



**MINUTES FOR THE MEETING OF THE BOARD OF THE
BOSTON PUBLIC HEALTH COMMISSION
Thursday, January 10, 2013**

The monthly meeting of the Board of the Boston Public Health Commission (“Commission”) was held on Thursday, January 10, 2013 in the Hayes Conference Room at the Commission’s offices at 1010 Massachusetts Avenue, 2nd floor, Boston, MA 02118.

Board Members Present:

Paula Johnson, MD, MPH, Chair
Joseph Betancourt, MD, MPH
Jack Cradock

Ruth Ellen Fitch, JD
Kate Walsh
Celia Wcislo

Also Present Were:

Dr. Barbara Ferrer, Fatema Fazendeiro, Kathy Hussey, Chuck Gagnon, Maia BrodyField, Dr. Huy Nguyen, Rosaline Valcimond, Paul (PJ) McCann, Alicia Ridenour, Mitchell Thomas, Lisa Conley, Nick Martin, Gerry Thomas, Dr. Anita Barry, Chief James Hooley, Pam Jones, Scott Mason, Snehal Shah, Melanie Norton, Katherine Borge, Beth Grand, Rich McGuinness, Marybeth Pyles, Stephanie Doyle.

Proceedings:

Chairwoman’s Comments

Paula Johnson, MD, MPH

- Dr. Johnson welcomed and wished everyone a Happy New Year. She then called for a motion to approve the November minutes.

Acceptance and Approval of Board Meeting Minutes

- Board Members Cradock and Fitch seconded Dr. Johnson’s motion with no objections. The Board Members then unanimously approved the December 6, 2012 Board Meeting Minutes.

Executive Director’s Report

Barbara Ferrer, PhD, MPH, MEd

- Dr. Ferrer addressed the Mayor’s declaration of a public health emergency in the City of Boston with respect to influenza, noting that there were well over 750 confirmed cases to-date compared to only 70 confirmed cases for all of last year. A quarter of the patients are being hospitalized as the severity of this particular flu virus is higher than it has been in the past. Dr. Ferrer clarified that the decision to call a public health emergency was the Mayor’s. She also thanked Members Cradock and Fitch for representing

the community health center world. Within four (4) hours of the Mayor's declaration, they had started working on their schedules to achieve the Mayor's desire to offer free vaccination throughout the City. Dr. Ferrer also publicly thanked the dozens of people throughout the BPHC who, without very little notice, rallied to help, including Nick Martin and the Communications Team, Dr. Barry and her staff and Operations.

- Dr. Ferrer stated that the Massachusetts Department of Public Health (DPH) issued a press release a short while ago with information on making more clinics available throughout the state to make sure people are able to get vaccinated. She commented that Dr. Barry and her staff have been answering calls, following up on cases and packaging vaccines to go out to all the sites. BPHC is providing the sites both with funding and the vaccines to allow them to open on the weekend; the funding will pay for staff time and the vaccine itself.
- Board member Walsh noted that Boston Medical Center went to Phase A. She asked if Dr. Ferrer had heard anything about mask and Tamiflu shortages. Mr. Cradock also expressed concern about the supply of the flu vaccine. Dr. Ferrer indicated that the DPH had just issued a press release stating they had enough vaccine and would be distributing it to all boards of health.
- Dr. Ferrer asked Dr. Barry to give an update. Dr. Barry commented that she was aware of the Tamiflu shortages but that additional Tamiflu could be obtained from a national stockpile. Dr. Johnson asked if the particular strain going around is more virulent than what is covered by the vaccine. Dr. Barry stated it is more virulent but that the CDC has tested and determined the vaccine used is good match to fight this strain. Dr. Johnson's other question pertained to vaccination rates over the last few years and Dr. Barry responded that unfortunately there is no good data for that because people get the vaccine in so many different places. Dr. Barry remarked that there are phone surveys done by the Centers for Disease Control (CDC) to look at national vaccination coverage levels. The overall vaccination level against influenza, despite the fact it's recommended for everyone from 6 months and older, is 39%.
- Ms. Walsh inquired about the 18-24 age group and the college students within the City of Boston who are not back to school yet. Dr. Barry replied that they did reach out to the college health centers to have them tell students to get a flu shot before they come back.
- Dr. Ferrer announced that for the first time ever under the leadership of Pam Jones and Gerry Thomas, the BPHC would be partnering with the Boston Alliance for Community Health to do a local public health system assessment for the City of Boston. It will be required as part of an accreditation process at some point. Dr. Ferrer explained this is a full day retreat to be held February 2, 2013 at the Whittier Street Health Center from 9:00 a.m. to 5:00 p.m. and that she would love Board members to attend.
- Dr. Ferrer mentioned the Mayor is doing great and that he would be conducting the State of the City on January 29, 2013 at 6:30pm at Faneuil Hall.
- Finally, Dr. Ferrer announced that Jim Greene will come to the next Board meeting to give a full report on the census count for the homeless. Dr. Ferrer reported it looks like there was an increase across the board in the homeless population.
- Dr. Johnson commented that she and Mr. Cox participated in the homeless census which she felt was a very impactful evening.

