



**MINUTES FOR THE MEETING OF THE BOARD OF THE
BOSTON PUBLIC HEALTH COMMISSION
Thursday, May 16, 2013**

A meeting of the Board of the Boston Public Health Commission (“Commission”) was held on Thursday, May 16, 2013 in the Hayes Conference Room at the Commission’s offices at 1010 Massachusetts Avenue, 2nd floor, Boston, MA 02118.

Board Members Present:

Ruth Ellen Fitch, JD
Harold Cox
Jack Cradock

Also Present Were:

Dr. Barbara Ferrer, John Townsend Fatema Fazendeiro, Maia BrodyField, Kathy Hussey, Chuck Gagnon, Thomas Plant, Rita Nieves, Danny Rodriguez, Leon Bethune, Julien Farland, PJ McCann, John Shea, Margaret Reid, Paul Shoemaker, Lisa Conley, Huy Nguyen, Nick Martin, Julia Gunn, Aliza Wasserman, Rebecca Bishop, Clelia Beltrane, Berto Sanchez, Aileen Shen, Nikysha Harding, Pam Jones, Jeanne Cannata, Vivien Morris, Jim Hooley, David Susich, Anita Barry.

Proceedings:

Chairwoman’s Comments

Paula Johnson, MD, MPH

- Ms. Fitch called the meeting to order at 4:10p.m. She then turned the floor over to Dr. Ferrer.

Executive Director’s Report

Barbara Ferrer, PhD, MPH, MEd

- Dr. Ferrer complied with last month's Board request by providing an overview of bicycle helmet laws which was included in their meeting packets.
- Dr. Ferrer called upon Ms. Conley to give a brief overview of the FY14 Senate Budget Amendments that were recently approved. Ms. Conley also provided the Board with a

detailed budget memo and a Legislative Update newsletter. Dr. Ferrer asked Ms. Conley to provide the Board with a budget update prior to our next meeting.

- Dr. Ferrer noted we continue working with the more seriously injured Marathon bombing survivors and their families. She once again commended Atyia Martin, her staff at the Office of Public Health Preparedness as well as Gerry Thomas, Steve Belec, and our Emergency Response Teams.
- Dr. Ferrer stated that Catherine Fine, Director of the Division of Violence Prevention, is leading the organizational effort to respond to the recent increase in violence in the Roxbury neighborhoods. Her teams will be canvassing those neighborhoods the weekend of June 1st - June 2nd.
- Dr. Ferrer concluded by stating the Board would go into Executive Session at the end of the regular meeting.
- Ms. Fitch thanked Dr. Ferrer for her update before giving the floor to Ms. Fazendeiro.

Presentation and Discussion: Overview of Boston Public Health Regulations

Fatema Fazendeiro, General Counsel's Office

- Dr. Ferrer noted that this was a broad overview, all of which would not be covered today.
- Ms. Fazendeiro explained that this was a collaboratively produced overview of our Public Health Regulations for the last twenty years. During this time period, 20 regulations have been passed addressing a variety of public health issues.
- Ms. Fazendeiro gave a brief description of the objectives of the review and the categories of regulations: tobacco, environmental health, infectious disease, emergency medical services, other disease and health equity.
- Ms. Fazendeiro introduced the next presenter: Nikysha Harding, Director, Tobacco Prevention and Control Program.
- Ms. Harding commented on the current status and existing gaps of the Tobacco Control Regulations beginning with the Youth Access Regulation that has been enacted since 1997. The most persistent concern with the Youth Access regulation is enforcement.
- Ms. Harding indicated retailers and cigar companies are attempting to make an end-run around the packaging limit that cigars below \$2.50 must be sold in packages of four or more. To get around the minimum pricing regulation, retailers are raising the price of inexpensive cigars to just over \$2.50, packaging four or more cigars at \$0.99, offering buy-one get-one free and other promotions.
- Ms. Harding explained the root cause of the low cost is that cigars and other so-called tobacco products (OTP) are not taxed like cigarettes. There are state legislative proposals to close this loophole.
- In the meantime, Ms. Harding stated compliance checks are being done that require sending adults to stores to ensure the price and packaging restrictions are being followed. Additional clarification may be needed through amended regulation or guideline language. She stated more research will be conducted to determine how other jurisdictions are addressing this issue.

