**MINUTES OF THE PUBLIC HEALTH COUNCIL**

**Meeting of September 12, 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, September 12, 2018 - 9:00 AM**

1. **ROUTINE ITEMS**
   1. Introductions
   2. Updates from Commissioner Monica Bharel, MD, MPH.
   3. Record of the Public Health Council August 8, 2018 Meeting. **(Vote)**
2. **DETERMINATIONS OF NEED**
   1. Partners HealthCare System, Inc. request for significant change to a Notice of Determination of Need issued to North Shore Medical Center, as amended in August 2017.  **(Vote)**
3. **FINAL REGULATIONS** 
   1. Request to promulgate amendments to 105 CMR 590.000, *State Sanitary Code Chapter X – Minimum Sanitation Standards for Food Establishments.* **(Vote)**
4. **PRELIMINARY REGULATIONS** 
   1. Informational overview of proposed amendments to 105 CMR 100.000, *Determination of Need.*
5. **PRESENTATIONS**
6. Informational presentation on Healthcare Personnel Influenza Vaccination in 2017.
7. Informational presentation on DPH’s Suicide Prevention Efforts.

*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, September 12, 2018

**Start Time:** 9:16am **Ending Time:** 12:01am

| **Board Member** | **Attended** | **Record of the Public Health Council August 8, 2018 Meeting (Vote)** | **DETERMINATIONS OF NEED**  **Partners HealthCare System, Inc. request for significant change to a Notice of Determination of Need issued to North Shore Medical Center, as amended in August 2017. (Vote)** | **FINAL REGULATIONS**  **Request to promulgate amendments to 105 CMR 590.000, State Sanitary Code Chapter X – Minimum Sanitation Standards for Food Establishments. (Vote)** |
| --- | --- | --- | --- | --- |
| Monica Bharel | Yes | Yes | Yes | Yes |
| Edward Bernstein | Yes | Abstained | Yes | Yes |
| Lissette Blondet | Yes | Yes | Yes | Yes |
| Derek Brindisi | Yes | Abstained | Yes | Yes |
| Harold Cox | Yes | Yes | Yes | Yes |
| John Cunningham | Yes | Yes | Yes | Yes |
| Michele David | Yes | Abstained | Yes | Yes |
| Meg Doherty | Absent | Absent | Absent | Absent |
| Michael Kneeland | Yes | Yes | Yes | Yes |
| Joanna Lambert | Yes | Abstained | Yes | Yes |
| Paul Lanzikos | Yes | Yes | Recused | Yes |
| Lucilia Prates-Ramos | Yes | Yes | Yes | Yes |
| Secretary Francisco Ureña | Yes | Yes | Yes | Yes |
| Alan Woodward | Yes | Abstained | Yes | Yes |
| **Summary** | **13 Members Present, 1 Member Absent** | **8 Members approved, 1 member absent, 5 members abstained** | **12 members approved, 1 member absent, 1 member recused** | **13 members approved, 1 member 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, September 12, 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; Derek Brindisi; Harold Cox; John Cunningham, PhD; Michele David, MD; Michael Kneeland, MD; Joanna Lambert ;Paul Lanzikos; Lucilia Prates-Ramos; and Secretary Francisco Ureña; Alan Woodward, MD.

Absent member(s) were: Meg Doherty

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

Commissioner Bharel called the meeting to order at 9:16 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 that this year marks the Department’s sixth year of participating in activities to mark National Preparedness Month, which occurs in September. To help mark this month and encourage all Massachusetts residents, families, and communities to make plans and prepare for public health and medical emergencies, threats, and disasters the Department is getting the word out through our statewide “Know Plan Prepare” campaign which will use a combination of TV spots and an online/digital campaign, including social media ads. This year’s social media outreach will include a focus on women in the Spanish, Portuguese, Haitian Creole, Chinese, and Vietnamese communities, who will see ads in their preferred language and be directed to our Emergency Preparedness Checklist translated into their preferred language The Commissioner then thanked staff from the Office of Preparedness and Emergency Management for all of their efforts encouraging all Commonwealth residents to prepare for the unexpected. More campaign resources can be found at mass.gov/KnowPlanPrepare.