Presentation and Vote: Proposed Amendments to the Disease Surveillance and Reporting Regulation

Fatema Fazendeiro, General Counsel

Dr. Anita Barry, Director of Infectious Disease Bureau

- Ms. Fazendeiro reported that a public hearing on the proposed amendments was held on this day from 3:00-4:00 p.m. She indicated that no written or verbal comments had been received. Ms. Fazendeiro read

the proposed amendments into the record.

- Before asking the Board to vote, Ms. Fazendeiro briefly reviewed the amendments presented last month. She explained the new language, the justification behind adding Chlamydia, Gonorrhea and Syphilis to the list of diseases dangerous to the public health and the inclusion of “Laboratory” to the definitions section. Ms. Fazendeiro further explained that the amendments to the regulation shall take effect after 60 days from the date of the amendments.
- Dr. Johnson asked if there were any questions. There being no further questions, Dr. Johnson called for a motion to approve the amendments. Members Betancourt and Walsh seconded the motion with no objections. The Board members present then unanimously approved the Proposed Amendments to the Disease Surveillance and Reporting Regulation. Dr. Johnson thanked Ms. Fazendeiro and Dr. Barry for their work on the amendments. She believes this will be critically important in moving forward our work on health disparities, especially as it deals with STDs.

Presentation: The Implications of the Massachusetts Medical Marijuana Law on the City of Boston and the Roles of City Agencies

Lisa Conley, Director of Intergovernmental Relations & Public Health Advocacy

Rich McGuinness and Marybeth Pyles, Boston Redevelopment Authority (“BRA”)

- Lisa Conley commenced the presentation by introducing Rich McGuinness and Marybeth Pyles, representatives from the BRA who could speak to zoning questions. She noted the law was passed by a ballot initiative in November, 2012 and went into effect on January 1, 2013. Ms. Conley further noted the law passed by a wider margin in Boston than in any part of the State and there were only two municipalities in MA that voted against it.
- Ms. Conley reported seventeen other states and the District of Columbia have also legalized medical marijuana and that these states have gone through issues similar to what we will face.
- Ms. Conley explained that according to the law, to be qualified for medical marijuana, a patient must have a *debilitating medical condition* and receive a written certification for use from their doctor. Debilitating conditions include cancer, glaucoma, HIV/AIDS, Hepatitis C, ALS, Crohn’s Disease, Parkinson’s, MS and *other conditions as determined by a physician*. Recommending physicians must be licensed doctors, not necessarily in Massachusetts, must have a bona fide relationship with the patient and must complete a full assessment of the patient’s medical history.
- Dr. Ferrer commented that already there are physicians or physicians groups that are ready and interested in coming from California or Colorado to set up practice here. Ms. Conley followed by saying internet practices could be included as well. Dr. Johnson asked whether there is a special additional qualification in order to prescribe medical marijuana. Ms. Conley responded that it is not considered a prescription because the federal Drug Enforcement Administration (“DEA”) will not allow prescriptions for marijuana.
- Ms. Fitch questioned how you could have a bona fide physician-patient relationship if the patient lives here in Massachusetts but the doctor lives somewhere else. Ms. Conley stated she expects DPH would flesh that out when they write the regulations to define a bona fide relationship.
- Ms. Conley continued that once patients are certified, they are eligible to receive a “registration card”, or a doctor’s note until the regulations are in place, entitling them to use and possess up to a 60-day supply of marijuana; grow their own supply; assign their right to grow to a “caregiver”; and purchase marijuana legally from a treatment center. Until treatment centers exist, she noted, the only legal way to purchase medical marijuana is to grow it yourself or have a caregiver grow it for you. Ms. Conley stated that up to 35 treatment centers would be allowed in the first year. She also said the centers must be non-profit, staff must be 21 years or older with no felony drug convictions and may grow, purchase, process, dispense, sell

and administer medical marijuana to cardholders or caregivers.

