

ALLEGHENY COUNTY BOARD OF HEALTH

MINUTES

November 2, 2016

Present: Lee Harrison, MD, Chair
Karen Hacker, MD, Secretary
Edith Shapira, MD
Anthony Ferraro
Joylette Portlock, PhD
Caroline Mitchell
Kotayya Kondaveeti, MD
Ellen Stewart, MD
Absent: William Youngblood, Vice Chair
Donald Burke, MD

1. **Call to Order**

The meeting was held at ACHD's Administrative Office, 542 Fourth Ave, Pittsburgh. Dr. Harrison called the meeting to order. Dr. Harrison announced that an executive session was held to discuss personnel matters and litigation.

2. **Approval of Minutes from September 14, 2016**

Dr. Harrison asked if there were any questions about the minutes. There were none.

Action: Dr. Shapira moved to approve the minutes, Dr. Kondaveeti seconded the motion.
Motion passed unanimously.

3. **Public Comments on Agenda Items**

A. Dale Ray, re: E-Cigarette Regulations

Mr. Ray stated that he was previously a smoker, and that e-cigarettes have helped him stop smoking. He stated that his health has improved since he began vaping. He opposed the proposed ban on indoor vaping.

B. Tracy Rapport, re: E-Cigarette Regulations

Ms. Rapport urged the Board to accept that vaping is not smoking. She stated that banning indoor vaping will force vapers into smoking areas, where they will be exposed to second-hand smoke. She stated that there is no reason for the ban.

C. Richard Marino, re: E-Cigarette Regulations

Mr. Marino stated that he is the owner of Cool Vapes. He asked the Board to reject the proposal to ban vaping in work and public places, and to instead allow the decision on whether to allow vaping to be a business's choice.

D. Bill Godshall, re: E-Cigarette Regulations

Mr. Godshall stated that e-cigarettes are 95% less harmful than combustible cigarettes, and that vaping is life-saving. He stated that vaping at workplaces increases productivity and decreases absenteeism and health care costs. He was against banning vaping in workplaces.

E. Erika Fricke, re: E-Cigarette Regulations

Erika Fricke, of Allies for Children, stated that she is sympathetic to the use of e-cigarettes as a harm reduction strategy. But she stated that she is in favor of the ban, as she doesn't want children to see e-cigarettes where cigarettes are banned.

F. Marc Conn, re: E-Cigarette Regulations

Mr. Conn stated that he is a former smoker, thanks to e-cigarettes. He stated that the Board should think about the harm reduction offered by e-cigarettes. Mr. Conn did not support the proposed regulations, as they offered no support for vaping products.

G. Kate Conn, re: E-Cigarette Regulations

Ms. Conn stated that second-hand vape is not second-hand smoke. She asked the Board to look at the positives vaping contributes to reducing smoking. She asked the Board to keep vapers away from cigarettes and second-hand smoke by not passing the ban.

H. Jeremy Fuss, re: E-Cigarette Regulations

Mr. Fuss stated that his grandfather died from smoking. He stated that e-cigarettes helped him, and other family members, quit smoking. Mr. Fuss urged the Board to vote against the ban, as it will put him outside with cigarette smokers.

I. Brittany Huffman, re: E-Cigarette Regulations

Ms. Huffman, of Tobacco Free Allegheny, stated that she supported the ban. She stated that the emission from e-cigarettes is not harmless vapor, but contains heavy metals and chemicals.

4. **Old Business**

A. Fee Increases

Ron Sugar, ACHD's Deputy Director of Administration, stated that this proposal is to increase the fees for the plumbing, food safety, immunizations, and housing programs. He stated that the fees were last increased in 2013, and that the Board was to review the fees every 3 years. Mr. Sugar stated that the reasons for the proposed fee increases were increased labor costs, an increased Consumer Price Index, an increase in telephone costs, and a 2.5% transaction fee for credit cards. Mr. Sugar stated that the proposed increases were 5% across the board for

the food and housing programs, select increases for certain actions performed by the plumbing program, and that the immunization program's cost would be the cost of the immunization plus \$12.

Dr. Harrison asked if there were any additional questions. There were none.

Action: Mr. Ferraro moved to approve the proposed fee increases. Dr. Kondaveeti seconded the motion.

Motion passed unanimously.

B. E-Cigarette Regulations

Dr. Hacker began the discussion by stating that she applauded the efforts of those who quit smoking. She stated that the proposed regulations are not meant to demonize vaping, and noted that vaping has not been proven to be harmless. She noted that Allegheny County was not ahead of the curve with these proposed regulations, as over 500 jurisdictions have already included vaping in their clean indoor air regulations.

