



**Minutes of the State Board of Health
August 27, 2008**

Red Lion Hotel at the Park, 303 W. North River Dr., Spokane, WA 99201

SBOH members present:

The Honorable David Crump, PhD, Vice Chair
The Honorable John Austin, PhD
Keith Higman, MPH
Patricia Ortiz, MD

Mel Tonasket
Karen VanDusen
Bill White
Diana T. Yu, MD, MSPH

SBOH members absent:

Treuman Katz, Chair

Frankie T. Manning, MN, RN

State Board of Health Staff present:

Craig McLaughlin, Executive Director
Desiree Robinson, Executive Assistant
Heather Boe, Communications Consultant

Ned Therien, Health Policy Analyst
Tara Wolff, Health Policy Analyst
Melissa Burke-Cain, Assistant Attorney General

Guests and Other Participants:

Jennifer Aspelund, Parent
Eric Dickson, ESD 101 and WASBO
Denise Frisino, Teacher
Vicki Gardner, Washington Education Association
Dan Hornfelt, Pullman Schools
Patricia Jatzcak, Office of Superintendent of Public Instruction
Joseph K. Lillard, Asotin County Health District
Doug Matson, West Valley School District and WASBO

Cheryl Mitchell, Animal Advocates of the Inland Northwest
Kathy O'Toole, Washington Education Association
Thelma Simon, Parent
John F. Stensgat, Colville Business Council
David Swink, Spokane Regional Health District
Tami Thompson, Department of Health
Rob VanSlyke, Bethel School District and Puget Sound School Coalition
Tere VonMarbod, Newport School District
Tim Wood, Spokane Schools and WAMOA

David Crump, SBOH Vice-Chair, called the public meeting to order at 9:03 a.m. and read from a prepared statement (on file).

1. APPROVAL OF AGENDA

Motion: Approve August 27, 2008 agenda

Motion/Second: Higman/VanDusen. Approved unanimously

2. ADOPTION OF JUNE 11, 2008 MEETING MINUTES

Motion: Approve the June 11, 2008 minutes

Motion/Second: Higman/Yu. Approved unanimously

3. SBOH ANNOUNCEMENTS AND OTHER BOARD BUSINESS

Craig McLaughlin, SBOH Executive Director, provided an overview of the Board's budget. He explained that the Governor's order freezing hiring and asking for other cost savings would affect Board activities. One Board staff position (secretary senior) is currently vacant but he is trying to get an exemption approved to fill it. Travel out of state is restricted. He reported that the Governor recently reappointed three Board members: Diana Yu, John Austin, and Karen VanDusen. He said David Crump, SBOH Vice Chair, has served two full terms and the Governor prefers not to reappoint board and commission members for more than two terms. Vice Chair Crump has agreed to serve until replaced. Mr. McLaughlin said he is named in a lawsuit regarding serving on a panel that developed state opiate use guidelines. He commented on other printed informational materials in the Board's packet.

He then focused on the financial problems of local health agencies, many of which are planning to cut programs and lay off staff. He said the Washington State Nurses Association is calling this an immediate crisis. Keith Higman, SBOH Member, said Island County Health Department, of which he is administrator, is reducing staff by 18%. He said this is happening across the state and should be kept in mind by the Board as it makes decisions. Member Yu commented that local health agencies have been forced to lay off very experienced staff members who will be hard to replace in the future, especially for smaller, rural agencies. Vice Chair Crump said the Spokane Regional Health District was in reasonably good financial shape, but expects to have problems after a few more years. Mr. McLaughlin commented that the state's projected budget deficit would make it difficult for the state to help local health agencies. Mel Tonasket, SBOH Member, noted that home health agencies are in similar financial difficulty.