- Ms. Walsh asked about the Commission's jurisdiction in this process and Ms. Conley replied that currently, only DPH has regulatory authority over medical marijuana. Dr. Ferrer noted that she welcomes the Board to determine what role the Commission should play. She stated that she would like to take suggestions from the Board to DPH regarding local board of health regulation.
- Ms. Pyles from the BRA stated that the Zoning Code needs to be amended to add medical marijuana treatment centers as a specific defined use. She hopes that once DPH issues its regulations, there will be guidance in terms of what a treatment center can and cannot do and where it can be located.
- Ms. Fitch noted that it would be important to track which providers are recommending marijuana or if there is a list of doctors who give out certifications to anyone who walks in. Ms. Conley responded that this is something on DPH's radar and other states have created lists of doctors who were high certifiers.
- Ms. Conley indicated that DPH regulations are expected to be promulgated by May 1, 2013. Prior to May, a doctor's note will serve as a registration card allowing patients to grow their own supply. Once the regulations are issued, DPH must begin registering treatment centers within 90 days with Ms. Conley indicating the soonest you would see one would likely be around August 1, 2013. Dr. Johnson inquired if DPH has a process to create the regulations. Ms. Conley replied that DPH will go through the usual regulatory process under state law; DPH has expressed interest in hearing from the public but no formal hearings have been set at this time.
- According to Ms. Conley, the law does not explicitly allow local regulation of medical marijuana but she noted that some municipalities have taken steps to zone treatment centers in specific areas, similar to adult entertainment businesses, while others have banned them outright. There is concern about criminal activity taking place at or near treatment centers.
- Ms. Conley reported that the City Agency Work Group, comprised of various City agencies was established in November 2012 and made recommendations to the Mayor regarding next steps. She noted that recommendations have come in from the BRA regarding temporary zoning measures; from BPD regarding adequate resources for public safety; from BPHC regarding regulations to license treatment centers; from BHA regarding non-smoking policy being protected by law and lease language; and from DND regarding developing guidance for landlords and tenants.
- Ms. Conley informed the Board that the BRA Zoning Commission will hold a public hearing on January 16, 2013 to consider action on the Zoning Code amendment. Ms. Fitch stated concerns about forbidding treatment centers in Boston and the possible backlash. Ms. Pyles reiterated that BRA is not forbidding centers; there is just a place holder in the definitions section until the regulations come out. She explained that the BRA did not want the centers coming in under a different use such as retail so they created a specific use definition which is currently forbidden, but will be revisited when the regulations come out and make it conditional in certain areas. Dr. Ferrer also commented that there is still a process in place so that even if it is forbidden, people can go before the Board and request a variance.
- Mr. Craddock asked whether there would be any way of knowing exactly how many individuals could qualify to use medical marijuana and stated that it would be great if there was a registry of such use. Dr. Ferrer noted that the BPD is uncomfortable with being a repository or registry of people in the City who may be allowed to grow marijuana. However, the question becomes whether there should be a place in the City where that information is collected and kept so that it can be used to communicate to the police department. Mr. Craddock also expressed discomfort by the usage of the term "treatment centers" when in fact these centers were more like dispensaries.
- Ms. Conley recommended that the next steps would be to advocate for DPH to clarify the law and ask whether it would allow for the taxation of marijuana sales. She stated that BPHC should stay involved in the Zoning Commission's planning process as well as that of DPH and should offer input and insight as to medical marijuana use in Boston.