Jeff Bailey, an Assistant Solicitor with ACHD, reminded the Board that proposed regulations were presented in July. Since then, ACHD has reviewed comments received regarding the regulations. Mr. Bailey stated that he wanted to follow the Clean Indoor Air Act while drafting the regulations. He stated that just as there are Clean Indoor Air exemptions for tobacco shops, with a qualifying 50% revenue threshold, there is the same 50% revenue threshold for e-cigarettes to qualify for an exemption to these regulations.

However, such exempted e-cigarette establishments will be prohibited from allowing minors to enter. If a minor does enter, and the establishment has signage prohibited minors posted, and the minor is asked to leave, the establishment is afforded an affirmative defense.

Mr. Bailey stated that another change to the regulations, was that e-cigarette establishments would now be allowed to serve beverages.

In regards to penalties, Mr. Bailey stated that they feature the same language as the Clean Indoor Air Act.

Dr. Shapira disclosed that she has a financial interest in Giant Eagle and will abstain from the vote.

Action: Dr. Kondaveeti moved to approve the e-cigarette regulations. Dr. Stewart seconded the motion. Dr. Shapira abstained from the vote.

Motion passed unanimously.

C. Update on Lead Regulations

Dr. Hacker informed the Board that ACHD was looking into its obligation to offer lead testing for the uninsured. She said that in terms of monitoring, ACHD could ask nurses to report lead tests. However, she didn't feel that lead testing should be an exclusion to school admission. She stated that ACHD will bring proposals to the Board in January.

Dr. Kondaveeti asked who will be paying for lead testing. Dr. Hacked stated that all insurers will pay for lead testing. Dr. Kondaveeti then asked about addressing problems with old housing stock. Dr. Hacker stated that Allegheny County Economic Development has received a grant from the US Department of Housing and Urban Development to remediate lead in 200 homes. ACHD has lowered the lead blood level threshold for investigation by the Housing program from 15 µg/dL to 10 µg/dL. She stated that additional grant money is being sought for education materials and increased training regarding lead.

Dr. Harrison asked if the Board could anticipate a vote on lead regulations in January. Dr. Hacker replied that a regulation would be brought to the Board in January for a vote to enter a public comment period.

D. Open Burning Campaign

Alaina Conner, of ACHD's Air Quality Program, reminded the Board that although open burning regulations had existed since the 1970s, they were upgraded and made more stringent in 2015. ACHD needed to conduct outreach to educate Allegheny County about the regulatory changes. ACHD conducted outreach to municipalities, police departments, and fire departments. Ms. Conner stated that \$225k from the Clean Air Fund was spent to develop a public outreach campaign to educate citizens. The outreach included web ads, a website, a video and outdoor ads. The outdoor ads consisted of four traditional billboards and two digital billboards. Ms. Conner shared images of the billboards and played the video for the Board.

Dr. Kondaveeti asked what ACHD can do to prevent open burning. Ms. Conner replied that enforcement staff try to educate members of the public about the regulations, and that fines can be imposed. Mr. Ferraro asked if the campaign has generated any calls. Ms. Conner stated that an after-action review will be conducted to examine those numbers.

E. Update on Live Well

Dr. Hacker stated that 32 municipalities were participating in Live Well, the newest of which is Carnegie Borough. Seven new restaurants have also joined since the last Board meeting, bringing their total number to 33. Cigna Insurance became the newest employer to join Live Well Workplaces. Dr. Hacker stated that a Live Well learning collaborative will be launched soon, and that the Allegheny Quits for Life Kickoff will be held on November 14th.

5. New Business

A. Request from Prevention Point Pittsburgh

Aaron Arnold, Executive Director of Prevention Point Pittsburgh, informed the Board that Prevention Point's site on the North Side was going well. He requested authorization from the Board for Prevention Point to move from its current location in Oakland to 5913 Penn Avenue (East Liberty). He noted that 5913 Penn Avenue was the home of the Pittsburgh AIDS Task Force, and that the missions of the two organizations were aligned. He presented letters of support from other community organizations in favor of this relocation. Mr. Arnold noted that the demand for Prevention Point's services was increasing, and he informed the Board that Prevention Point also does naloxone distribution. He stated that over 300 lives were saved this year by the administration of naloxone distributed by Prevention Point.

Dr. Kondaveeti complimented Mr. Arnold for his work. Dr. Harrison asked Mr. Arnold about municipal approval of the relocation. Mr. Arnold stated that he contacted the City of Pittsburgh, and that the Board of Health must first approve, and then the municipality would approve. He stated that Prevention Point is working with Councilman Burgess's office. Dr. Harrison asked if there was anything that the Board could do to help. Mr. Arnold said a phone call or an e-mail to the City couldn't hurt.

