

ALLEGHENY COUNTY BOARD OF HEALTH

MINUTES

January 10, 2018

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

Absent: none

1. **Call to Order**

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

2. **Approval of Minutes from November 1, 2017**

Dr. Harrison reminded the Board that Mr. Youngblood chaired November's meeting. Mr. Youngblood asked if there were any comments or questions about the minutes. There were none.

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

3. **Election of Officers for 2018**

Action: Mr. Youngblood moved to elect Dr. Harrison as the Board's Chairman for 2018, Dr. Kondaveeti seconded the motion.
Motion passed unanimously. Dr. Harrison abstained.

Action: Dr. Harrison moved to elect Mr. Youngblood as the Board's Vice Chairman for 2018, Dr. Stewart seconded the motion.
Motion passed unanimously. Mr. Youngblood abstained.

4. **Public Comments on Agenda Items**

A. Mike Bonavita, B&R Pools and Swim Shop, re: Swimming Pool Regulation Revision

Mr. Bonavita complimented the group that spearheaded this regulation revision, and stated that the regulation does a good job regarding water safety. Mr. Bonavita stated that lifeguards had tested chemicals every two to three hours and suggested that regulations regarding pool chemical automation to be made retroactive.

B. Todd Reidbord, Walnut Capital, re: Swimming Pool Regulation Revision

Mr. Reidbord complimented ACHD's Dave Namey and Lori Horowitz for their work on this regulation's revision. He stated that conforming regulations to national standards is important and the collaborative process, that ACHD engaged in, worked well.

C. Christine Braden, Sampson Morris Group, re: Swimming Pool Regulation Revision

Ms. Braden thanked ACHD for the meetings it held with stakeholders and noted that all stakeholders wanted to keep pools open and safe.

At this time, Dr. Harrison acknowledged Allegheny County Councilmember Sue Means.

5. **Old Business**

A. Update on Lead Regulation Going Into Effect

Dr. Hacker informed the Board about outreach efforts undertaken by ACHD regarding the lead regulation. ACHD had contacted every pediatrician and family practice in Allegheny County via mail, and was now following up with phone calls. Informational brochures about lead had been prepared in multiple languages. Dr. Hacker did note that ACHD had experienced some challenges with the Nepalese version of the brochure, but that these challenges were overcome. Outreach materials had been vetted with pediatricians, and outreach information is also posted on ACHD's website.

Dr. Hacker stated that ACHD has also reached out to school superintendents and school nurses. ACHD will begin collecting data from schools during the 2018-2019 school year, and will receive assistance from the University of Chicago to study the data.

Dr. Hacker stated that testing will begin this week. ACHD's focus will be on providing testing to the uninsured and underinsured communities.

B. Updated on Lead Task Force Report

Dr. Hacker stated that the Lead Task Force's report was presented to the County Executive on December 12th, after the Task Force was formed in May 2017. The report reiterated that there is no safe level of lead and that although blood lead levels have declined overall, existing sources of lead remain a threat.

Dr. Hacker shared with the Board a summary of the report's recommendations. The report noted that lead came from multiple sources, some of which were more prevalent based on geographic area. The report noted an interest in increasing the supply of lead-free or lead-safe houses. This work was mostly done on by cities elsewhere, not by counties. The University of Pittsburgh's Institute of Politics was helping to coordinate this effort in Allegheny County.

Regarding water-based lead risks, the report recommended incorporating water testing in lead-safe programs, with the priority for settings where children are present. Regarding soil-based lead risks, recommendations included raising demolitions standards. Recommendations for alternative sources of lead included identifying high-risk occupations and hobbies.

Regarding investigations, Dr. Hacker stated that ACHD has created two additional positions. ACHD is also planning a pilot program for home investigations for blood lead levels of 5-9 µg/dL. ACHD is also considering primary prevention efforts in homes, based on risk factors. Regarding public awareness, ACHD is working with the Institute of Politics to reconstitute the Community Lead Advisory Committee. Dr. Hacker stated that the next steps include bringing housing and plumbing regulations to the Board for updates.

Dr. Harrison asked if there were any opportunities for graduate students to help by working with data related to lead. Dr. Hacker stated that there were plenty of opportunities. Dr. Burke asked if there were any risk maps for the different sources of lead. Dr. Hacker stated that there were not.