Since becoming Commissioner in 2015, Commissioner Bharel has shared yearly updates about DPH’s tobacco prevention work, our education efforts, and active role in advocating for comprehensive tobacco legislation in the state. This summer, Governor Baker signed into law a comprehensive act designed to protect youth from tobacco and nicotine addiction.

This important law raises the legal age to buy tobacco products statewide from 18 to 21. It also broadens the definition of “tobacco product” to include vaping devices and e-cigarettes – which is a serious problem among youth. Commissioner Bharel then thanked the Council for the part that they’ve played in helping us reach this important milestone, and invited them to join her in celebrating this long-sought public health victory.

Vaping and e-cigarettes are a major concern, with vaping rates among youth 9 times higher than for adults. Recently, the Department announced $6 million in grants to Massachusetts communities for tobacco control and prevention over the next four years. These grants will be awarded to 16 municipal health departments, and will enhance capacity in 182 surrounding areas to enact and enforce policies, systems, and environmental changes that reduce tobacco use and protect the public from exposure. This funding will lend critical support to local programs in their continued efforts to address the ever changing tobacco and vaping industry tactics. These grants are an additional way the Department is supporting tobacco and vaping prevention efforts. Just recently, the first statewide campaign and website geared towards educating adults on the dangers of vaping and its prevalence among youth was launched.

Governor Baker recently signed into law a bill that continues to advance and enhance the Commonwealth’s response to the opioid epidemic. There are many promising provisions in this new law, the Commissioner highlighted several pieces. The law:

* Creates a Community-based Behavioral Health Promotion and Prevention Trust Fund, which will fund primary prevention initiatives that promote positive mental, emotional and behavioral health among children and young adults while also preventing substance use disorders.
* Encourages MAT initiation in emergency departments by ensuring hospitals have the capacity to dispense, administer, and prescribe opioid agonists for substance use disorder treatment and offer the treatment when clinically appropriate.
* Provides access to MAT for detainees and inmates at state prisons, and authorizes a pilot program for MAT in houses of correction.
* Establishes commissions examining topics such as harm reduction strategies, MAT use, and recovery coaches.
* These are positive steps forward in terms of creating access to treatment, and show just how far we have collectively come in viewing addiction as the medical disease it is.

The Department will be involved in implementing many of these critical initiatives and will be participating in meaningful dialogues around seizing opportunities to improve MAT access and harm reduction.

Throughout the FY 2019 budget process, Commissioner Bharel has brought updates to the Council highlighting three key pieces of the Governor’s budget proposal critical to DPH in the coming year:

* A non-profit grants trust fund to allow DPH to accept competitive grant funding from non-profit organizations, as a way to continue and build upon all of the exciting data work we’ve done over the past couple of years;
* Funding for necessary inspectional capacity for health care facilities, food protection, and radiation control; and
* Startup funding necessary to support implementation of the nation’s first statewide Mobile Integrated Health law.

With each iteration, state budget writers also recognized how vital these elements are to the work the Department does – and ultimately, all three funding streams were included in the final budget signed by the Governor several weeks ago.

Overall, this was a very good budget for the Department – in fact, we’re receiving $32.6M more in funding over FY2018, which is supporting things like:

* $1M for primary youth violence prevention ($661K) and Youth at Risk grants ($400K)
* Suicide prevention ($200K unearmarked);
* Family planning services ($670K unearmarked);
* Tobacco prevention and cessation ($860K);
* Enhanced sexually transmitted infection testing ($350K); and
* State public health lab services ($495K)

The Commissioner then thanked everyone for their support of these mission-critical investments throughout the budget process.

Commissioner Bharel then shared personnel updates.