4. DEPARTMENT OF HEALTH UPDATE

Bill White, Deputy Secretary of Health, gave the Department of Health (DOH) update. He spoke of infectious disease outbreaks in Washington State. Recently there has been a measles outbreak in Grant County, a whooping cough outbreak in Island County and a *Salmonella* outbreak affecting 17 residents of the state. He also commented on zoonotic diseases affecting the state including West Nile virus and hanta virus. He said DOH would begin to monitor data and produce reports on hospital-acquired infections related to intravenous lines placed close to the hearts of intensive care patients (referred to as central line associated blood stream infections). Beginning in July, the Centers for Disease Control and Prevention (CDC) will be collected by the CDC and provide it to the department for further use. He gave a brief update on the sale of Inland Empire Hospital in Spokane, which will take place on August 20 unless it is appealed. DOH, he said, is updating hospital rules to allow more facilities to provide angioplasty and shunt procedures. He also mentioned a rural health strategic plan being developed to help address rural hospital workforce needs. He indicated that the adoption of federal legislation that would have de-certified 15 of the 132 rural hospitals in Eastern Washington from receiving Medicaid and Medicare service reimbursements has been delayed. He noted the launch of testing for the additional conditions in newborns and discussed the medical marijuana rule hearing Member Higman commented that responding to vector-borne and zoonotic diseases poses fiscal challenges for environmental health since no fees can be collected for this work. He indicated that rabies could affect bats who bite humans and that bat bites are not uncommon. Patricia Ortiz, SBOH Member, commented that outbreaks of infectious diseases should be reminders to health care providers to make sure their patients' vaccinations are complete and up-to-date. She said that providers could use news reports of outbreaks to remind patients of the importance of immunizations.

5. BOARD MEMBER COMMENTS AND CONCERNS

Vice Chair Crump thanked Board members for volunteering their time to serve on the Board. He traveled to Africa this summer and felt extremely thankful for the public health services in America. Member VanDusen thanked him for sharing his perceptions. She spoke of the ramifications of a weak public health system. She explained that when public health issues are not funded adequately, the infrastructure and work of public health are both compromised. Public health, she said, cannot be funded through fees entirely. Member Tonasket, commented that there was still a long way to go to achieve more coordination between agencies/entities with common interests in public health. He said that there is a need to talk more and share solutions and stories. Member Yu, said that many counties have forged the type of relations that Mr. Tonasket envisions. Still, counties do not have enough resources, as it is not possible to charge individuals for population-based services. He said we must think outside of the box if we are to address these challenges.

The Board took a break at 10:15 a.m. and reconvened at 10:30 a.m.

6. PUBLIC TESTIMONY ON ISSUES OTHER THAN SCHOOL HEALTH AND SAFETY

Cheryl Mitchell, Animal Advocates of the Inland Northwest, explained she is an attorney who deals with animal law. She commented on an incident of a pet monkey biting two women and a child. The Spokane Regional Health District ordered the monkey killed for rabies testing. She said that she reviewed the records of the incident, and found fault with practices of health district staff. She expressed concerns about the actions and attitudes of the staff. She asked the Board to investigate.

7. SCHOOL RULE, CHAPTER 246-366 WAC – DIFFERENCES BETWEEN JUNE DRAFT AND PUBLISHED DRAFT

Member Higman briefly introduced this item. He reminded the Board that at its June meeting it reviewed the third draft of the school rule and gave the environmental health committee direction. The rule was edited and published after the meeting. He said the Board would have a chance now to review these changes. Ned Therien, Health Policy Analyst, informed Board members that the proposal was filed at the end of July in preparation for today's hearing. He then took Board members through a presentation on Chapter 246-366A WAC that explained the changes in the published proposal from the June (See Tab 7 for a copy of the presentation.)

