

MINUTES OF THE MEETING OF THE
INDIANA DEPARTMENT OF HEALTH
EXECUTIVE BOARD
March 13, 2024

The in-person and virtual (Microsoft Teams) meeting of the Executive Board of the Indiana Department of Health (IDOH) was called to order at 10:00 am in Room N140 of the IDOH Laboratory, 550 West 16th Street, Indianapolis, by Dr. Stephen Tharp, Chairperson. The following Board members were present for all or part of the meeting:

Amelia Clark, DrPH, MA (virtual)
Brenda Goff, HFA
Robin Marks, DVM, JD
Joanne Martin, DrPH, RN, FAAN
Rex McKinney, FACHE (virtual)
Shelley Rauch, HFA (virtual)
Holly Robinson, MD (virtual)
Suellyn Sorensen, PharmD, BCPS
Armando Soto Rojas, DDS (virtual)
Matthew Sprunger, MD
Dan Cutshaw, PE
Stephen Tharp, MD (Chair)
Troy Weirick, MD
Lindsay Weaver, MD, FACEP (Secretary)

The following staff members were present for all or part of the meeting (in-person or via teams):

Guy Crowder, MD, MPHTM, Chief Medical Officer
Amy Kent, Deputy Health Commissioner & Chief Strategy Officer
Jon Ferguson, Director, Healthy Hoosiers Foundation
Pam Pontones, MA, Deputy Health Commissioner of Local Health Services
Dr. Lixia Liu, Assistant Commissioner, Laboratory Services
Megan Lytle, Assistant Commissioner, Public Health Protection
Rachel Swartwood, Director, Legislative and External Affairs
Vivien McCurdy, Director, Food Protection Program
Kelly MacKinnon, Chief Legal Counsel (virtual)
Kian Hoss, Office of Legal Affairs (virtual)
Alice Quinn, Environmental Public Health Division
Denise Wright, Environmental Public Health Division

Guests:

Nick Goodwin (virtual)

Call to Order

Dr. Tharp, Chair, stated that a quorum was present and called the meeting to order at 10:00 am. He then asked if Board members had any known conflicts of interest to declare. Hearing none he proceeded with the meeting. Dr. Tharp then asked each Board member to introduce themselves.

Minutes

Dr. Tharp asked for discussion and/or corrections to the minutes of the January 10, 2024, Executive Board meeting. Hearing none, he entertained a motion for approval. On a motion made by Brenda Goff, seconded by Joanne Martin and passed by majority roll call vote of in-person and virtual attendees, the Board approved the minutes as presented.

OFFICIAL BUSINESS OF THE INDIANA DEPARTMENT OF HEALTH

Secretary's Report

]Dr. Weaver reported that the Public Health Day at the State House on February 22, 2024, was a success. There was a great turnout and several LHDs set up exhibit tables. There was a fireside chat about successes and partnerships that included Steuben and Daviess County Health Departments. There was a panel discussion with the Vigo County Health Department and Union Hospital showcasing the LHD/Hospital partnership. State Health Commissioner Awards were presented to Sen. Luke Kenley, Dr. Judy Monroe, Sen. Ed Charbonneau and Rep. Brad Barrett. Pam Pontones presented special LHD awards: Public Health Hero to Mindy Waldron, Administrator and Deputy Health Commissioner at the Allen County Health Department; Outstanding Service Award to the Vanderburgh County Health Department; Exemplary Partnerships Award to the Daviess County Health Department and the Purdue Extension-Daviess County; and Exceptional Impact Award to the Henry County Health Department.

