



**MINUTES FOR THE MEETING OF THE BOARD OF DIRECTORS  
Thursday, December 1, 2011**

The monthly meeting of the Board of Directors ("Board") of the Boston Public Health Commission ("Commission") was held on Thursday, December 1, 2011 in the Hayes Conference Room at the Commission's offices at 1010 Massachusetts Avenue, 2<sup>nd</sup> floor, Boston, MA 02118

**Board Members Present:**

Paula Johnson, MD, MPH, Chair  
Ruth Ellen Fitch, JD  
Joseph Betancourt, MD, MPH  
Celia Wcislo  
Kathleen Walsh  
Harold Cox

**Board Members Absent:**

Jack Cradock

**Also Present Were:**

Barbara Ferrer, John Townsend, Nakisha Skinner, Chuck Gagnon, James Hooley, Gerry Thomas, Pam Jones, Odessa Ortiz, Maia BrodyField, Margaret Reid, Sophie Finfer, Brendan Kearney, Jeanne Cannata, Kathryn Schmidt, Ann Scales, Aliza Wasserman, Snehal Shah, Aileen Shen

**Visitors:**

Kay Lazar, Boston Globe; Juan Palermo, Hyde Square Task Force; Cheryl Sbarra, Massachusetts Association of Health Boards; Lauren Antonelli-Zullo, Allston-Brighton Substance Abuse Task Force; Antonio Manuin, Boston Resident; Sierra White, Sachia Debrosse, Project Right; Namay Mark, David Aron Stow, William Li, David Vo, Boston Alliance for Community Health; Cindy Ur, Gloris Matos, Steven Santiago, Yan Wen Huang, Arjanae Lewis, Edlyn Thompson-Matta, Miguel Rodriguez, Sha'Khari Badgett, Thashauna Burrell, Frankie C., Clarissa Ramirez, Inquilinos Boricuas en Acción; Brittany Chen, Hye Won Lee, Anne Rushman, Health Resources In Action; Trish McCarthy, Cooper, P.C.; William Coyne, William F. Coyne, Jr., Esq., P.C.; Anga Jones-Graham, Astrid Veria, Genesis Bautista, Christina Ovalles, Hyde Square Task Force; Grey Oitgostino; Jaime Lederer, Boston Public Schools; Dumos Lafoentonl, Roxbury Community Alliance for Health; Kechi Iheclum, Regis College

## **Proceedings:**

### ***Chairwoman's Comments***

*Paula Johnson, MD, MPH*

- The meeting was called to order at 4:07 P.M. The minutes of the board meetings held October 13, 2011 and November 10, 2011 were approved.

### ***Executive Director's Report***

*Barbara Ferrer, PhD, MPH, MEd*

- Dr. Ferrer invited the Board Members to attend the Commission's annual employee recognition awards dinner on January 12, 2012. Board Member Cox stated that he enjoyed last year's awards dinner. Dr. Ferrer added that Commission employees appreciate board member presence at these events and that the Mayor is also scheduled to attend.
- Dr. Ferrer recognized Nakisha Skinner, General Counsel, for the Commission's success as the Supreme Judicial Court appeal of the Commission's regulations outlawing blunt wraps in Boston was denied.
- The Commission recently hired a new Medical Director, Dr. Huy Nguyen. Dr. Nguyen currently works in pediatrics at the Dorchester Multi-Service Center and will continue to work there part time. Board Member Fitch noted that it is exciting to have a Medical Director still based in the community. Dr. Ferrer stated that this is another example of the diversity present in the Commission's Leadership Team and added that Dr. Nguyen will attend the January 5, 2012 board meeting.
- Chairwoman Johnson recognized the hard work and success on the part of Commission staff and leadership in winning recognition through the Mayoral Prize for Innovations in Primary Care.

### ***Proposed Amendments to Tobacco Control Regulation and Clean Air Works Workplace Smoking Restrictions Regulation and Vote to Adopt***

*Odessa Ortiz, Project Manager, Tobacco Control Program*

*Cheryl Sbarra, Director, Tobacco Control and Chronic Disease Prevention Program, Massachusetts Association of Health Boards*

*Nakisha Skinner, General Counsel*

- Ms. Ortiz outlined the basis for amending the two regulations, citing a rise in cigar consumption by youth and an increased availability of nicotine products as factors in the decision to propose these amendments.
- Atty. Sbarra discussed the legal background to the proposed amendments to each regulation, outlining the lack of current regulation of electronic cigarettes ("EC"), as well as her findings after reviewing all public comments. Several public comments suggested that the Commission wait for the Food and Drug Administration ("FDA") to regulate cigar packaging and EC. Atty. Sbarra stated that the FDA is not considering regulating cigar packaging, and while there are considerations to regulate EC as tobacco products, the FDA's timeline is unknown. Atty. Sbarra also stated that the FDA attempted to regulate EC as cessation devices, however the EC industry claimed their products are not marketed in that way.
- Board Member Cox stated that while he agrees with the regulations regarding youth access to nicotine and tobacco products, data concerning the dangers and contents of EC seems unclear and regulating a product in response to a lack of data is not, in his opinion, an appropriate response. Board Member