C. Update on Article XI (Hearings) & SO₄ Regulations Passed by Council

Dr. Hacker informed the Board that both the Article XI and SO₄ regulations were passed by County Council.

6. New Business

A. Policy Committee Report

Abby Wilson stated that the Board should expect to see regulatory updates in 2018 to ACHD's plumbing and housing regulations. There may also be changes to Article XXI. These changes should be expected by the Board to be spaced-out, throughout the year.

Regarding CHIP's reauthorization, Ms. Wilson informed the Board that this issue is still unresolved. Congress has \$2.85 billion set aside to cover the program through March. Dr. Harrison asked if there were any changes to services yet. Ms. Wilson stated that there were not. Dr. Burke asked about the percentage of Allegheny County children covered by CHIP. Ms. Wilson stated that she did not know the percentage, but knew that CHIP covered 14,000 children in Allegheny County. Ms. Wilson did note that the continuing resolution expires on January 19th, and expressed concern.

Ms. Wilson stated that Governor Wolf was expected this afternoon to announce a state of emergency regarding the opioid epidemic. Ms. Wilson hoped that this declaration would help remove barriers to Naloxone leave-behind programs.

Dr. Harrison thanked Ms. Wilson.

B. Annual Report of 2017 Activities

Dr. Hacker stated that ACHD received accredited status in 2017. She thanked staff for their accomplishments to make accreditation possible, and noted that accreditation reflects the infrastructure changes at ACHD.

Dr. Hacker informed the Board of progress towards the goals of the Plan for a Healthier Allegheny and its five priority areas of focus. In terms of Access progress, the insured rate has increased, dental care has improved, and there is a pilot project for transportation. Chronic Disease Prevention progress included decreased smoking rates, increased food access at mobile markets and farmers markets, active transportation projects, the DASH grant for cardiovascular disease, and Live Well Allegheny has grown to include 49 communities and 13 school districts. Environmental progress included an increase in air quality, and an increase in the number of Healthy Homes inspections. Maternal and Child Health progress included a downward trend for low birth weights, breastfeeding initiatives, and Allegheny Link. Allegheny Link is a one-stop-shop referral line for home visiting. Mental Health and Substance Abuse progress included widespread naloxone distribution, a CDC grant for surveillance, and a grant to assist CONNECT communities.

Dr. Hacker reminded the Board that ACHD is nearing the end of its current strategic plan. Activities related to the strategic plan included accreditation, an IT assessment, the Allegheny County Healthy Survey (ACHS), performance evaluations, performance monitoring, online applications, Health In All Policies, Public Health 3.0, lead regulations, e-cigarette regulations, an advisory coalition, plain language information, website improvements, and transparency.

Lead has also been a huge initiative for ACHD, and the lead task force released its report in December.

ACHD also completed and submitted to the EPA a control plan to meet federal air quality standards in the Monongahela Valley. ACHD also responded to three boil water advisories, and fielded over 2,000 inquiries.

Dr. Hacker concluded her presentation with a 'what's next' segment, to give the Board a preview of future areas of specific attention from ACHD. ACHD plans on a health equity approach in terms of mapping, targeting, and understanding. This approach will include briefs and a dashboard and also interventions. ACHD will also focus on small area analysis of its data. Community-based opioid engagement will continue. In terms of Air Quality, a report about Shenango will be released, as will a SIP for PM2.5. An asthma initiative will also be undertaken.

ACHD is also relocating a clinic, introducing electronic medical records into its clinics, improving its IT infrastructure to enable credit card payments to be taken in the field, and strategic planning will continue.

Dr. Harrison asked about BMI data. Dr. Hacker stated that those numbers remain steady and stated that policy initiatives elsewhere did not yield improvements. She stated that Live Well helps communities plan for opportunities for physical activities. Dr. Portlock asked what was happening with Live Well, in terms of communications and meetings. Dr. Hacker stated that Live Well has seen great participation with a training collaborative. She stated that Live Well held a training for complete streets policies, and that subsequently Sharpsburg passed a complete streets policy. Dr. Portlock followed-up by asking about partners for the asthma initiative. Dr. Hacker replied that these would be managed care organizations, Children's Hospital, asthma experts, and members of the coalition.