Dr. Kondaveeti asked about Prevention Point's financing. Mr. Arnold stated that they had a contract from the County's Drug & Alcohol Office and a contract from the Pennsylvania Department of Health for HIV work. Other funding sources were from contributions and foundations. Mr. Arnold pointed out that Prevention Point is only a four person office. Dr. Kondaveeti asked if there was any way that ACHD could help. Dr. Hacker stated that ACHD was examining the possibility of using Emergency Preparedness funds. Dr. Harrison asked Mr. Arnold about site options outside of urban areas. Mr. Arnold replied that they had thought of a site in the South Hills area, as it was an overdose hotspot. However, location restrictions were more of a hurdle outside of the City of Pittsburgh.

Action: Dr. Shapira moved to approve Prevention Point Pittsburgh's relocation to 5913 Penn Avenue. Dr. Kondaveeti seconded the motion.

Motion passed unanimously.

B. Plumbing Regulations for Non-Potable Water System

Jim Kelly, ACHD's Acting Deputy Director for Environmental Health, stated that non-potable water is water that is not safe for drinking, personal, or culinary utilization. This water has not been treated. Mr. Kelly stated that ACHD has become aware of people who are installing non-potable water systems in their homes. Such systems can collect rainwater, or re-use water from showers or lavatories.

In 2015, the International Plumbing Code was updated to include regulations for non-potable water systems. However, ACHD is using the 2009 International Plumbing Code. Some of the problems caused by unregulated non-potable water systems can include backflow into the

system, cross connections, contamination of the public water main, and unmetered sewage discharge.

Mr. Kelly pointed out that there were potential problems as well if ACHD adopted Chapter 13 of the 2015 International Plumbing Code. As the state had adopted the 2009 code, adopting a chapter of the 2015 Code would cause inconsistencies with plumbers from surrounding counties. It would also create an additional cost for code-compliant systems.

Mr. Kelly ended his presentation by noting that non-potable water systems are an emerging problem in Allegheny County. Andy Grese, ACHD Plumbing Program Manager, stated that his program wants registered plumbers working on such systems. They did not want uneducated people, who are unaware of the dangers of cross-contamination, working on these systems.

Ms. Mitchell expressed concern that Chapter 13 would make rain barrels illegal. Mr. Grese stated they would only be so if their water re-entered the building. Dr. Kondaveeti and Dr. Hacker asked if this chapter would apply to new home construction only and how to deal with those systems already existing. Mr. Kelly stated those code issues would be dealt with when selling a home. Dr. Harrison asked to confirm that there are no requirements to enforce the Chapter against existing systems. Mr. Kelly stated that would be impossible to enforce. Ms. Mitchell again expressed concern that Section 1303 would make rain barrels illegal.

Mr. Kelly stated that ACHD was not asking the Board to adopt Chapter 13 today. ACHD was asking the Board to allow a public comment period about adopting Chapter 13. Dr. Portlock asked if the Board can modify Chapter 13. Mr. Kelly stated that they could. Dr. Hacker pointed out this Chapter will eventually be adopted by the state. Ms. Mitchell stated that she felt there was a need for a working group to examine the proposed regulations. Mr. Kelly assured Ms. Mitchell that the intent is not for ACHD to regulate rain barrels.

Dr. Shapira asked about the effect on buildings such as the Convention Center, that already have existing rain collection systems. Mr. Grese stated that he thinks such systems would be in line already. Dr. Hacker asked for confirmation that these proposed regulations were for moving forward, not being retroactive. Mr. Grese confirmed that was the case.

Dr. Portlock stated that it may be good for ACHD staff to take a more fine-tune look at the regulations and then come back to the Board. Michael Parker, ACHD's Solicitor, agreed with the need to revisit this issue at the next Board meeting.

Action: Mr. Ferraro moved that ACHD staff will revisit regulations for non-potable water systems, present them to the Plumbing Advisory Board, and then present them to the Board for approval to enter a public comment period. Dr. Stewart seconded the motion.

Motion passed unanimously.

C. Clean Air Fund Request: Grant to GTECH to Increase AQ in Priority Communities

Mr. Kelly stated that this CAF request was coming from GTECH, an organization that had previously worked with ACHD on the Healthy Homes Initiative. This request was to partner with ACHD to launch a new Air-Space initiative, to fill an unmet need of generating air quality awareness and community capacity in high priority areas throughout the County. GTECH and partners will increase air quality IQ through creative messaging, customized educational programming, and appropriate public signage in strategic locations within priority communities vulnerable to poor air quality, economic disinvestment, and other environmental liabilities. Mr. Kelly stated that this request was consistent with the goals of the Plan for a Healthier Allegheny.