She welcomed Communications Director, Alison Cohen, to the Department. A former broadcast journalist, Alison has focused her career on promoting the goals of mission-driven agencies and organizations. She joins us from EDC, a global education and health nonprofit, where she directed all aspects of media relations, developing and implementing communications strategy for all divisions and corporate offices, which spanned 200 health and education programs in the U.S. and 20 countries. Alison will oversee the communications team, which covers media relations, health communications, and communications strategy.

She also welcomed Frank Doyle as the Assistant Commissioner of Public Health Hospitals. Frank is an experienced healthcare executive who worked as the Executive Director of the Boston HealthNet for over 20 years. Frank will be responsible for supervising the four public health hospital CEOs as well as the State Office of Pharmacy, and will continue the work of building a public health hospital system to strengthen the important work of these institutions.

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

Secretary Ureña arrives at 9:18am.

Dr. David congratulated the Department on the recent tobacco legislation and discussed the increased amount of vaping that she’s seen amongst young people.

Mr. Lanzikos asked for an update on long term care facilities.

The Commissioner informed him that they can provide an update on long term care facilities to the Council.

Dr. Woodward discussed Tobacco Free Mass and the increased use of JUUL devices and the amount of nicotine they produce.

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

**1. ROUTINE ITEMS**

**c. Record of the Public Health Council August 8, 2018 Meeting (Vote)**

Commissioner Bharel asked if any members had any changes to be included in the August 8, 2018 meeting minutes.

Seeing none, the Commissioner asked for a motion to accept the minutes. Mr. Lanzikos made the motion and Secretary Ureña seconded it. Dr. David, Dr. Bernstein, Ms. Lambert, Mr. Brindisi, and Dr. Woodward abstained as they were not present at the August meeting, all other present members approved.

**2. DETERMINATIONS OF NEED**

**a. Partners HealthCare System, Inc. request for significant change to a Notice of Determination of Need issued to North Shore Medical Center, as amended in August 2017. (Vote)**

The Commissioner then asked Nora Mann, Determination of Need Program Director, and Rebecca Rodman, Deputy General Counsel, to the table to review the DoN staff recommendation for Partners Healthcare System, Inc.’s request on behalf of North Shore Medical Center for a significant change to a previously approved determination of need.

Commissioner Bharel then gave Mr. Lanzikos a moment to leave the room as he has recused himself from participating on today’s determination of need application.

Mr. Lanzikos recuses himself at 9:33am.

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

Dean Cox discussed the issue of how community needs assessments are determined what the real need is. He then asked if it is a function of the facility to determine the need or is this something that we should be looking at for the facility.

Ms. Mann replied that with respect to this specific application, when it came before the Council to decrease the beds, the capacity was supposed to increase elsewhere. They believed that they were going to be able to transfer patients to other facilities. However, that didn’t happen. With respect to the DoN, it is up to the applicant to define what the need is and how to address it.

Dean Cox asked how the need is assessed for the area. He also asked how do we determine who is actually meeting the need.

Ms. Mann informed him that how we address the need for the purpose of DoN is different than broader focus.

Ms. Lambert asked if the beds could be flexed if utilization is low.

Ms. Mann deferred the question to the applicant.

David Roberts, President of North Shore Medical Center, stated that the beds will be utilized by the patients that they are designed for. He discussed the extraordinary need for the beds.

Dr. Woodward asked if 120 beds have closed in two unaffiliated facilities, will the additional beds be enough. He asked if they had additional shell space.

Dr. Roberts replied that the they are currently using all additional shell space.

Dr. Woodward asked how many beds have come online since the closure.

Dr. Roberts informed him that he was not sure for other facilities throughout the state but informed him that they believe their project will be completed by October 2019.

Dr. Woodward asked if they anticipate any further changes to their DoN.

Dr. Roberts replied that they do not.

Dr. Woodward stated that although it is beyond the scope of the DoN, community needs is something that we should be examined.

Mr. Mann informed him that they did consult with DMH on his previous question. She noted it is a difficult question but about 200 of the 320 beds were in operation.

Ms. Blondet stated she had concerns about behavioral interpreting and the discharge of the homeless population. She is hoping that in the future that the new model can help shed light on effective strategies for interpretive services and the discharge population.

