

COMMONWEALTH OF MASSACHUSETTS

BOARD OF CERTIFICATION OF COMMUNITY HEALTH WORKERS

**THIS AGENDA CONSTITUTES NOTICE OF THE REGULARLY SCHEDULED MEETING OF THE
BOARD OF CERTIFICATION OF COMMUNITY HEALTH WORKERS
IN COMPLIANCE WITH THE OPEN MEETING LAW, M.G.L. c. 30A, § 20**

**Tuesday, January 13, 2015
9:00 a.m.**

**239 Causeway Street ~ 4th Floor ~ Room 417A/B
Boston, Massachusetts 02114**

Agenda

| Time | Item # | Item | Exhibits |
|-------------|---------------|---|-----------------|
| 9:00 a.m. | I. | Call to Order Determination of Quorum | |
| | II. | Approval of Agenda | |
| | III. | Welcome and Introductions | Draft Agenda |
| | IV. | Approval of Minutes A. November 6, 2014, Regularly Scheduled Meeting | Draft Minutes |
| | V. | Finalize Draft Regulations to Send for Review | Hand-outs |
| | VI. | Domestic Violence Training and Application to CHWs | |
| | VII. | Advisory Workgroup to Board – Designate Members and Purpose | |
| | VIII. | Discussion of Public Hearing Process | |

| | | | |
|-----------|------------|-------------------------------------|--|
| | IX. | Other Business/Announcements | |
| 1:00 p.m. | X. | Adjournment | |

COMMONWEALTH OF MASSACHUSETTS
BOARD OF CERTIFICATION OF COMMUNITY HEALTH WORKERS

BOARD MEETING MINUTES

Tuesday, January 13, 2015
9:00 a.m.
239 Causeway Street
Room 417
Boston, MA 02114

Board Members Jean Zotter, DPH, Chair

Present: Patricia Edraos, Massachusetts League of Community Health Centers (MLCHC), Representative
Joanne Calista, Community Health Worker Training Organization, Representative
Sheila Och, Community Health Worker
Denise Lau, Public Member
Henrique O. Schmidt, Community Health Worker, Secretary
Maritza Smidy, Community Health Worker

Board Members

Not Present: Peggy Hogarty, Massachusetts Public Health Association Representative
Charles Joffe-Halpern, Community-Based Community Health Worker, Employer

Staff Present:

Mary Phillips, Executive Director, DHPL
Ichelle Herbu, Assistant Executive Director, DHPL
Rebecca Ferullo, Office Support Specialist I, DHPL
Vita Berg, Chief Board Counsel, Office of the General Counsel, DPH
Gail Hirsch, Director, Office of Community Health Workers, DPH

Visitors:

Members of the Public

- I. Call to Order and Determination of Quorum
A quorum of the Board was present. Ms. Zotter, Board Chair, called the meeting to order at 9:08 a.m.

Ms. Zotter invited Board Members, DPH staff, and Public Members in attendance to introduce themselves.
- II. Approval of Board Meeting Agenda
The Meeting Agenda was reviewed.

DISCUSSION: Ms. Zotter would like to add an item to the agenda; to discuss changing the start time of meetings.

ACTION: Ms. Och made a motion to approve the agenda with changes; Mr. Calista seconded the motion. The motion passed unanimously.

Document: January 13, 2015 Board Meeting Agenda

III. Approval of December 9, 2014 Regularly Scheduled Meeting Minutes

The Minutes of the December 9, 2014 Regularly Scheduled Board Meeting were reviewed.

DISCUSSION: Board members would like amendment made to page 4: remove “The when and why of what?” Correction of page 2 typo and add “to” in the sentence “certified CHW trainer added the definitions,” page 5 “ethics form the read and sign” changed to “...they read and sign,” and any other minor spelling errors.

ACTION: Ms. Smidy made a motion to approve the minutes with changes; Ms. Zotter seconded the motion. The motion passed unanimously.

Document: December 9, 2014 Regularly Scheduled Board Meeting Minutes

IV. Finalize Draft Regulations to Send for Review

DISCUSSION: Ms. Berg reviewed changes previously made to section 7.00. She consulted the Nursing Home Administrator (NHA) Board regulations for deemed status and drafted 7.00 accordingly. However she requested guidance from board as she did not have enough information to write the deemed status regulations. In addition, 7.02(2) was removed, as 6.00 has been deferred. 7.02(1) and (3) changed “acceptable” to “qualified.” 7.03(1)(c) removed “specified in section 5.04(2)(b).” 7.03(2) was removed. 7.03(3) lists qualifications for approved providers (“deemed status”). NHA Board uses an application process for this. Could include an extensive application (DPH programs and CHW Education and Training Programs would receive automatic approval). Will any others providers be offering more than one program at a time? Like programs sponsored or cosponsored by DPH, should other CHW organizations, such as MACHW, be listed and recognized as automatically approved? What about community colleges? Single courses seeking approval would still have a separate process.

