Governor's Advisory Committee for the Lead Poisoning Prevention Program
Bureau of Environmental Health Childhood Lead Poisoning Prevention Program June 6, 2016
10:30 AM. – 1:30 PM.

Meeting Minutes

Members in Attendance: Leon Bethune, Sharon Cameron, Marc Dohan, Louis Fazen, Krystine Hetel, Jessica Wolpaw Reyes, Ashley Stolba, Elizabeth Tanefis, Robert Tommasino A quorum of the committee was in attendance.

DPH Staff: Jana Ferguson, Paul Hunter, Terry Howard, Jan Sullivan, Patti Walker, Alicia Fraser, Jim Ballin, Lorraine Simbliaris

Audience Members: Scott Aulson, Anthony Jakaitis, George Sweet, Ron Peik, Erin Griffin, Steve Fischer, and Gary Kellner. There were other individuals in the audience that did not identify themselves on the provided sign-in sheet.

Agenda:

1) Welcome
2) Selection and Responsibilities of a GAC Meeting Chair
3) Conflict of Interest Law
4) Open Meeting Law
5) Lead Regulation Promulgation Process and Schedule
6) MA Childhood Lead Poisoning Prevention Program- Lead Law, Prevention, Enforcement, and Surveillance
7) Proposed Changes to Regulation
   a) Lead Poisoning and Blood Lead Level of Concern
   b) Screening and Confirmation Testing
   c) Inspection and Deleading Requirements

1. Welcome

Deputy Director for the Bureau of Environmental Health, Jana Ferguson, opened the meeting and reviewed the agenda.

2. Selection and Responsibilities of GAC Meeting Chair

Deputy General Counsel for the Department of Public Health, Jim Ballin, discussed the selection process and responsibilities of the position of GAC Chair. Committee member, Jessica Reyes, nominated herself for the chair. Marc Dohan seconded the motion. A vote was taken by the committee. Jessica Reyes was unanimously elected to chair the committee.

3. Conflict of Interest Law

Jim Ballin discussed the Conflict of Interest Law. He reminded members to complete the online training course within 30 days of appointment.

4. Open Meeting Law

Jim Ballin reviewed the rules of Open Meeting Law and reminded committee members to sign the acknowledgement regarding Open Meeting Law in their materials packet. Jim Ballin reiterated that there will be no allowance for remote access for committee members. Attorney Ballin also asked that members avoid group e-mail discussions which may inadvertently contravene Open Meeting Law rules.

5. Lead Regulation and Promulgation Process and Planned Schedule

Jim Ballin reviewed a time line for the process of regulatory promulgation over the next several months. An estimated time frame for the various steps involved was provided and approximated filing with the Secretary of State's office in the winter or spring of next year.

6. MA Childhood Lead Poisoning Prevention Program (CLPPP)

Director of CLPPP, Paul Hunter, welcomed the group and thanked them for their participation. He provided information on the adverse health effects of lead exposure to children, citing numerous and many long-term studies that demonstrate the correlation between lead exposure and its negative impact on children's neurological development. He stressed lead paint remains the primary source of exposure, especially in homes with older windows and chipping paint. Non-paint sources such as air, water and soil were also briefly reviewed.

a. MA Lead Law

Assistant Director for CLPPP, Terry Howard, discussed Massachusetts Lead Law and CLPPP's regulations. She explained that the Lead Law is one of the most comprehensive lead statutes in the nation as it applies to both owner occupied homes and rental units. The statute also requires compliance regardless of a child's blood lead level. Historical amendments made to the statute to protect the public's health and encourage compliance were also highlighted.

b. Enforcement

Terry Howard provided information on CLPPP protocol when a child is identified with lead poisoning or with an elevated blood lead level. Terry Howard discussed the effective partnership of working with Local Boards of Heath to enhance enforcement.

c. Primary Prevention

Terry Howard informed the group of CLPPP's primary prevention activities including working with private inspectors, and with local and state agencies, such as housing assistance programs, to incorporate lead education and compliance into existing programs. Community Health Worker activities were reviewed as they provide direct services to families in their home environment as well as community based education that is culturally and linguistically appropriate. The on-line registry of Lead Safe Homes was mentioned in CLPPP's effort to have environmental data available to the public.