Commissioner's Office

Health First Indiana (HFI) Update

Pam Pontones, Deputy Health Commissioner of Local Health Services, provided a brief update on HFI. June 1, 2024, is the opt-in deadline for counties that want to opt-in for 2025. June 1, 2024, is the deadline for HFI budget plans for **existing** opt-in counties. September 1, 2024, is the deadline for HFI budget plans for **new** opt-in counties. October 1, 2024, is the deadline for opt-out counties legacy budget plans. She presented the timelines for KPI data submissions and reported that counties can submit more often. The IDOH is creating an on-line budget portal to assist LHDs in submitting complete, consistent budget plans to report quickly and easily and help everyone respond to questions about how funding is being used. This portal is being piloted in 6 LHDs currently. The plan is to launch in mid-April depending on feedback from LHDs. Pam reported that the regional teams are almost to full capacity. The Indiana Hospital Association and Indiana Chamber of Commerce have committed to supporting public health efforts throughout Indiana, call on healthcare systems and employes across the state to pledge their support for this initiative. LHDs are encouraged to contact healthcare organizations,

businesses, and hospitals as great resources and partners to help Hoosiers reach their optimal health and communities thrive. The next steps are to determine 2025 HFI budget needs for IDOH; prepare for the 2025 HFI legislative request and support from stakeholders. Dr. Sprunger stated that the Indiana Chamber should view this as a huge opportunity to further the business model to decrease health care costs of employers and workers. Joanne Martin asked if Nurse-Family Partnerships are included in the partnership tracker. Dr. Weaver confirmed if they are partnered with a local health department then this partnership is being tracked.

Office of Legal Affairs

Rule Making Refresher

Kelly MacKinnon, Chief Legal Counsel, presented on the interim rulemaking process. She shared that this is a truncated process that is only effective for 425 days that provides time to promulgate the rule through the regular rulemaking process. The main differences in the process are that the rule would not need to be approved by the Office of Management and Budget and that it only requires one comment period of 30 days. The Governor must review the rule and publish findings in the Indiana Register. The Attorney General or the Governor may object in writing within 45 days of publication which would invalidate the rule.

Public Health Protection Commission

Megan Lytle, Assistant Commissioner for Public Health Protection, introduced Vivien McCurdy, Director, Food Protection Program to present the proposed Interim & permanent Rule 410 IAC 7-26 to amend the Retail Food Establishment Requirements for discussion. This rule supersedes 410 IAC 7-23 and 7-24 which are rules related to food establishments. The IDOH is also finalizing a permanent rule that will replace the interim rule once it expires. A four-page fact sheet containing all the changes was distributed.

The purpose of this interim rule is to adopt the 202 Model Food Code that was developed by the US FDA and released on January 18, 2023. While individual states are not required to adopt the Model Food Code, it serves as an industry recognized food safety standard. Indiana has not updated its food safety standards since the development of the 2001 Model Food Code, which has been creating regulatory uncertainty throughout the state and increasing compliance and training costs for food establishments. This rule is not expected to create costs for retail food establishments because they have been complying with the 2022 Model Food Code through the national recognized ServSafe food safety training program. This rule also maintains the civil penalties that are currently set forth in 410 IAC 7-23, and there will be no civil penalties for rule sections that do not exist in current 410 IAC 7-24 to allow regulated entities to have a grace period during the rollout of the new standards set by the 2022 Model Food Code. Civil penalties will be included in the final rule adoption.

Adopting this rule is necessary because of Indiana specific requirements that are not reflected in ServSafe and because food establishments that are attempting to comply with currently accepted food safety standards must request variances from the IDOH. The reliance on variances to comply with currently

accepted food safety standards creates a large cost on both businesses and IDOH that this rule seeks to reduce.

Dr. Tharp asked for discussion and/or comments from the Board members. Dr. Marks inquired about training and education for industries. Vivien McCurdy stated the Indiana Restaurant and Lodging Association is partnering with the IDOH to facilitate trainings.

Other

Legislative Update

Rachel Swartwood, Director of Legislative and External Affairs, distributed a 2024 Session Digest of Enactments. She highlighted some that impact the IDOH:

HB 1058 that impacts the Chronic Disease, Primary Care and Rural Health Division: Breast cancer screening and services. Specifies that coverage of breast cancer rehabilitative services and reconstructive surgery incident to a mastectomy includes chest wall reconstruction and aesthetic flat closure. Requires a facility performing a mammography examination to provide: (1) an assessment of the patient's breast tissue density using specified classifications; (2) written notice to the patient and the referring provider; and (3) concerning the notice to the patient, specified notification language depending on whether the facility determined the patient to have dense breast tissue or not dense breast tissue. Requires the medical licensing board of Indiana to amend an administrative code rule to remove references to "high breast density" and to align with the breast tissue density classifications in this act.