Dr. Roberts informed her that they share the concern and that they recently opened a facility in Lynn for homeless individuals that are in transition once that are released from NSMC.

Mr. Brindisi discussed his history with this DoN and his concern for the community that they serve. He asked about the status of the CHNA.

Dr. Roberts replied that an outside agency reviewed all of the data and it was also reviewed by stakeholders. He stated that they can share that information with the Council.

Ms. Blondet leaves the room at 10:06am and returns at 10:07am.

Mr. Brindisi stated that he is happy to see that the services will be back online. He shared Dean Cox’s thoughts on determining the most long-term appropriate need for the community.

Dr. Bernstein asked if co-occurring disorders are included in the reporting, if not can it be added.

Ms. Mann informed him that it can be added without an amendment.

With no further questions or comments, the Commissioner asked if there is a motion to accept the staff recommendation to approve Partners Healthcare System Inc.’s request for significant amendment.

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

**3. FINAL REGULATIONS**

**a. Request to promulgate amendments to 105 CMR 590.000, State Sanitary Code Chapter X – Minimum Sanitation Standards for Food Establishments. (Vote)**

Commissioner Bharel then invited Mike Moore, Director of the Food Protection Program within the Bureau of Environmental Health, and Lynn Squillace, Deputy General Counsel, to request approval of amendments to the Department’s retail food code regulation.

Mr. Lanzikos returns at 10:14am.

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

Dr. Cunningham asked if there was a 2017 FDA update.

Mr. Moore replied that there is a 2017 FDA update and that they compared both documents in amending the code.

Mr. Lanzikos asked how readily available is the report.

Mr. Moore replied that it is available upon request and that a manager should be able to provide to customers. They provide guidance based upon questions from the local boards of health.

Dr. Bernstein asked if there are enough inspectors.

Mr. Moore informed him that there is a need, however, inspectors are hired by the local boards of health.

Ms. Squillace added that with these particular set of regulations, local board of health do the primary enforcement.

Ms. Lambert asked if the annual inspections are unscheduled.

Mr. Moore informed her that some jurisdictions experiment with announced inspections however, we advocated for surprise inspections.

Dean Cox is concerned about having a sufficient amount of workers for inspections. He noted that since local boards decide how many inspectors are needed there often not enough. He suggested a special commission to examine what our workforce looks like.

Dr. Woodward asked if DPH provides guidance on how many inspectors are needed per local board.

Mr. Moore informed him that the FDA provides that guidance.

With no further questions or comments, the Commissioner asked for a motion to approve the proposed amendments to the regulation.

Mr. Brindisi made the motion, Dean Cox seconded it. All present members approved.

**4. PRELIMINARY REGULATIONS**

**a. Informational overview of proposed amendments to 105 CMR 100.000, Determination of Need.**

Commissioner Bharel invited Nora Mann and Rebecca Rodman back to the table for an informational presentation on proposed amendments to the Department’s determination of need regulation.

Dr. Kneeland and Dr. David leave the room at 10:34am and return at 10:39am.

Dr. Woodward asked about the 12 month period and why 12 months was chosen.

Ms. Mann informed him that the 1 year period strikes a balance and allows them to plan out how to address patient panel needs.

Dr. Woodward stated that 24 months seems that it would provide a better balance.

Ms. Mann informed him that although it may be difficult they hope it will force facilities to look longitudinally.

Ms. Rodman informed him that the will take it under consideration and add it to the comments.

Dr. Bernstein asked how accountability will take place.

Ms. Mann replied that in the regulation, as approved in 2017, for an applicant to apply they have to be in compliance with all previous DoNs. This is a part of the report that they bring before the Council.

Dr. Cunningham asked why the state uses the federal fiscal year.

Ms. Mann explained that it was chosen since hospitals tend to follow the federal fiscal year.

Dr. Cunningham asked who defines where minor ends and begins.

Ms. Mann informed him that it is defined in the regulation.

Ms. Blondet asked about facility versus entity.