d. Surveillance

Assistant Director of the Environmental Epidemiology Program for the Bureau of Environmental Health, Alicia Fraser, discussed CLPPP's annual surveillance data. She explained the current blood lead screening requirements and reporting timeframes. Alicia Fraser stressed the need to increase the state screening rate, which has stagnated at ~75% for the last several years. The criteria by which CLPPP determines a high risk community was also highlighted by Alicia Fraser. She stressed that while many of MA's gateway communities are disproportionally affected by lead poisoning, 41% of CLPPP's confirmed elevated cases were not from high-risk communities. Members of the committee had questions regarding the number of new cases for CLPPP if the regulatory level defining lead poisoning was lowered from 25 µg/dL to 10 µg/dL.

7. Proposed Regulatory Changes

Paul Hunter explained that regulatory review was conducted in accordance with Governor Baker's Executive Order 562 for a regulatory review and outlined the criteria to be used by all state agencies, requiring an evaluation of: the need for government involvement, conformance with federal standards, and streamlining. He also described CDC's Advisory Committee 2011/2012 shift in paradigm from using a "level of concern" to establishing a reference value reflective of the blood lead levels for 97.5th percentile of children screened in the US. The Director also shared the work of the Medical Review Panel convened by DPH to advise regarding lowering the definition of lead poisoning and increasing screening rates. In August 2015, a White Paper supporting lowering definition of lead poisoning and requiring venous confirmatory testing was submitted to the Department. The Advisory Committee members requested that they receive a copy of the White Paper for their review.

a. Lead Poisoning and Blood Lead Level of Concern

Paul Hunter compared and contrasted CDC's reference value of 5 µg/dL and to MA current definition of lead poisoning at 25 µg/dL In 2012, the CDC developed a reference value to identify children in need of intervention from lead exposure, which is based on the U.S. population of children ages 1–5 years who are in the highest 2.5% when tested for lead in blood. DPH regulations currently define "lead poisoning" in a child with a BLL of 25 µg/dL or greater. Unlike the CDC reference value, Massachusetts' 25 µg/dL level is one of strict legal liability for dwellings and triggers mandatory code enforcement interventions including inspections and deleading. CLPPP initiates case management activities, such as community health worker outreach, code enforcement inspections and clinical case management for children with a BLL at or above10 µg/dL, but parents have the option to refuse these services at this lower BLL. Mr. Hunter explained that approximately 40 % of families with children at the lower blood levels

refuse environmental investigations. The Advisory Committee discussed the DPH recommendation to lower the definition of lead poisoning to 10 µg/dL and establishing a definition of a "Blood Lead Level of Concern" at 5-9 µg/dL and what services would be extended to families with children at these blood lead levels.

b. Screening and Confirmation Testing

Paul Hunter and the Advisory Committee discussed the DPH recommendation to propose requiring venous confirmation tests for any capillary blood lead tests that suggest a blood lead level of 5 µg/dL or greater. CLPPP data from 2011/2012 indicate that only about ¼ of initially elevated capillary tests were truly elevated based on follow-up testing. Changing this requirement will enable children with elevated blood lead levels to be identified more accurately and quickly.

Mr. Hunter and the Advisory Committee discussed the DPH recommendation to proof of blood lead screening for children above 9 months entering daycare and pre-kindergarten, which would increase screening rates for children and identify possible elevated lead levels in children at a younger age, when they are more susceptible to lead poisoning.

c. Inspection and Deleading Requirements

Paul Hunter compared Massachusetts abatement standards with HUD standards to meet some of the objectives of the Governor's Executive Order and in order to encourage more preventative deleading in MA. MA does not have a lead 'free' standard, but allows some surfaces to have intact leaded paint. Studies indicate this 'intact paint standard', with deleading of window and friction surfaces is protective for children. Mr. Hunter and the Advisory Committee members discussed the DPH recommendation to propose changes to the abatement standards, specifically, removing some of the surfaces currently defined in MA regulation as accessible mouthable components and requiring these surfaces to have impact paint. A quick survey of HUD abatement grantees who routinely detail job specifications suggests that changes to these deleading standards could save property owners an estimated 1/3 of the current cost of deleading, which may increase compliance with the Lead Law.