C. Swimming Pool Regulation Revision – Request for Public Comment

Lori Horowitz, Operations Manager of ACHD's Housing and Community Environment program, gave the Board a presentation about proposed revisions to Article IX. Ms. Horowitz stated that it has been ten years, since the article was last revised in 2008. The Article is currently less stringent in some areas than the State Bathing Code. At a minimum, ACHD must be as stringent as the state. The revisions also incorporate sections from the Model Aquatic Health Code that ACHD feels will improve the health and safety of public bathing places in Allegheny County. Ms. Horowitz stated that multiple meetings had been held with stakeholders, and stakeholder feedback had been solicited regarding the proposed revisions. Stakeholders included pool operators, health and safety experts, and members of the pool industry.

Ms. Horowitz stated that stakeholder consensus has been achieved on the vast majority of the proposed revisions. There are approximately 100 revisions proposed. There were four proposed revisions that were particularly important. The first is to require installation of automated controllers at bathing places undergoing new construction or major reconstruction. The second is to require the installation of a secondary disinfection system, such as UV light or Ozone, at high risk bathing places. The third is an adjustment to the lifeguard exemption. The proposed exemption still exempts condominiums and hot tubs/spas, and an addition provides a set of environmental, health-based conditions that apartments, hotels, or motels must meet to be exempted from the lifeguard requirement. The fourth revision is to change the type of fee charged by ACHD from a 'Lifeguard Fee' to an 'Inspection Fee'.

Dr. Harrison thanked Ms. Horowitz. Dr. Hacker thanked the stakeholders who assisted in this process, and also thanked Ms. Horowitz. Dr. Burked asked about the number of drowning deaths in the County. Ms. Horowitz said there were approximately two per year. She stated that the Housing program studied that issue before, and she can send a copy of the study to the Board. Dr. Burke stated that he would be interested in seeing that study. Mr. Youngblood asked if

there was a fee schedule for fines. Ms. Horowitz said that a penalty matrix was being looked at right now.

Action: Dr. Burke moved to approve the public comment period for the Swimming Pool Regulation Revision, Mr. Youngblood seconded the motion.

Motion passed unanimously.

D. Report on US Steel's Clairton Coke Works Post-Consent Order Compliance

Dr. Hacker prefaced this agenda item's discussion by offering comments to the Board regarding air quality in general. She noted that air quality does have a public health impact, and that ACHD aims to reduce pollution to the greatest extent possible. This reduction is through prevention, intervention, and treatment. Modelling and planning, regulations, and permits are part of planning. Monitoring, inspections, and investigating complaints are part of intervention. And enforcement is treatment.

Regarding the health impacts of air quality, Dr. Hacker stated that environmental epidemiology supports ongoing assessment of the impacts of air quality on human health. ACHD conducts community engagement through the Air Advisory Committee, the Breathe Coalition, community meetings, local public hearings, and the PHA workgroup. Regarding prevention and education efforts, Dr. Hacker stated ACHD efforts include the Eco-Currents newsletter, Clean Air Fund educational efforts, online Title V permits, the open burning campaign, and compliance reports.

Looking ahead, Dr. Hacker stated there are proposed changes to H2S regulations, a SIP for PM2.5, and a camera for Clairton. New enforcement activities include additional legal capacity, the notice of violation for the Edgar Thomson Works with the EPA, and the Health Based Violation Policy.

Dean Deluca, of ACHD's Air Quality Program, then gave a presentation to the Board regarding US Steel's compliance following the consent order for the Clairton Coke Works.

Mr. Deluca stated that the Allegheny County Health Department entered into a Consent Judgement with U.S. Steel to address excess emissions at the Clairton Coke Works on March 24, 2016. While US Steel had already paid over \$3,900,000.00 in civil penalties to the Health Department since 2009, it continued to fail to meet Allegheny County emissions requirements leading ACHD to take additional action in the form of this agreement to correct the ongoing violations.

The Consent Judgment required U.S. Steel to inspect and fix its coke ovens (specifically coke oven batteries 2, 3 and 15) and come into compliance within 3 years. The consent judgment also required U.S. Steel to pay the remaining \$25,000 of the \$3,973,000.00 in civil penalties the Health Department has assessed against U.S. Steel since 2009. Over the course of the Consent Judgment, the monitor that serves the area and is downwind from the

coke works (the Liberty monitor) has not met EPA standards for PM2.5 or for SO2. To address this issue, extensive efforts (inspections, violations, consent orders) are in place. For example, there have been over 35,000 inspections at the U.S. Steel Clairton Coke Works since the Consent Judgment was signed. There are 2 contracted inspectors at Clairton Coke Works every day who examine emissions from batteries. This is a higher level of inspections than at any other coking facility in PA or in the nation. Stack violations occur when opacity of emissions equal or exceed 20% and when they exceed 60% as measured by the Continuous Opacity Monitor (COM). The major issue at U.S. Steel Clairton Coke Works has been in the 20% violation exceedances. There are no more stringent emission requirements anywhere in the US at this time.

