

**GOVERNOR'S LEAD POISONING PREVENTION COMMISSION**

AERIS Conference Room  
April 3, 2014

Approved Minutes (5-1-14)

**Members in Attendance**

Patrick Connor, Cheryl Hall, Karen Hornig, Edward Landon, Pat McLaine, and Barbara Moore

**Members not in Attendance**

Melbourne Jenkins, Delegate Nathaniel Oaks, Linda Roberts and Mary Snyder-Vogel

**Guests in Attendance**

Shakette Denson – GHHI, Ruth Ann Norton – GHHI, Myra Knowlton – BCHD, Cliff Mitchell – DHMH, Jody Johnson – Laura Fox – BCHD, Sheneka Frasier – BCHCD, and Paula Montgomery – MDE,

**Introductions**

Pat McLaine called the meeting to order at 9:41 AM with welcome and introductions.

**Future Meeting Dates**

The next Lead Commission meeting is scheduled for Thursday, May 1, 2014 at MDE in the AERIS Conference room. The Commission will meet from 9:30 AM to 11:30 AM.

**Approval of Minutes**

Motion was made by Ed Landon, seconded by Karen Hornig to approve the March minutes with changes and approved unanimously.

**Discussion**

**Old Business**

Legislation: Pat McLaine reported that a letter regarding Commission's concerns about HB 888 was not sent. Ed Landon reported that this bill was not voted out of Committee.

Lead in Childcare: Following approval by Commissioners, a letter from the Commission was sent on March 27, 2014 to Elizabeth Kelley, Director of Maryland State Department of Education, Division of Early Childhood Development, Office of Child Care requesting lead-related information about Maryland Child Care facilities. Ms. Kelley provided an email response on March 28, 2014 indicating the Office of Child Care's willingness to work in collaboration with the Commission. Pat McLaine sent an email response on April 2, 2014 clarifying the Commission's interests and inviting Ms. Kelley to attend the Commission meeting in May. Copies of the letters were distributed at the meeting.

A lengthy discussion of the issues followed. Ed Landon asked who has responsibility for writing policies and procedures to enact the law – who does what, when, where and how. The regulations are unclear. Shaketta Denson stated that she always thought the laws applied to

child care. Cheryl Hall noted that the Office of Child Care (OCC) regulations require that facilities be free of any hazards at all, across the board. Paula Montgomery indicated that pre-1950 rental property must have a certificate. If the

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property was built before 1979 and had any lead hazards, the owner must hire a licensed risk assessor to test and sample and to determine that the problem was "fixed". Cheryl Hall stated that referrals are being made but follow-up is not being tracked centrally. Paula Montgomery stated that if a licensing specialist identified defective paint, the owner must hire an accredited risk assessor to conduct a risk assessment. Based on the findings and needs, an accredited contractor must be hired. Then, the risk assessor comes back to ensure that the property is safe from lead hazards. For pre-50 property (soon to be pre-1978): rental must have a certificate, owner-occupied must have a certificate that the property is free from lead hazards. Cheryl Hall stated again that such work was done and results were put in an individual file but there is no central data base.

Patrick Connor noted that he wanted to make sure he understood what has been said: all child care facilities are potentially compliant but the OCC has no ability to show compliance in licensed facilities. Outside of papers filed in the regional offices, there is no central record and OCC does not know the date of construction of licensed facilities. Pat McLaine indicated that information was needed for the population of more than 11,000 child care facilities. Patrick Connor asked if the OCC has documentation that licensed child care facilities meet the standards of this law. Cheryl Hall stated that OCC may have documentation. Patrick Connor noted that if the central data base cannot give OCC information on lead safety or age of construction, how does the licensing specialist (about 120 of them) know to ask this question if it is only recorded on the initial application? Cheryl Hall stated that the application form included a history of lead paint issues and a comment section, on paper only. Ruth Ann Norton suggested that this could be fixed simply: data could be collected on initial records and shared electronically. This was recommended in the Commission's follow-up letter of April 2<sup>nd</sup>.