Paul Hunter outlined some additional regulatory proposals to meet the conditions of the Executive Order, removing outdated requirements for state approval of encapsulant products and referencing current federal ASTM encapsulant standards; and removing specific language regarding abatement, inspection and code enforcement procedures to sub-regulatory guidance, such as training materials.

Discussions and Deliberations of Advisory Committee Members

Advisory Committee members asked if these changes would require a statutory change or only a regulatory change. Paul Hunter stated the proposals being discussed with the Committee were limited to regulatory changes.

Advisory Committee members discussed the reasons families may refuse CLPPP services. Paul Hunter reiterated CLPPP's recommendations to families who decline code enforcement environmental services to hire a private lead inspector for an inspection. Committee members were interested in comparing the number of mandatory environmental cases at both 25 µg/dL and 10 µg/dL . Paul Hunter stated that there

are were 53 children identified with lead poisoning in 2015 and that the number of children identified with a blood lead level of 10 or greater was approximately 500. These numbers are not reflective of the CLPPP caseload as CLPPP currently extends services to families with children at 10 or greater, responds to parental requests, and provides post-compliance determination services stemming from local board of health inspections. The current case load is approximately 350 cases annually. Members also discussed recent changes to Get the Lead Out loan would support and provide deleading resources for additional cases.

Members discussed the possibility of using 5 µg/dL of lead poisoning or tagging the definition to the CDC reference value so that the definition would be fluid and therefor consistent with CDC recommendations whenever the reference value is re-calculated. Adopting a regulatory definition to a variable CDC reference value will not be allowed in MA. The DPH regulatory process for lead regulations requires that proposed regulatory amendments be reviewed by the Governor's Advisory Committee and proposed amendments submitted to the Public Health Council. The public must be given an opportunity to comment. Adopting a changing federal standard would circumvent the public's opportunity to comment and participate. Concern was expressed that requiring venous confirmation might lower the screening rate because some parents would not screen their children if they thought that venous testing would be traumatic to their children. Advisory Committee members asked whether CLPPP would make recommendations for chelation or medical intervention for children with lower blood lead levels. Members discussed the increased need for maintenance of intact leaded surfaces which resulted in further discussion about both tenant notification and property transfer notification procedures.

Advisory Committee members asked for clarification regarding the blood lead level of concern of 5-9 µg/dL relative to strict liability. Members discussed the impact on property owners Strict liability is included in the statute as a possible penalty for property owners if a child becomes lead poisoned. CLPPP is considering proposals to lower this definition to 10, rather than 5. A child identified with a blood lead level of 5-9 would not trigger strict liability. The Lead Law requires property owners to be in compliance, regardless of the child's blood lead level. Additionally, if a property owner comes into compliance, the owner is protected from strict liability in the future.

The Advisory Committee discussed whether private inspectors could be used to assist CLPPP in conducting inspections in the homes of lead poisoned children.

Chair Jessica Reyes, asked for a motion to take a straw vote on the proposed change to lowering the definition of lead poisoning from 25 µg/dL to 10 µg/dL. The Chair stressed that this was simply to have an understanding of committee members' views about presented information and that additional discussions and deliberations were still needed.

Members voted yes: Leon Bethune Sharon Cameron Marc Dohan Lewis Fazen Jessica Reyes Elizabeth Tanefis

Members abstained: Krystine Hetel Ashley Stolba Robert Tommasino

The members requested the following documents be provided to them prior to the next meeting: the Medical Review Panel's White Paper, a copy of the slide presentation, and a breakdown of CLPPP case load numbers reflecting the various increments at 5-9 µg/dL, and 10 µg/dL . The meeting was then adjourned.