- Dr. Johnson thanked Ms. Conley and noted that the Commission should await the DPH regulations to clarify what potential opportunities there are in the City of Boston. Dr. Ferrer suggested that the Board weigh in much earlier to help us think of ways that implementation can go well.
- Ms. Wcislo asked if there are provisions in the law about cost sharing burdens carried by the towns wherein treatment centers are located. Dr. Ferrer commented that this is a good question and that it would be helpful to get a letter from the Board to DPH with some suggestions about issues that need to get addressed from our perspective. Dr. Ferrer welcomed any Board suggestions to be included in the package presented to the DPH.

Presentation: The City of Boston’s Efforts to Promote Gun Control

Lisa Conley, Director of Intergovernmental Relations & Public Health Advocacy

- Ms. Conley opened by noting that her co-presenter, Jake Sullivan, was unable to attend due being ill. She apologized if she could not answer questions, but promised to get the information from Mr. Sullivan. She also indicated he might attend a future Board meeting.
- Ms. Conley gave the Board some background data on gun violence as a public health issue: approximately 100,000 Americans are killed or injured each year by gun violence; more than 30,000 are killed by guns, including homicides and suicides; gun homicide alone contributes to over 11,000 deaths each year or 33 Americans each day.
- Ms. Conley presented figures for Boston on non-fatal shootings and homicides with a firearm based on BPD data from 2006 to 2011. She noted that shootings, regardless of whether fatal or non-fatal, have a ripple effect throughout a neighborhood. Ms. Conley reported on a survey taken by BPS students in 2008 which showed an alarming 48% of students reported having a close family member or friend killed.
- Ms. Conley stated that Massachusetts has fairly strict laws in terms of legal gun sales but that despite these strict laws, BPD seized over 500 illegal firearms in 2012; 60% of all crime guns recovered are from out of state; 40% of guns in the US are legally sold without any background checks.
- Ms. Conley presented information on the Mayors Against Illegal Guns Coalition (“MAIG”) which grew out of a conversation between Mayors Menino and Bloomberg over lack of action on illegal guns. The coalition was founded on April 25, 2006 and initially was a group of 15 mayors which has since grown to over 800 Mayors and 900,000 grassroots supporters across the country. She continued saying the mayors are trying to move the conversation away from people saying: “I bought my gun legally and I do legal things with my gun” to say there is this huge problem with illegal guns.
- As Ms. Conley explained, the MAIG set three broad principles which are to: require every gun buyer to pass a criminal background check; get military-style assault weapons and high capacity magazines off our streets; and make gun trafficking a federal crime and punished in the same manner.
- Ms. Conley continued by detailing some of the initial work of MAIG from 2006 through 2010. She said one of the main things when they started was to try to close loopholes in gun sales.
- Ms. Conley followed with a list of high profile shootings during the Coalition’s existence and assault weapon incidents with law enforcement over the last six years. She noted that every time an event like that happens, more mayors and grassroots supporters jump on board. Dr. Ferrer commented that sadly, those same assault weapons had been banned but that the ban expired.
- Ms. Conley stated that MAIG launched “Demand a Plan” (DAP) after the Tucson, AZ shooting which served as an on-line petition directed at President Obama and Governor Romney. She also commented that there are some actions the Obama Administration could take immediately such as appointing an ATF Director. The Bureau of Alcohol, Firearms and Tobacco (ATF) is the main federal agency that is supposed to regulate the sale of guns but it has not had a director in six years. Some Board members inquired why that was the case and Ms. Conley replied that candidates up for nomination just could not

get through the congressional process. Ms. Conley stated that gun lobbyists have stonewalled many of the appointments and that the ATF itself is struggling with minimal resources.

- Dr. Ferrer then asked if the President could do a “recess appointment” which is what the MAIG has recommended. Dr. Ferrer then suggested that the federal government should prosecute prohibited gun purchasers who ignore the law and require federal and state agencies to report criminal records to the National Instant Criminal Background Check System (NICS) but the problem there is that the data is incomplete. Ms. Conley informed the Board there was a rather large memorandum included in their packets that would provide more detailed information.

- Ms. Conley explained ways people can get more involved such as joining the grassroots Demand a Plan movement; weighing in with federal and state legislators when the time comes; and continue advocating for state and federal funding for violence prevention.

Adjournment

There being no further business to come before the Board, the meeting was adjourned at 6:20 p.m.

Submitted By:

Kathy Hussey, Secretary