Member Higman explained that number of factors were considered when choosing implementation dates, including the economic impact on local health jurisdictions and schools; the differences between budget timelines at state, local, and school levels; and the need to protect students. Risk assessment guided much of the dialogue about implementation dates. There was also an attempt to minimize interpretation issues in the rule. Vice Chair Crump asked if annual inspections were defined in the rule. Mr. Therien responded that they were not defined, but that DOH would develop guidelines for inspections and provide training for staff. He indicated that DOH would also develop a model checklist. Vice Chair Crump then asked about water quality testing in the future. Mr. Therien explained that the rule requires re-testing for lead every five years for certain percentages of school fixtures, but not for copper. Mr. Therien clarified that new schools would also need to be tested. Member Tonasket asked what were the approximate number of drinking fountains that would actually need to be tested (see slides 15 and 16). Mr. Therien explained that the numbers were based on typical schools and the number of drinking water sources. He explained that the rule generally would not apply to restroom faucets, as this is not where children typically get their drinking water. Mr. Soltman commented that in the typical elementary school there are 50 fixtures used for drinking and cooking water. Member Higman further clarified that the rule focuses on plumbing fixtures regularly used for drinking or cooking water.

8. SCHOOL RULE, CHAPTER 246-366 WAC – WRITTEN COMMENTS AND SIGNIFICANT ANALYSIS UPDATE

Member Higman introduced Mark Soltman, Supervisor, Local Health Support Section, Office of Environmental Health & Safety, Department of Health. Member Higman reminded Board members that public comments would be accepted until September 10, so the list was not yet complete. Mr. Soltman took Board members through a presentation that covered the preliminary significant analysis summary and written comments on the rule. (See Tab 8 for a copy of the presentation.) Vice Chair Crump asked for clarification on the costs for the appeal and complaint processes. Mr. Soltman explained that schools needed to have procedures in place for handling environmental health and safety complaints. He indicated that the costs for development of such procedures had been included in the significant analysis. Mr. McLaughlin explained that an expected rise in complaints, as a result of the rules, also have been taken into consideration in the analysis. Vice Chair Crump wondered if the issue of water tester availability had been considered. Mr. Soltman said this issue had been looked at and that testers were available. He explained that schools typically collect the samples and send them to a laboratory. Shipment costs were factored into the significant analysis. Vice Chair Crump wondered if other respiratory conditions besides asthma had been taken into account in the analysis. Mr. Soltman explained that the analysis only pertains to asthma because there is data for that. Mr. McLaughlin explained that an improvement in air quality also reduce symptoms from other respiratory conditions (such as flu or colds) according to a number of studies. Member Higman asked how operation and maintenance issues are addressed in the significant analysis since some schools already do that voluntarily. He asked the same question for school construction. Mr. Soltman indicated that the analysis had taken existing activities into account while at the same time acknowledging that there is a real range of costs for operation and maintenance and constructions activities. Mr. Higman asked if the significant analysis presented a worst-case scenario for construction costs (i.e., presumes that no schools currently address these standards for construction). Mr. Soltman briefly explained the process used to complete the significant analysis and indicated that the numbers were conservative. Mr. McLaughlin commented that the process is somewhat subjective but that DOH used typical costs as the basis for the analysis. He further acknowledged that in reality there is no such thing as typical costs. He concluded that the best approach to use was to use higher numbers from the range of estimates.

The Board recessed for lunch at 11:53 a.m. and reconvened at 1:01 p.m.

9. SCHOOL RULE, CHAPTER 246-366 WAC – PUBLIC HEARING

Mr. McLaughlin introduced the written comments received by the Board before today about the school rule proposal, copies of which are included in Board packets behind Tab 9.

Eric Dickson, Industrial Hygienist with Educational Service District 101, testified that the proposed rules are better than earlier drafts. He gave kudos to staff for that. However, he said they were of concern because they would require a lot of school staff resources to implement. He mentioned that drinking water sampling would be costly because samples would need to be taken in early in the morning. Most school districts would use in-house staff and training would be required. This could result in overtime costs. In rural areas, there would be relatively high costs because of the great distance to transmit samples to laboratories. He asked the Board to re-evaluate the need for re-sampling every five years based on initial sampling results. He also clarified that carbon dioxide levels are only an indicator of poor ventilation. Exceeding this recommended standard does not present a health hazard itself, but rather indicates poor ventilation. Adequate ventilation is needed to remove air contaminants and particulates.