- Ms. Harding continued with the Smoke Free Workplace Regulation introduced in 2003 and amended in both 2008 and 2012. The first municipality in the Commonwealth of Massachusetts went smoke free in 2004.
- Ms. Harding reported that one amendment from 2008 included expansion of the definition of a workplace; in 2012 it was amended to include the use of electronic cigarettes where smoking is banned.
- Ms. Harding covered the Restricting Tobacco Products Regulation introduced in 2008 and the areas of concern around retail tobacco stores, private clubs and the restriction of tobacco products. She noted we were the first in the nation to pass and implement restrictions at health care institutions; educational institutions soon followed.
- According to Ms. Harding, a hotel that has a bar in the lobby has asked for permission to bring drinks from the bar into a retail tobacco store in the same lobby. This may be an area where regulation or guideline language is needed.
- Ms. Harding stated the lack of a clear exemption for membership clubs is another area of concern. Because it is not clear whether membership clubs fall under Boston's workplace regulation, business owners are proposing new "clubs" where a nominal "membership fee" is charged to all customers.
- Ms. Harding mentioned that a regulation or guideline amendment may also be needed to make clear that marijuana is covered by our workplace regulation.
- Ms. Harding concluded with information on the Smoke Free Voluntary Initiatives. All city-owned lots have no smoking signage, there are 16 smoke free hospitals, Boston public schools extended the smoke free area beyond school property, and Boston housing has also gone smoke free.
- After the presentation, Board member Cox inquired about the distribution of citations related to tobacco violations. He wanted to know whether there are particular retailers in certain parts of the City that receive more citations than others. Ms. Harding stated that there are certainly repeat offenders but she would need to do an accurate accounting of where they are located and report back.
- Ms. Fazeiro then introduced Leon Bethune, Director of Environmental Health.
- Mr. Bethune reviewed the BPHC and state regulations we enforce. He also detailed the numerous inspections and cases handled in 2012 as well as the various types of permits issued.
- Mr. Bethune presented information on the Waste Container Lot, Junkyard and Recycling Facilities Regulations which was enacted in 1998. The facilities must obtain an annual operating permit and have specific operating procedures and site requirements to reduce the impact on the neighborhoods.
- Mr. Bethune showed dramatic decrease from 2000 to the present in waste facility sites with tracts having greater than 50% population of color and income below the citywide average.
- Mr. Bethune stated the implementation of the 2011 Nail Salon regulation has been largely successful. The program is still working through some process and efficiency issues with the Fire Department and Inspectional Services Department.

- Mr. Bethune feels the regulation could be strengthened to address sanitation issues around waxing, and removing the use of ultraviolet light and boiling water as acceptable sanitation methods.
- Mr. Bethune noted the regulation itself is somewhat vague about ventilation, and only requires improvement at annual inspection. Board member Cradock questioned Mr. Bethune about how we enforce that provision in the regulation in light of the fact that it is very expensive to install ventilation systems and that it may be hard to do some in some buildings in Boston. Mr. Bethune explained that there are several sources of ventilation standards and inspectors are well trained in giving advice to business owners on how to best ventilate their particular store fronts.
- Mr. Bethune discussed the Asbestos removal regulation noting that since its enactment in 1994 over 30,000 permits have been issued (not including downtown Boston). Roxbury, Dorchester, Allston/Brighton and Jamaica Plain make up 55% of the permits issued. The regulation now calls for all work to be done by trained/state licensed personnel under a BPHC issued permit. Board member Fitch inquired whether asbestos is mostly found in the basement of homes and Mr. Bethune responded affirmatively.
- Mr. Bethune spoke of the Artificial Trans Fat Regulation that was promulgated in 2008 prohibiting the sale of food items containing 0.5grams or greater Trans Fat per serving. This regulation does not cover pre-packaged foods, but those prepared and served for consumption; primarily in baked goods.
- Mr. Bethune commented that Trans Fat Inspections are done upon referral from ISD restaurant inspectors who find evidence of Trans Fat during their routine inspections. The inspections include examination of all food product labels and ingredient lists. Improper label/ingredient list for a food product is also a violation.
- Mr. Bethune went on to say there is an ongoing challenge in the way that wells are regulated by the state (drill first, notify DEP later, DEP notifies BPHC even later), that needs attention.
- Mr. Bethune believes regulations or guidelines should make clear that the requirements do not apply to geothermal heating and cooling wells, which do not release any water for drinking and are encouraged by the City.
- Mr. Bethune indicated a question was raised about whether all labs with animals are subject to the Biosafety regulation. Labs are only subject to inspection if they are BSL-3 or BSL-4, and when these labs are inspected, the treatment of animals is included.
- Ms. Fitch thanked Mr. Bethune and Ms. Fazendeiro for their efforts.

Adjournment

With no quorum, the vote to go into Executive Session was not possible. There being no further business before the Board, Ms. Fitch called for a motion for the open session to adjourn. Mr. Cox and Mr. Cradock seconded the motion. The meeting was adjourned at 5:50 p.m.

Submitted by:

Kathy Hussey, Secretary