Paula Montgomery asked if State OCC collected all inspection data. Cheryl Hall replied that zoning and environmental requirements must all be met, and that documentation goes into the CATS system, but there is presently no data element for lead. Paula Montgomery noted that the type of occupancy (rental, owner-occupied) could be easily identified using the homesteader tax credit information, making it easy to identify age of construction and rental status. Pat McLaine noted that this would be particularly easy to monitor if there was an electronic field in CATS for age of construction and ownership status. Ed Landon asked what was being done for new applications. Karen Hornig noted that it was the Commission's job to make sure a state agency is compliant with the law. She suggested that the Commission should invite Ms. Kelley to attend our next meeting along with counsel to outline the steps that OCC will take in the next six months to become or ensure compliance. The focus should be on compliance: what action steps OCC will take to assure us that they as an agency are doing what they are supposed to do to monitor facilities. Shaketta Denson asked what was compliance for a child care facility? If peeling, chipping paint was cited, what then? Paula Montgomery indicated that rental properties must have a lead certificate. Any property built before 1978 must be evaluated for defective paint. If defective paint is identified, the property must be evaluated for hazards by a licensed risk assessor. If hazards are identified, the proposed center must address those hazards and the risk assessor must reassess. For all other categories of buildings, the OCC

licensing specialist determines if peeling chipping paint is present. If it is, the licensing specialist asks about the age of construction.

Karen Hornig noted that it appears that work is being done but there is no tracking and no central data available to evaluate. OCC is unable to draw appropriate conclusions about the data because of the process. Cheryl Hall noted that there were 13 offices and regions, with Baltimore City and PG County being the largest. She noted that many environmental, health and safety issues are inspected. Barbara Moore noted that all the documentation is in individual files, in a filing cabinet in a regional office. Responsibility is taken individually. The problem is that there is no compilation of data into monthly,

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quarterly and annual reports because lead is not part of the tracking system. OCC may be compliant with the law but right now we have no way to know. Ed Landon noted that he was surprised that this was not previously identified in an audit. Cheryl Hall noted that OCC is dependent on local jurisdictions to do the work. If they tell us the property passed zoning (etc.), OCC accepts this verification. The central database has a check-off that the property passes local requirements.

Cheryl Hall asked what more OCC should do: central documentation? Training licensing specialists to be risk assessors? Karen Hornig indicated that the job of licensing specialist is to make an initial assessment. It is important to be able to demonstrate compliance. Is there a specific problem we are trying to solve other than access to data? Cheryl Hall stated that she could not provide the data the Commission asks for because the data is not maintained this way.

Patrick Connor noted that that if a rental property is in compliance but has a child occupant with a BLL of 12µg/dL, local government will evaluate the property as part of the follow-up for the child. But how will we know that the risk is not from a child care center? Paula Montgomery stated that MDE does follow up on this issue during all poisoned child follow-ups. Myra Knowlton stated that BCHD does follow up whenever daycare is identified during the follow-up process. Barbara Moore noted that from her clinical perspective, if risk was identified in a home, the childcare center was not inspected. Clinicians are pulling out their hair because they cannot get follow-up at child care centers. Myra Knowlton offered to follow-up on any child care facility in Baltimore City.

Barbara Moore asked if the licensing specialist looks at every child care facility twice a year; Cheryl Hall indicated yes. Cliff Mitchell asked what was the end product of these inspections? A program evaluation? What are the strengths and weaknesses in place to protect children from lead hazards? What is the status of lead protection in child care facilities? Do we think there is an imminent threat to children in licensed child care facilities? Cheryl Hall indicated that she did not know the magnitude of the problem. Patrick Connor asked what happens if an applicant finds lead hazards in a proposed facility. Cheryl Hall said that the facility would not be approved and no children would be allowed there. Patrick Connor asked what happened if a licensing specialist visited 6 months later and identified deteriorated paint. How long does the Center have to resolve the problem: 15 days, 30 days, more? Cheryl Hall indicated that that depended on the nature of the problem and that in some instances, the owner must relocate children. Patrick Connor asked how many of those events occurred in 2013. Barbara Moore asked if parents must be informed of risks identified. Cheryl Hall stated that OCC

recommended to child care facilities that they notify parents and encourage them to test their children. Barbara Moore stated that if the child was 3-4 years old, the child would not likely be re-tested. Ruth Ann Norton asked why the OCC recommended that facilities notify parents – why not require them to do so? Cheryl Hall stated that the Licensing Specialist would ask the local health department to help. Barbara Moore stated that the issue is the requirement of notice. Patrick Connor stated that 40CFR745 requires a child care facility operator to notify/disclose to parents within 15 days of notice. Contractor must provide notice before any work involving six square feet of surface area. The operator is required to notify parents under Federal Law. Under 24CFR part 35, if federal dollars are going to homes, the parents must be notified. Since December 1996, we really have tools in place to solve these challenges. We need education, training and enforcement of the law.

Pat McLaine will follow up with Director Kelley and invite her to attend the May 1 meeting.

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Targeting Plan: Cliff Mitchell indicated that the Targeting Plan is still being revised/reviewed and there was nothing new to report.