Dr. Harrison asked if there were any questions. Dr. Portlock asked what GTECH's partnership with ACHD would look like. Mr. Kelly stated that the partnership would be one of messaging and public information. Andrew Butcher, CEO of GTECH, stated that his organization would use prominent and significant public space in targeted communities to spread the messaging, and that the messaging would be approved by ACHD. Dr. Harrison asked what the measurable outcome of the project would be. Mr. Butcher said that would be the number of people engaged. Dr. Portlock asked if a report had been received for the Healthy Homes Initiative. Mr. Kelly stated that it had been received and was being reviewed. Dr. Portlock stated that she would like to see figures from that report, and that she would be recusing herself from this vote.

Action: Dr. Stewart moved to approve GTECH's request for \$75,900 from the Clean Air Fund to support the Air-Space project. Dr. Kondaveeti seconded the motion. Dr. Portlock abstained from voting.

Motion passed unanimously.

D. Potential Changes to Article XI: Hearings and Appeals

Abby Wilson, ACHD's Deputy Director of Public Policy and Community Relations, introduced Max Slater, ACHD's new Hearing Officer. Mr. Slater informed the Board of proposed changes to Article XI, which included extended the window of time to file an appeal from ten days to thirty days. He stated that the proposed changes would professionalize appeals, clarify language, and place ACHD appeal regulations in line with those for state agencies. Ms. Wilson stated that her Bureau felt it would be helpful to hear from the public on the proposed changes.

Action: Mr. Ferraro moved to approve a public comment period for the proposed changes to Article XI. Dr. Kondaveeti seconded the motion.

Motion passed unanimously.

E. 2017 Board of Health Meeting Dates

The Board was presented with a proposed list of meeting dates for 2017. Dr. Harrison asked Todd Bogdanovich, Assistant to Dr. Karen Hacker, to explain how he developed the list of dates.

Action: Dr. Stewart moved to approve the Board's meeting dates for 2017. Dr. Kondaveeti seconded the motion.

Motion passed unanimously.

At this time, Dr. Portlock excused herself and left the meeting.

6. **Director's Report**

Dr. Hacker had nothing additional to report.

7. **Announcements**

Jen Fiddner, of UPMC's Epidemiology program, made an announcement about an event being held at Pitt for the annual Get Smart Week 2016: Antibiotic Stewardship in Pennsylvania.

At this time, Mr. Ferraro expressed his appreciation for the details contained in the enforcement reports for the programs of the Environmental Health Bureau.

8. **Public Comments on Non-Agenda Items**

A. Rachel Filippini – GASP, re: Air Quality Permitting

Ms. Filippini stated that she was the Executive Director of the Group Against Smog and Pollution (GASP). She stated that she was concerned about the backlog of Title V operating permits and asked ACHD to devise a systematic plan to address the operating permit backlog. She also stated that she supports the proposed change to Article XI to extend the appeal window.

B. Thadeus Popovich, re: Shenango site and Shell cracker plant

Mr. Popovich, of Allegheny County Clean Air Now (ACCAN), thanked ACHD for the recent agreement signed with Shenango regarding credits and offsets. He also expressed concern about the Shell cracker plant in Beaver County and its potential effects on Allegheny County's air quality.

C. Roxanne Russomano, re: Shenango

Ms. Russomano stated that she is a retired healthcare worker who treated respiratory patients. She stated that she personally developed asthma since moving to Clairton. She was concerned about the smell of the air, and stated that the air quality does have effects on health. She stated that penalties were needed to bring about positive action for air quality.

D. Annie Regan – Penn Future, re: Air Quality in Clairton

Ms. Regan urged ACHD to clean up Clairton and the Mon Valley. She expressed concerns about violations at the Clairton Coke Works. She stated that Clairton residents were frustrated with their air quality and shared quotes from residents to this effect. Ms. Regan also provided the Board with a film about Air Quality issues in Clairton that detailed residents' stories.

E. Adam Tuznik – Clean Water Action, re: Air Quality in Clairton

Mr. Tuznik presented the Board with a petition, with 325 signatures, from those adversely affected by US Steel's Clairton Coke Works. Mr. Tuznik noted the health effects of the Clairton Coke Works on residents, and requested that ACHD issue a significant plan to reduce emissions from the Clairton Coke Works.

9. **Adjournment**

Ms. Mitchell moved to adjourn the meeting, Mr. Ferraro seconded the adjournment.