9:41 a.m. Ms. Lau enters

Naming specific organizations may be exclusionary at this time. The Board could also defer at this time and move forward with the regulations as is, without a deemed-status application and only automatically approved programs, and as certifications happens see if any programs would qualify for a “deemed-status,” then amend regulations to include this later. Are all DPH courses counting towards CEUs? Yes, but certified CHWs still need to choose courses that have appropriate content. If the course is not related to specific health topics, they cannot use the credit; this would be reviewed in an audit. Should DPH-sponsored or –cosponsored be changed to DPH Office of CHWs-sponsored or –cosponsored? May limit available courses too much. Content requirements should clarify what courses to take. Still, this may become confusing for CHWs. Remove (a) – DPH sponsored courses? Then course approval will still be needed.

ACTION: Ms. Edraos made a motion to strike 7.03(3)(a); Ms. Smidy seconded the motion. The motion passed unanimously.

10:00 a.m. Ms. Calista leaves the room

10:02 a.m. Ms. Calista returns

ACTION: Ms. Smidy made a motion to add a new 7.03(2)(d) – “A CEU provider approved by the Board, identified on a list that the Board shall maintain and publish;” Ms. Calista seconded the motion. The motion passed unanimously.

ACTION: Ms. Zotter made a motion to accept section 7.00 as whole with changes; Mr. Och seconded the motion. The motion passed unanimously.

DISCUSSION: Ms. Berg reviewed 9.00 Complaints and Board Actions. Based on language from Boards of Nursing, Pharmacy and Dentistry. The Division is trying to standardize complaints and board actions throughout all boards, although CHWs will be slightly different because the certificate is voluntary and not required to practice.

10:11 a.m. Ms. Phillips and Ms. Herbu leave the room

10:14 a.m. Ms. Phillips returns

10:15 a.m. Ms. Herbu returns

9.02(a) reviews investigation of complaints, based on voluntary information (cannot subpoena information). The board can request medical records if it doesn't violate HIPPA. But the health agency can deny request. Mental health records are protected. Substance abuse records are also if the person has a substance abuse problem. Criminal activity is not protected. 9.02(b) reviews process of findings being presented to the Board before action is taken, to decide if a case should be dismissed or move forward (opportunity for a hearing or agreement). If the board moves forward, it allows the prosecutor to issue an “order to show cause.” 9.03 reviews grounds for action in a list of reasons and violations that could warrant action against a certificate. It is always the Board's discretion whether or not to take an action, and it may decide not to, based on evidence. Should Trainer certificate be added to this section? Not at this time, as the section on Trainers and tiers is on hold. When this section is completed, 9.00 can be amended to include other tiers, and ability to take action on these certificates be separate from CHW certificate. Ms. Berg reviewed the investigation and action process in regards to the staff and chain of events. Major complaints against CHWs may often be from consumer, employer, anonymous, or general public. Also breach of confidentiality complaints in cases where information was spread by another source (as CHWs are so involved in their communities). DPHL staff triage cases before opening a complaint, DPHL staff conduct the initial investigation. The Board can decide to delegate authority to DPHL staff after handling initial complaints and seeing trends, if so desired. This would be done by policy, not a change in regulations

Would like to change 9.02(b) to “provide a written response to the allegations within 21 days of the date of complaint.”

Discussion of possibly helping CHWs find resources for legal counsel if a complaint goes forward to a hearing – not necessary. Legal counsel is not required, and the Board does not have the authority to help with this. MACHW could consider dedicating resources for CHWs needing legal assistance. Would an employer provide insurance to help in these situations? Have other states dealt with CHW employers putting CHWs on insurance policies? Very possible, but nothing known at this time.

11:00 a.m. Break

11:19 a.m. Resume (Smidy not in the room)

9.04 Board Actions on Complaints (a) Dismissal – can be done at investigation/triage stage.

11:20 a.m. Ms. Smidy enters room

Dismissal can be without prejudice (ability to reopen with new evidence) or with prejudice (cannot be reopened; usually occurs after a hearing). An Advisory letter can be sent to the certificate holder, reminding them of the policies and regulations of the Board. This is not an official complaint, but puts the certificate holder on notice directly from the Board. (b) Orders. These occur after a full hearing. All consent agreements and orders are public records and discoverable. Within one year, all orders and agreements may go on-line with redactions. (b)(2)(a). Stayed Probation – there is a public “discoverable” record but not put on website and the licensee must fulfill requirements set by the board for improvement/correction. Certificate holder can continue to practice as a certified CHW. This option is difficult with a voluntary certificate but we should keep in in case the board needs it later. (b)(2)(b). Reprimand – will show a record of discipline on website, available to employers and public. (b)(2)(c) Probation – permanent record and on website, licensee must correct conduct and meet terms set by the Board. (b)(2)(d) Suspension – meant for a determined amount of time and licensee must meet requirements set by the Board before applying for reinstatement. While in suspension, holder cannot call themselves a certified CHW. (b)(2)(e) Revocation – Meant to be a longer, severe action. Cannot be permanent, but indeterminate amount of time. Very unlikely a license (or certification) would be reinstated after this action. In all cases, a violation and action is public record, but personal information and medical history is not. (c) Ms. Berg can bring in examples of consent agreements to the next meeting for Board members. (d) Voluntary Permanent Surrender – this is usually an option used by someone close to retirement who will never use certificate again; Concerns about CHWs practicing as non-certified after Board action. Regardless of the name, this is not “permanent” and should not tie the hands of future Board members. Board members are not mandated to report violations (such as elder abuse), but nothing restricts them from contacting appropriate authorities (i.e. Elder services). As long as non-certified CHWs do not represent themselves as certified, there would be nothing to stop employers from representing their employees as such.