It is important to note that since the Consent Judgment went into effect, progress is being made. From March 2016-November 2017 there has been major improvement on all identified batteries. U.S. Steel Clairton Coke Works has improved compliance with both opacity standards. For the changes in violations related to batteries 2, 3, and 15 see table 5. Mr. Deluca noted two issues: in October and November of 2017, Battery 15 was noted to have additional violations. This was caused by an equipment failure that has since been repaired and may be upgraded. In addition, post Consent Judgment, it was noted that battery 19 was having issues. US Steel agreed to voluntarily add this battery to the compliance plan when they submitted an oven wall study for battery 19 in June 2017.

Mr. Deluca stated that initial compliance certification must be achieved by March 24, 2019 for each of the batteries. If compliance is not achieved at that time, stipulated penalties of \$60,000 for each quarter/battery would be due. If compliance is not achieved for 13 consecutive months for a battery, stipulated penalties of \$120,000 for each quarter/battery would be due. These penalties are in addition to the \$500 stipulated penalties for each clock-hour exceedance after the first 33 in a calendar quarter.

Dr. Portlock asked if each violation translates into a penalty. Mr. Deluca answered yes. Dr. Shapira asked if the penalties are motivating to the company. Mr. Deluca stated that the penalties do add-up. Dr. Harrison asked if the penalties get steeper over time. Mr. Deluca stated that depends on the agreement. Dr. Hacker stated that Jim Kelly will talk about a new penalty policy during the next agenda item.

Mr. Deluca noted that the next steps will be to continue to inspect and monitor and to review all data from reports. Any violations not covered by the Consent Judgment are subject to enforcement action, and stipulated penalties would be applied if required.

Dr. Hacker noted this information was available on ACHD's website. Dr. Portlock thanked Mr. Deluca and stated that she hoped for a public forum to discuss this issue.

E. Update of Air Quality Civil Penalty Policy

Jim Kelly, ACHD Deputy Director for Environmental Health, gave the Board a presentation about the civil penalty policy for violations of the Article XXI regulations. Mr. Kelly stated that the purpose of the update was to develop a health-based penalty formula for the assessment of civil penalties and to provide increased deterrence for future violations. Mr. Kelly did note that ACHD's ability to assess penalties is constrained by state law, and that the maximum penalty is \$25,000 per day per penalty.

Mr. Kelly stated that the new policy was signed today, and is based on the EPA's 'Clean Air Stationary Source Civil Penalty Policy' and the PaDEP's 'Guidance for the Application of Regional Civil Assessment' procedures. The new policy is very prescriptive, and ensures a legally defensible, consistent application of penalties. The policy also incorporates a procedure for supplemental environmental projects to go back into the local areas impacted by violations.

Key points of the policy include more emphasis on the public health impact of violations, such as toxicity and nonattainment areas. The violation target has been moved to 99% from 85-95%. Coke plants are now incorporated into the violation policy. And the new policy will increase violation fees overall, with an average increase in penalties of about 60% if it were applied to 2016 violations. Dr. Harrison asked Mr. Kelly to explain the violation target. Mr. Kelly stated that nowhere is 100% compliant, as break-downs do occur. 99% is the compliance target.

Mr. Kelly then informed the Board of the factors that the penalty matrix considers. Factors include the potential for harm and the severity of the violation. These are then then adjusted on other factors such as the compliance history, the degree of willfulness, the size of the violator, and the degree of cooperation. Other factors that are considered are the economic benefit, the cost to ACHD, and the need for additional deterrence. Mr. Kelly stated that the civil penalty policy will be reviewed in 2019 to determine the effectiveness of the changes.

Dr. Shapira asked if the \$25,000 per day per violation maximum could theoretically be raised by the state. Mr. Kelly stated that it could. Mr. Kelly noted that the EPA's maximum fine is \$39,000 per day per violation. Dr. Shapira commended the clarity of the presentation and the amount of work that went into the policy. Mr. Kelly stated that the credit belonged to Dean Deluca and Jeff Bailey. Dr. Portlock also expressed her thanks and noted her excitement.

