from the Small Property Owners Association and asked why some vertical surfaces were excluded from deleading, but not all of them.

Ms. Griffin explained that the other vertical surfaces are either moveable/impact or friction surfaces, which generate dust or loose paint and are more hazardous for children. Additionally, loose leaded paint on any surface is still a violation.

Dr. Branch asked whether property owners are required to delead if a child is over 6 years old.

Ms. Griffin replied that by statute, property owners are not required to delead if there are no children under 6 years old in residence. In some cases, there are children who are older than 6 years old who are identified with higher lead levels, but that these children often have other special health care needs. In those cases, CLPPP advocates that the families move to a home built after 1978 or for the owner to delead voluntarily.

Dr. Palfrey asked if CLPPP encourages those families to use licensed contractors/deleaders.

Ms. Griffin said that CLPPP advocates for this and other safety measures.

Mr. Tommasino asked a clarifying question about whether just stair treads or also risers are included in the proposed definition of Friction Surfaces.

Ms. Griffin clarified that it is limited to treads.

Dr. Reyes asked questions about the language surrounding mandatory screening for older children and whether the wording limited the requirements surrounding a physician's medical judgement.

CLPPP agreed to clarify that wording to show that the medical judgement of the physician is one of the criteria that could require additional screening for children in the regulations.

Dr. Reyes asked whether other tenants are notified about a child's elevated blood lead level in the building in order to suggest that they should have their own children tested.

Ms. Griffin said that other tenants are notified about violations and deleading in common areas, but that others are not notified about a child's blood lead level.

Dr. Reyes said that she understands that some of the information is confidential, but suggested that CLPPP use these opportunities to discuss other lead issues, including screening, with other tenants in a building.

Dr. Palfrey asked if CLPPP investigates other sources of lead outside the home.

Ms. Griffin replied in the affirmative.

There was a discussion about lead in soil and the statutory limitations of requiring abatement of lead in soil.

Dr. Palfrey mentioned that he frequently treats children who are exposed by unsafe renovation and deleading activities next door.

Ms. Griffin described the requirements for deleading and renovation and explained that they do have lead safety controls for dust. The dust is can be addressed by local boards of health, but state agencies also monitor and there is a hotline about unsafe renovations. The Department of Labor Services enforces safe work with the contractor. CLPPP reviews possible exposures to the child during case management and can intervene if unsafe work is found.

Ms. Cameron asked about when dust wipes are required, and reiterated her recommendations that dust wipes be required at initial lead inspections to catch unsafe renovations that may leave high levels of lead in dust. She asked if CLPPP had a time table to reviewing this proposed comment again for adoption.

Ms. Griffin explained that CLPPP sees merit in the recommendation, but that the change would significantly increase the costs to the owners. In cases where there is a child with an elevated blood lead level and CLPPP is conducting an alternative source evaluation, CLPPP inspectors take dust samples at the inspection.

Dr. Fazen asked whether CLPPP has the budgetary ability to meet the demands of the additional caseload.

Ms. Griffin explained that CLPPP is providing case management to approximately 70% of children who have blood lead levels above 10 and that expansion of the caseload is being addressed with additional staff.

Dr. Fazen asked a question about whether the tax deduction can be increased and the availability of financing for property owners.

Mr. Dohan explained that Masshousing has made it easier for property owners to get financing for deleading through the Get the Lead Out funds. He double checked the numbers and the financing for this year has already exceeded all of last year.

Ms. Cameron asked whether most of the refusals for case management still happen in owner occupied homes. And, if not, is there a sense of why CLPPP services are being refused.

Ms. Griffin said that it is more a mix of tenant and property owners refusing CLPPP enforcement. CLPPP has worked with local rehab communities to help increase available funding. She speculates that a tight rental housing market and concerns about losing the housing may be influencing some families.

Dr. Reyes asked to move into a broader discussion about public comments that were received. Dr. Reyes asked if it was in the GAC's purview to list things that should be addressed going forward (e.g. increased tax credits for deleading, or fines for violating the law), even if it was outside of DPH authority to change the statute or another agency's regulation.