Cox also inquired if Atty. Sbarra is uncomfortable identifying EC as cessation devices due to this lack of data despite public comment stating the product's helpfulness as a cessation device. Ms. Sbarra responded to Board Member Cox, acknowledging that one major concern regarding EC is the lack of regulation around the amount and types of chemicals used in them. Ms. Sbarra stated that she would rather err on the side of not exposing the public to potential toxins until the product meets FDA standards, especially if the product is marketed as a drug delivery device. Board Member Cox thanked Dr. Ferrer and the staff for their hard work, but maintained that he is uncomfortable with the idea of regulating a product in response to an absence of data.

- Board Member Wcislo noted that enforcement of current laws is also an issue, as it is difficult to mandate that some individuals smoke outside while allowing others using a similar product to stay indoors.
- Chairwoman Johnson added that the electronic cigarette industry cannot take both sides in the argument of whether their product can be used as a smoking cessation device, as they had initially claimed EC are not marketed as cessation products to avoid being regulated, and now seek approval to use EC in this same way. Chairwoman Johnson also noted that while EC may be helpful for smoking cessation for some individuals, there is no data making the claim that it can and should be used that way in the workplace.
- Board Member Walsh noted the importance of consistency in regulation, stating that for the purpose of these proposed amendments she is focused on the fact that this product is a cigarette and should be regulated as such. Board Member Cox expressed his differing opinion, stating that this is not an appropriate reason to pass regulation on a product.
- Board Member Wcislo added that it took many years of smoking allowed in the workplace before a problem was identified, and stated that she does not want to wait another 30 years to find out the dangers of EC, knowing she could have been a part of their regulation in the beginning.
- Board Member Cox stated that he feels like there is a better way of dealing with the issues addressed by the proposed electronic cigarette amendments. Board Member Walsh asked if Board Member Cox's concerns would be the same if smokeless cigarettes were under debate, noting that this is an evolving technology and a new nicotine distribution device, and inquiring why one would be regulated and not the other. Board Member Cox responded that he would have to think about it. Atty. Sbarra added that Philip Morris and British American Tobacco have purchased nicotine inhaler technology, and that according to an article in the New England Journal of Medicine, clinicians are advising patients to use only FDA approved inhalers. Chairwoman Johnson responded that this is because the dose and safety of FDA approved inhalers is known.
- Atty. Skinner outlined the proposed amendments for both regulations and noted changes that have been made to the Youth Access Regulation since the public comment period ended, including changing the word "physician" to "medical provider" as suggested by the board, and changing cigar packaging from 5 to 4 based on existing packaging, among other changes. Atty. Skinner also discussed exemptions, including private clubs and vending machines equipped with lock out devices.

#### **VOTE**

- Atty. Skinner read the vote and the board voted to adopt the proposed amendments to the Youth Access Regulation.

The votes were as follows: 6 in favor, 0 opposed, 1 absent.

## **VOTE**

- Atty. Skinner read the vote and the board voted to adopt the proposed amendments to the Clean Air Works Workplace Smoking Restrictions Regulation.

The votes were as follows: 5 in favor, 1 opposed, 1 absent.

## **Health of Boston 2011**

Snehal Shah, Director, Research and Evaluation

- The Health of Boston report seeks to analyze, interpret, and share data provided by both the Commission and the State. Dr. Shah stressed that the report does not describe the “why”, only the “what”, as there are many organizations within the city working on the “why” already. Dr. Shah presented graphs from the 2011 Health of Boston Report:
  - Dr. Shah presented a graph titled “Type of Household, Boston 2010.” Board Member Wcislo asked what the US Census is doing to include married homosexual couples. Dr. Shah stated that Research and Evaluation is currently trying to find the answer to this same question.
  - Dr. Shah presented a graph titled “Public High School Students Who Smoke, 2001, 2003, 2005, 2007, and 2009.” Chairwoman Johnson noted that this graph may underestimate smoking rates among Boston youth. Dr. Shah agreed, stating that the survey that takes this information does not collect zip code information despite multiple requests from the Commission. Dr. Ferrer added that because the survey is National, the Commission does not have access to data by school. Board Member Wcislo noted that the Division of Healthcare Financing and Policy is creating a clinical claims database. Dr. Shah stated that she is excited about this database and added that Research and Evaluation is working with the Children’s Hospital Boston Child Health Certificate to access health insurance claims data for children ages 0 to 14.
  - Dr. Shah presented a graph titled “Births Among Adolescents, Ages 15-17, by Race/Ethnicity, 2000-2009.” Board Member Wcislo asked how the decrease in adolescent birth rates relates to population growth. Dr. Shah stated that it could definitely be a contributor. Chairwoman Johnson noted that it would be good to look at how this is related to Massachusetts healthcare reform now that it is mandatory for insurance to cover contraceptives, and see if the number of births goes down.
  - Dr. Shah presented a graph titled “Pertussis Cases, 2003-2009” showing a decline in pertussis (whooping cough) cases. Board Member Wcislo suggested that we look at how this decrease is related to healthcare reform. Dr. Ferrer noted that this is most likely related to an increase in access to the vaccine.
  - Dr. Shah presented a graph titled “HIV Incidence Rates by Race/Ethnicity, 1999-2009.” Dr. Ferrer noted that while there has been a decrease in the rates of new cases, the rates of people living with HIV/AIDS is increasing. The message regarding protective behavior needs to be re-worked to address the older population as well as the younger population. Chairwoman Johnson noted that the number of middle aged women with HIV/AIDS has increased and agreed that messages regarding protective behavior need to target youth and adults, especially since some middle aged women may no longer be using protection to lower the risk of pregnancy.
  - Dr. Shah presented graphs regarding the health disparities in low birth weight and infant mortality rates, noting a slow decline in low birth weight rates among black women. Dr. Ferrer