9.05 Summary Suspension of Certificate Pending Hearing. If the Board receives evidence that shows a CHW poses imminent danger to the public, it may have a hearing within seven days to suspend the certificate immediately while awaiting a full hearing. The hearing would be run by the hearing officer – a hearing takes a minimum of 3-4 hours, or can last few several days. Hearing counsel helps in the interest of saving the Board’s time and can be used in most cases. The Board can specify if it would like a Board member to sit with the hearing officer (i.e. if the case is very specific to CHW work, the Board member can help the officer understand the terms).

ACTION: Ms. Zotter made a motion to accept section 9.00 with changes; Ms. Lau seconded the motion. The motion passed unanimously.

ACTION: Ms. Edraos made a motion to capitalize “certified” as a title throughout all of the regulations; Ms. Smidy seconded the motion. The motion passed unanimously.

ACTION: Ms. Calista made a motion to have Ms. Berg make the final changes to the draft without returning to it the Board and then submit the regulations for review; Ms. Smidy seconded the motion. The motion passed unanimously.

Document: Proposed CHW Regulation 1/13/14

V. Discussion of Public Hearing Process

DISCUSSION: Ms. Berg reviewed the process of Public Hearing before publishing Regulations

ACTION: None

Document: None

VI. Domestic Violence Training and Application to CHWs

DISCUSSION: Some professions are required to have Domestic Violence Training before licensure by June 30th. CHWs are not required by law, but DPH asked the board to consider it. The language for regulations for required Boards is currently being formed. If completed before the public hearing, the CHW Board may include it, or could wait until the next wave of regulation changes. Ms. Berg asked if this is something the Board would like to require for certification. Ms. Edraos stated this would be difficult, especially with the grandfathering process, and feels it is covered in the suggested topics for CEU courses; adding it to the regulations could become complicated. Ms. Lau stated she feels it is a big concern. Ms. Smidy also agreed, stating it is more prevalent for CHWs due to their close involvement in the community, so knowledge is important. Ms. Och stated that requiring Domestic Violence Training but not Mental Health and Substance Abuse training feels uneven. She also agreed that it would be difficult for grandfathering.

ACTION: Ms. Edraos made a motion not to include Domestic Violence Training in the regulations at this time; Ms. Smidy seconded the motion. The motion passed. Abstain: Ms. Zotter, Mr. Schmidt.

Document: None

VII. Advisory Workgroup to Board – Designate Members and Purpose

DISCUSSION: Ms. Calista asked if forming an advisory workgroup was necessary at this time. Ms. Zotter stated that such a group could help with the discussion of what tiers should be formed and reciprocity requirements. The Board has consulted the workgroup before. Ms. Berg reminded the Board that they cannot have a standing ad hoc group – specific members and quorum were never established. There could be an option to have Ms. Hirsch (Office of CHW) create her own advisory group to report to her, and then she could give recommendations to the Board.

ACTION: Ms. Zotter made a motion to allow herself and Ms. Hirsch to create proposals for an Advisory Workgroup to the Board and an advisory group through Ms. Hirsch's office for the next meeting; Ms. Edraos seconded the motion. The motion passed unanimously.

Document: None

12:59 p.m. Ms. Och leaves

VIII. Other Business/Announcements

A. Meeting Times

DISCUSSION: Because many Board members travel far distances for the meetings, they do not usually start on time. Ms. Zotter proposes that future meetings have a later start time.

ACTION: Ms. Zotter made a motion to change all future Board meeting start times to 9:30 a.m.; Ms. Lau seconded the motion. The motion passed unanimously.

Document: None

IX. Adjourn

There being no other business before the Board, Ms. Smidy made a motion to adjourn the meeting. Ms. Lau seconded the motion. The motion passed unanimously. The meeting adjourned at 1:01 pm.

The next meeting of the Board of Certification of Community Health Workers is scheduled for Tuesday, February 10, 2015, at 9:30 a.m. at 239 Causeway Street, Boston, Massachusetts.

Respectfully submitted:

| Name | Position | Date |
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