HB 1121 that impacts Acute and Continuing Care Division: Local income taxes. Extends the expiration of provisions concerning a county with a single voting bloc and the allocation of votes for a local income tax council. Specifies the amount of revenue from a local income tax rate imposed for correctional facilities and rehabilitation facilities in a county that may be used for operating expenses of those facilities. Allows a county fiscal body to adopt a local income tax rate for an acute care hospital located in the county to be used only for the operating expenses of the acute care hospital.

HB 1203 that impacts the Trauma & Injury Prevention Division: Xylazine. Makes possession of xylazine a Class A misdemeanor and increases the penalty to a Level 6 felony if the person has a prior xylazine related conviction. Makes dealing in xylazine a Level 5 felony and increases the penalty to a Level 4 felony if the person has a prior xylazine related conviction. Exempts certain persons using, distributing, or manufacturing xylazine for veterinary purposes.

HB 1258 that impacts the Food Protection Program: Food regulation. For provisions governing home-based food products, repeals the term "potentially hazardous food product" and defines "time temperature control for safety food". Requires a local health department to: (1) issue a mobile retail food establishment permit and inspect a mobile retail food establishment in accordance with administrative rules adopted by the Indiana department of health (state department); and (2) establish an annual permit fee not to exceed \$200. Requires a local health department, not later than January 1, 2025, to begin: (1)

receiving applications for mobile retail food establishments; (2) collecting annual permit fees; (3) issuing mobile retail food establishment permits; and (4) conducting inspections of mobile retail food establishments. Prohibits, beginning January 1, 2025, a person from operating a mobile retail food establishment without a mobile retail food establishment permit from the local health department. Provides that a local health department may not adopt standards concerning mobile retail food establishments that are more stringent than the rules adopted by the state department.

HB 1329 that impacts Office of Legal Affairs: Local government matters. Reduces the membership of the board of directors of the Indiana stadium and convention building authority (board) from seven members to three members. Provides that the director of the budget agency or the director's designee serves as chair of the board. Authorizes the solid waste management district of Vanderburgh County to make grants and loans for certain purposes. Provides that with certain exceptions a governmental entity is prohibited from requiring that a Class 2 structure or a residential onsite sewage system be inspected when a property is sold or transferred. Allows a governmental entity to require certain inspections of properties located in that part of St. Joseph County containing a designated sole source aquifer only if it has been more than 15 years since: (1) the property was last sold or transferred; or (2) the Class 2 structure or system was constructed or installed. Provides, for purposes of posting a license bond, that a political subdivision may not impose any requirement for the political subdivision to be identified as an obligee on the license bond other than the requirement in statute. Provides that certain obligors may initiate a civil action against a political subdivision that does not recognize or does not allow an obligor to post a license bond that satisfies certain requirements. Provides that, if the obligor prevails in the action, the obligor shall be awarded an amount equal to: (1) 300% of the cost of obtaining the license bond; (2) compensatory damages; and (3) reasonable attorney's fees. Provides that if a contractor: (1) has posted a license bond to obtain one license from a political subdivision; and (2) is required to obtain another license from the political subdivision to perform work that the contractor intends to perform; the contractor may not be required to post a second license bond as a condition of obtaining the second license if the type of work that the first license authorizes the contractor to perform is so closely related to the type of work that the second license will authorize the contractor to perform that both types of work are typically involved in a single residential construction project. Provides that a city, town, or county that requires a building permit for the construction of a Class 2 structure may provide for the inspection to be conducted by: (1) an individual employed by the city, town, or county, or by another city, town, or county, as a building inspector; (2) a registered architect; (3) a registered professional engineer; (4) a certified building official; or (5) a licensed home inspector.