Ms. Mann explained that facility is defined in the statute and includes the hospital and all satellites. It is what’s on the license. The system is a provider organization.

With no further questions, the Commissioner proceeded with the docket.

**5. PRESENTATIONS**

**a. Informational presentation on Healthcare Personnel Influenza Vaccination in 2017.**

Commissioner Bharel then invited Dr. Katherine Fillo, Director of Clinical Quality Improvement for the Bureau of Health Care Safety and Quality; Joyce Cohen, Epidemiologist at the Bureau of Infectious Disease and Laboratory Sciences; Hillary Johnson, Epidemiologist at the Bureau of Infectious Disease and Laboratory Sciences, and Eileen McHale, Healthcare Associated Infection Coordinator for the Bureau of Health Care Safety and Quality, to the table for a presentation on healthcare personnel flu vaccination in 2017.

Following the presentation the Council was invited to ask questions.

Dr. Kneeland asked if there were facilities where no one received vaccinations.

Ms. McHale informed him that those facilities more than likely did not report accurately.

Dr. Kneeland asked if there were follow up with places that haven’t reported.

Ms. McHale informed him that there has been follow up.

Mr. Lanzikos asked if DPH staff that inspects nursing facilities reinforce the requirement.

Ms. McHale replied that they reinforce the requirement and ask that the facility show them the data that was submitted.

Mr. Lanzikos inquired if this information is shared with EOEA and the ombudsmen program.

Dr. Fillo informed him that this information is shared with both EOEA and the ombudsmen program and that they work in close partnership with both.

Dr. David asked if face masks attribute to the high rates.

Dr. Fillo replied that facilities can develop their own policies, however, there is no evidence that mandating the use of face masks, prevents the spread of influenza.

Dr. Woodward stated he is disappointed that there are 16 hospitals that aren’t making the rate. He discussed the high declination rate of employees working with the elderly population. He also noted that while tremendous progress has been made there are still areas that require attention. He stated that he would like to focus on declination and why the decline.

Ms. Prates Ramos discussed the importance of vaccination education amongst nursing home staff.

Dean Cox discussed the possibility of making this mandatory rather than voluntary.

Dr. Woodward asked how many facilities have mandated vaccinations.

Dr. Fillo replied that the Department does not track hospital policies and so only knows anecdotally that some facilities use this policy.

Dr. Bernstein discussed the possibility of Medicaid being used to influence mandatory vaccination.

Dr. Kneeland discussed possible reasons why individuals choose not to get to vaccinated for influenza.

Commissioner Bharel noted that they are thinking of how to survey individuals for why they choose not vaccinate and how to bust the current myths.

Dean Cox leaves at 11:33am and does not return.

Ms. Lambert leaves at 11:34am and does not return.

With no further questions or comments they proceeded with the docket.

**b. Informational presentation on DPH’s Suicide Prevention Efforts.**

The Commissioner then invite Kelley Cunningham, Director of the Suicide Prevention Unit within the Bureau of Community Health and Prevention, to the table for a presentation on the Department’s critical work around suicide prevention.

Following Ms. Cunningham’s presentation, the Council was asked if they had any questions.

Dr. Bernstein commended her work and asked how we can determine intersectionality of suicide.

Ms. Cunningham discussed the risk factors for suicide as well as the zero suicide initiative.

Dr. Woodward asked if they have numbers on opioid related suicides.

Ms. Cunningham informed him that they receive information from OCME. If individuals do not leave behind notes etc. it’s hard to determine that all of the factors.

Ms. Prates Ramos asked if there are numbers of suicide for limited English usage populations.

Ms. Cunningham stated that they do not have that information as they break it down by culture rather language. She is not sure if OCME captures this information and will have to check.

Secretary Urena discussed the opportunity with data sharing and military families.

With no further questions or comments, the Commissioner reminded the Council that the next meeting is Wednesday, October 10, 2018 at 9AM.

She then asked for a motion to adjourn. Dr. Bernstein made the motion Dr. David seconded it. All present members approved.

The meeting adjourned at 12:01PM.