Mr. Youngblood asked if this policy was in effect, as of today. Mr. Kelly stated that it was. Mr. Youngblood stated that he would be interested to see the projects coming in from the communities. Dr. Burke asked if ACHD was the only agency with the authority to issue fines. Mr. Kelly stated that there were times that the EPA could become involved. Dr. Portlock asked if, in those instances, violators could be subjected to fines by ACHD and the EPA concurrently. Mr. Kelly stated that could be possible. Dr. Burke asked what the maximum penalty should be. Mr. Kelly stated that a feasibility study would need to be conducted to answer that questions. Dr. Burke suggested that may be worthwhile to look into.

F. Environmental Health Fund Request: \$5,000 for HIPAA Training

Mr. Kelly stated that this request was for two ACHD attorneys to attend HIPAA training. Mr. Kelly stated that this training was important, particularly regarding lead data from the state.

Action: Mr. Youngblood moved to approve \$5,000 from the Environmental Health Fund for HIPAA training, Dr. Shapira seconded the motion.

Motion passed unanimously.

G. Environmental Health Fund Request: \$17,490 for Environmental Health Legal Internship

Mr. Kelly stated that this request was for an Environmental Health legal internship. Mr. Kelly stated that many issues arise, and there is a huge need for legal research. Mr. Youngblood asked about existing relationships with law schools. Mr. Kelly stated that those relationships existed, and that this internship will help strengthen them. Dr. Kondaveeti asked how much time per week the intern would work. Michael Parker, ACHD Solicitor, stated that the internship would be for up to 20 hours per week.

Action: Mr. Youngblood moved to approve \$17,490 from the Environmental Health Fund for the Environmental Health Legal Internship, Dr. Stewart seconded the motion.

Motion passed unanimously.

Mr. Kelly thanked the Board.

6. **Director's Report**

Dr. Hacker had nothing additional to report.

7. **Announcements**

There were no announcements.

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

A. Angelo Taranto, re: Open Wood Burning

Mr. Taranto stated that he is a resident of Ross Township. He stated that he experienced the same physical symptoms from the smoke and emissions caused by wood burning as he did when he lived across the river from Shenango. Mr. Taranto asked the Board to reconsider a 'no burn' policy for wood burning.

B. Thaddeus Popovich, re: Shenango/Climate Change

Mr. Popovich stated that he is a resident of Franklin Park Borough. Mr. Popovich stated that DTE is now in 100% compliance with EPA consent orders, as the plant is currently being dismantled. Mr. Popovich requested access from DTE and PaDEP to the remediation plan, and a public hearing.

C. Matt Mehalik – Breathe Project, re: Edgar Thomson and Controlled Burning Exercise

Mr. Mehalik stated that he was pleased to see ACHD working with the EPA regarding Edgar Thomson. He also thanked ACHD for the updated penalty policy. Mr. Mehalik did express concerns about a fire training event held near the Waterfront on December 2, 2017. He said that this controlled burn was held on a Saturday afternoon, during the peak holiday shopping season. The burn impacted many people. Mr. Mehalik asked who determined there were no contaminants in the buildings that were burnt, what were the provisions of the permit, and was the public warned.

D. Mark Dixon, re: Suggestions for Pollution

Mr. Dixon acknowledged that the Board is working to improve public health, but noted that Allegheny County still receives low ratings from the American Lung Association. Mr. Dixon stated that there were gaps in ACHD's inspection methods. Mr. Dixon suggested engaging in frequent, random nighttime inspections of major polluters. Mr. Dixon also suggested weekend inspections and placing purple air sensors along

E. Dave Smith – Clean Air Council, re: Edgar Thomson Works

Mr. Smith stated that he is the outreach coordinator for southwestern Pennsylvania for the Clean Air Council. He urged ACHD and the EPA to continue regular inspections of the Edgar Thomson Works, and to seek meaningful action to ensure that the facility can not continue to pay to pollute. Mr. Smith also stated that ACHD can not allow US Steel to report planned maintenance as breakdowns. Mr. Smith also urged ACHD to increase the frequency of random, unannounced inspections.

10. **Adjournment**

Dr. Portlock moved to adjourn the meeting, Mr. Youngblood seconded the adjournment.