HB 1352 that impacts the Environmental Public Health Division: Inspection of residential onsite sewage systems. Establishes when certain officials may inspect a residential onsite sewage system or nonresidential onsite sewage system. Allows a nonresidential onsite sewage system to be installed in a lot if at least one site on the lot is determined to be suitable for the installation of the nonresidential onsite sewage system. Provides that a county onsite waste management district (district) or local health department may not assess a periodic permit or inspection fee that exceeds the actual cost of the inspection incurred by the district or local health department on an onsite sewage system or an onsite residential sewage discharging disposal system.

HB 1426 that impacts the Maternal and Child Health Division: Long-acting reversible contraceptives. Requires a hospital that operates a maternity unit to ensure that a woman who is: (1) giving birth in the hospital; and (2) eligible for or receiving Medicaid assistance; has the option, if not medically contraindicated, of having a long-acting reversible subdermal contraceptive implanted after delivery and before the woman is discharged. Allows a hospital to be exempt from the requirement if the hospital has a faith-based objection. Requires the office of the secretary of family and social services to reimburse the hospital for the following provided to a Medicaid recipient: (1) A long-acting reversible subdermal contraceptive, including the cost of stocking the long-acting reversible subdermal contraceptive. (2) Placement of the long-acting reversible subdermal contraceptive. Provides that the reimbursement must be separate from, and in addition to, the reimbursement for maternity services for the Medicaid recipient. Sunsets the provisions being added in the bill on June 30, 2025. Requires the office of the secretary of family and social services to develop a billing process that maximizes federal funding for purposes of the long-acting reversible contraceptives reimbursement for a Medicaid recipient.

SB 234 that impacts the Office of Legal Affairs: Disaster emergency. Provides that a state of disaster emergency declared by the governor: (1) that applies to the entire state may not continue for more than 60 days unless a renewal is authorized by the general assembly; and (2) that only applies to part of the state may not continue for more than 30 days unless renewed by the governor. Provides that the renewal of a statewide disaster emergency authorized by the general assembly may continue for not more than 60 days. Specifies that if a state of disaster emergency that applies to the entire state has ended, the governor may not call a new state of disaster emergency that applies to the entire state unless the new disaster is wholly unrelated to the earlier disaster. Defines "wholly unrelated".

SB 273 that impacts the Health and Human Services Commission: Biomarker testing coverage. Requires a health plan (which includes a policy of accident and sickness insurance, a health maintenance organization contract, the Medicaid risk based managed care program, and a state employee health plan) to provide coverage for biomarker testing for the purposes of diagnosis, treatment, appropriate management, or ongoing monitoring of an enrollee's disease or condition when biomarker testing is supported by medical and scientific evidence. Requires the office of Medicaid policy and planning to provide biomarker testing as a Medicaid program service, and to apply to the United States Department of Health and Human Services for approval of any waiver necessary under the federal Medicaid program for the purpose of providing biomarker testing. Provides that coverage is not required for biomarker testing for screening purposes. Provides that if a prior authorization requirement applies to biomarker testing, the health plan or a third party acting on behalf of the health plan must: (1) approve or deny a request for prior authorization; and (2) notify the covered individual of the approval or denial; in not more than five business days in the case of a nonurgent request or in not more than 48 hours in the case of an urgent request. Requires the office of the secretary of family and social services to report certain information to the budget committee on Medicaid reimbursement rates provided for biomarker testing.

Distribution

Dr. Tharp thanked staff for professional new hire and separation reports and summary of final orders.

Adjournment

Dr. Tharp asked for any other business to come before the Board. Hearing no additional comments from the Board, staff and/or public, Dr. Tharp adjourned the meeting at 11:15 am. The next meeting is scheduled for May 8, 2024, at the IDOH building.

Dr. Lixia Liu then took the Board members on a tour of the IDOH Laboratory.