stated that Debbie Allen, Director of the Bureau of Child, Adolescent, and Family Health, would come before the board in 2012 to talk about her Clinical Perinatal Task Force and Community Oriented Task Force regarding low birth weight health disparities. Board Member Cox noted that there has been an increase in infant mortality rates among Latinos. Dr. Ferrer stated that it is important to keep in mind the small number of Latino and Asian individuals in the City of Boston population, and the way this is reflected in the graphs. Board Member Wcislo noted that if the inordinate results for 2008 or 2009 are due to small numbers and were taken out of the infant mortality graph, this would show a four year decrease in Black residents after receiving healthcare insurance in 2006.

- Dr. Shah presented a graph titled “Public High School Students Who Smoke by Selected Indicators, 2009.” Chairwoman Johnson noted that the black population tends to start smoking later in life and has a lower cessation rate, thus this graph for high school students is not showing the whole picture. Dr. Ferrer suggested stratifying data by race and ethnicity for kids who are smoking at a later age (18+).
- Dr. Shah presented two graphs on overweight and obesity, one for public high school students, and another for obesity in adults. Board Member Betancourt asked if the city regulations require calorie counts, as are sometimes shown on menus of fast food restaurants. He also suggested research be done to find out about calorie literacy in the city and potential labeling tactics. Dr. Ferrer responded that state regulations are hung up because Federal regulations are also being passed. Chairwoman Johnson noted that the slides regarding obese children and obese adults showed different results. She suggested stratifying by race and income to see whether there is similarity across racial groups at the poorest level.
- Dr. Shah presented a graph titled “Heart Disease Hospitalizations by Race/Ethnicity and Gender, 2009.” Chairwoman Johnson noted that it is unusual to see Latino levels so high and suggested looking into the different diagnoses of these hospitalizations. Board Member Wcislo noted that often minorities don’t have access to primary care.
- Dr. Shah presented a graph titled “Public High School Students Who Reported Being Sad or Hopeless for Two Weeks Straight During Past Year by Selected Indicators, 2009.” Board Member Cox noted that there was a higher rate of depressed Asian high school students than that of Asian adults, as indicated in a previous slide. Dr. Ferrer replied that this could indicate a generational issue, and tension in the immigrant community between parents and their children.
- Dr. Shah presented a graph titled “Homicides by Race/Ethnicity, 1999-2008.” Dr. Ferrer noted that although Boston has a relatively low number of homicides, this does not account for the impact on the neighborhoods where the homicides take place. Due to the fact that homicides are not equally dispersed across the city, and tend to occur in the same neighborhoods, the impact on the community living in that neighborhood is severe.
- Board Member Wcislo noted that she has used maps provided by the Health of Boston reports in the past to compare racial makeup of the city to other findings distributed by neighborhood, such as obesity rates, which she stated are impacted by diabetes rates. Dr. Shah stated she would look into the relation between rates of diabetes and obesity in the city.
- Chairwoman Johnson suggested providing data on a regular basis, potentially creating a “dashboard” with quarterly or annual updates. Board Member Cox agreed that if a quarterly update is not going to be able to provide appropriate results, an annual or semi-annual update would most likely suffice. Dr. Shah stated that they are working to find ways to post and share data, and develop a platform for sharing multiple data streams on a real time basis.

- Dr. Ferrer stated that the Commission is regulated by the city to have a set of 15 indicators posted every quarter, called Boston About Results (“BAR”). Dr. Ferrer stated she would provide BAR measures to the board members. Maia BrodyField, Chief of Staff, added that the Commission is asked to set targets in advance, and if these targets are not met it is considered a bad result, even if a lower number is better.

***Adjournment***

There being no further business to come before the Board, the meeting was adjourned at 6:08 P.M.

**Submitted By:**

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**Jamie L. Martin, Secretary**

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