- Lowering the lead poisoning level to 5 and increasing the age of children to older than 6. Dr. Reyes asked for GAC comments on whether they were satisfied with CLPPP's response. The members responded in the affirmative.
- Discussion related to the lead screening requirements and wording about a doctors judgement. CLPPP agreed to clarify the wording.
- Renovate and Repair Procedures (RRP). GAC members indicated that they were satisfied that CLPPP addressed these comments and can address renovation work with training with DLS.
- Members of the GAC discussed the recommendation to increase fines for failing to comply with an Order to Correct Violations and for Unauthorized Deleading activity. Ms. Cameron indicated that unauthorized deleading is more grossly negligent.
- Discussion about the definition of a lead hazard in the new regulation: windows, accessible mouthable, friction surface and loose leaded paint.
- Members of the GAC discussed that they understood that some of the comments submitted were outside of CLPPP's ability to address in the regulation. A determination was made that the members of the GAC will advocate for:
 - Mandatory lead inspections at sale, tax credits, fines, increasing the age to be age of 6 or at the discretion of the physician, defining lead poisoning at a blood lead level of 5, dust sampling for initial inspection compliance, and expiration dates for Letters of Compliance

Discussion about property transfer notifications and whether there was merit in asking that lead inspections and deleading be required for sale of the property (similar to septic systems). Discussion included whether this would adversely impact property sales or increase illegal deleading; whether a "lead tax" could be placed on jumbo mortgages to fund deleading for property owners; whether fees and fines should also be used to fund this account. Mr. Dohan

indicated that this was an interesting conversation, but that he was not prepared to discuss this as program reform without more information and an opportunity to research. Dr. Reyes replied that it wasn't necessary to go into details, but wanted to explore the issue to include in a list of recommendations for DPH to consider further. Mr. Tommasino suggested that the GAC separate out those issues DPH had influence over and those it did not.

Ms. Cameron recommended that the GAC not provide a list, but prepare a list for the Governor's Office. Ms. Heytel indicated that she was uncomfortable with this as they were just looking at public comments and didn't know the merits of the suggestions. Dr. Reyes disagreed and felt the GAC should identify those items it felt were worthy of additional review. Dr. Palfrey recommended a letter as well.

GAC members had a discussion of open meeting law and how to prepare a letter without violating the procedures. Dr. Reyes asked if DPH planned to reconvene the GAC soon. Mr. Ballin replied that DPH is moving forward with the regulatory process and is not planning to reconvene the GAC.

Dr. Reyes requested a vote to make clear what should go into the letter and how many are in agreement so that one person drafting the letter isn't operating alone. Doesn't want this to be informal.

Discussion about what should be included in the letter and phrasing. Ms. Cameron indicated that she didn't want to send a message that the GAC doesn't support the regulations, but that there should be a mechanism to allow the regulations to stay current with the science.

Mr. Dohan asked that the letter be limited to issues outside the scope of CLPPPs role/regulations.

Dr. Reyes asked a procedural question about their role.

Mr. Ballin replied that their role is to advise DPH on regulations; however, if the GAC wants to meet on statutory changes, they could meet to do that.

Mr. Tommassino stated that many of the items proposed for the letter are statutory. Dr. Reyes asked whether they can write a letter to the Governor.

Mr. Ballin replied in the affirmative, but added that they can't meet or have discussion without complying with open meeting laws.

Dr. Fazen asked whether the GAC had the power to approve the regulations.

Mr. Ballin clarified that the GAC has an advisory role rather than a policy setting role, but that DPH was interested in their comments.

Dr. Reyes stated that she wants to summarize what came from the public comment about the regulations that were statutory, but still important for additional review.

Mr. Dohan asked members of the GAC whether they would support authorizing Dr. Reyes to write a letter and sign the letter as the chair, communicating the issues as the view of the Chair, but reflecting conversations from the meeting.

Vote to authorize the letter as described above: motion by Ms. Cameron, Mr. Bethune second, called to vote:

In favor: Dr. Palfrey, Ms. Cameron, Ms. Farquerson, Dr. Fazen, Mr. Bethune

Opposed: Mr. Tommassino, and Ms. Heytel

Abstained: Dr. Reyes

Motion Passed

Meeting adjourned 4:02 PM