Baltimore City Billing DHMH for Environmental Investigation: Laura Fox indicated that the City was establishing a centralized billing system to bill for the work of City programs. Cliff Mitchell indicated that lead was only one of many issues being considered with the Affordable Care Act (ACA) implementation. Laura Fox indicated that capacity and funding cuts were also an issue. Barbara Moore asked if BCHD will be looking for reimbursement for case management and environmental investigation; Laura Fox indicated for both. Cliff Mitchell noted that the ACA implementation is changing things radically – are health departments viable? Can they do cost recovery for programs they manage?

Pat McLaine noted that this is a key issue for childhood lead poisoning prevention programs and that she will keep asking about progress. BCHD cannot get reimbursement for services if too much time has gone by. Cliff Mitchell indicated that local health departments were once funded primarily by state dollars. Now less than half of funding is state and the rest is from local revenues or categorical grants. CDC has cut categorical funding. Local health departments either cut back on their programs (the majority have no epidemiologist and decreased staffing for communicable disease follow-up) or look at eliminating services, particularly services the health care system now will pay for. If local health departments can't bill for services, there will be no revenues for those services. Cheryl Hall noted that without assistance from local health departments, state agencies will have to absorb a lot of the work now being done by local health department staff.

### **New Business – Priority Setting**

Pat McLaine asked Commissioners to vote on their top three choices for priorities for the Lead Commission for this year. The priorities identified by Commissioners were:

1. Tracking progress (lead safety in housing, lead testing, BCHD health and housing, etc.)
2. Lead risks in child care
3. Laboratory issues (including point of care testing, proper tubes for testing)
4. Tied: RRP Implementation and Tool box for primary care providers

## **Agency updates**

### **MDE**

Paula Montgomery stated that MDE is preparing mock ups for the lead rental registry to go on-line; it should be live in May. Commissioners were pleased and would like to see a demonstration at the May meeting. Ms. Montgomery reported that the program is making a final presentation on the RRP implementation to the Secretary. The department plans to incorporate RRP in risk reduction and will begin regulation writing soon. Regulations should come out in June 2014. Ms. Montgomery reported that MDE's on-line contractor survey had 23% participation and was now closed; she will provide a report on the survey next month.

### **DHMH**

Cliff Mitchell reported that the DHMH Laboratories Advisory Committee Meeting was scheduled for Thursday, April 17 at 8:30 in L-37. The Lead Point of Care Testing is on the agenda; the Committee has received the final report and will make recommendations concerning Lead Point of Care Testing. Cheryl Hall made a motion that the Commission send a letter to the Laboratory Advisory Committee in support of point of care testing, seconded by Patrick Connor and passed unanimously. Commissioners were interested that POC testing be on the accepted list, that reporting should be emphasized, and that QC

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issues be stressed. The letter will be sent to Dr. John Newby, copy to Secretary Sharfstein and copies to the Point of Care Task Force. Pat McLaine will draft the letter, to be reviewed by Cliff Mitchell and

Patrick Connor and sent out for review by Commissioners. Patrick Connor, Barbara Moore and Pat McLaine interested in attending this meeting.

Cliff Mitchell stated that the Targeting Plan was still under review, as were the practice management guidelines. He indicated that DHMH plans to update the screening questionnaire, which will be available in Spanish and English.

### **DHCD (State)**

Ed Landon indicated there was nothing new to report. Ed Landon reported that he had contacted the Governor's Appointment Office and that they are "working on" the appointments.

### **Baltimore City Health Department**

Laura Fox indicated that billing is now being looked at as a global health department issue. The Lead Program is now relocated to new offices at 7 East Redwood Street.

### **Baltimore City Housing and Community Development**

Shaneka Frazier Case indicated that Baltimore City Housing had reached their goal for the quarter for lead abatement. A total of 97 units have been completed to-date.

### **Child Care Administration**

Cheryl Hall indicated she had nothing more to report.

### **Maryland Insurance Administration**

Karen Stakem Hornig indicated there was nothing to report.

**Coalition**

Nothing new to report.

DHMH has developed Grand Rounds presentations for health providers on healthy homes focusing on lead and asthma. Presentations are being done at St. Mary's County.

Webinar from the State Association of Public Health Laboratories on lead testing issues will be broadcast this afternoon; Patrick Connor's office will have recaps available on Monday. Patrick Connor will send instructions to Commissioners on how to access recaps.

Patrick Connor made a motion to adjourn the meeting, seconded by Barbara Moore, passed unanimously. The meeting was adjourned at 11:39 AM.