Tere VonMarbod, Superintendent of Newport School District, said state apportionment money would be used by her district of about 1060 student to comply with these rules. The district has two maintenance staffers and four custodians. She said staff numbers matched the state formula. She said adding new responsibilities for them would mean that something else they do would have to be dropped. She said there needs to be funding, such as the small repair grants, for school districts to be able to respond to any deficiencies found. She is not opposed to the rule, but needs funding to implement it. She is in a poor community and cannot expect levies to fund this.

Vicki Gardner, a teacher representing the Washington Education Association's Indoor Air Quality Task Force, thanked the Board for the process to improve the rule. She urged adoption of the proposed rule without delay to protect student and staff health. She said providing an effective date of September 2010 should provide adequate time to train staff and to seek funding to implement the rule. She said that WEA urged the Board not to wait for legislative action to adopt the rules.

Tim Wood, Interim Director of Maintenance and Operations for Spokane Public Schools and President of the Washington Association of Maintenance and Operations Administrators, testified that he thinks the proposed rule is an improvement over previous drafts. However, he said, the rules would be costly to implement and their complexity would make them difficult to implement consistently. He said school district officials throughout the state have been very responsive for many years to protect the health and safety of students under existing rules. He said that he is proud of the cooperative relationship his district has with Spokane Regional Health District. Additional requirements might not be needed. He said that the proposed rules would be another unfunded mandate that would burden schools. He asked the Board to postpone adoption until the Legislature has had a chance to determine funding. He said the rules should not be adopted without funding. He also said it is important to develop and train local health and school personnel before implementation to assure consistent interpretation.

Jennifer Aspelund, parent, testified about concerns with the rule, including lack of a definition of mold. Other concerns were about lack of specificity regarding cooperation between local health personnel and schools based on level of risk; the provision that local health officers could allow school districts to self-inspect two out of three years; and the lack of a timeline for DOH to establish an advisory committee. She asked that posting of entrances to school buildings affected by mold be required. She said that posting of all entrances if there is mold contamination is very important to her. She asked for clarity about subsection 246-366A-095(3) about equipment or activities "that produce" air contaminants of public health importance. She asked that schools be required to provide restrooms for after hour uses of sports fields. She asked that requirements for walk-off mats and for drying of carpets cleaned by a wet method be restored. She asked for the addition of an enforcement section to specify accountability, similar to the statutory statement of responsibility for many types of public officials in RCW 43.20.050(5).

Denise Frisino, former teacher, testified that she has three concerns with the rules. Her primary concern is that enforcement provisions are not specified. Other concerns were that teachers should be better protected by the rules and that mold provisions are not strict enough. She said that in 2000, while working at Hamilton International Middle School, she repeatedly tried to get school officials to address her exposure to dust from deteriorating floor materials, which her doctor identified as contributing to her health problems. The school moved exercise equipment into the room for students to use. She was transferred to Nathan Hale High School. She shared pictures of

Nathan Hale High School and described evidence of mold contamination. She expressed concern with provisions requiring notification of mold exposure being triggered by greater than ten square feet of mold involvement. She said that much less mold should trigger notification.

Rob VanSlyke, Executive Director of Operations for Bethel School District and member of the Pierce County School Coalition, thanked Board and DOH staff for many years of hard work. He said that he thinks trust was built during the process. He testified that the vast majority of school officials do all they can to protect the health of students and teachers. However, it is real struggle for school officials to meet all the needs with the level of funding they have. He said that he thinks there is general agreement among school districts that there are positive provisions in the rule proposal, but they still have apprehension about local health interpretations. The main issue is a need for funding. He asked that the Board work together with all parties to ask legislators for funding.

David Swink, Director of Environmental Health, Spokane Regional Health District, thanked the Board for allowing his agency to participate in development of the rule. He said he particularly appreciates the flexibility built into the proposal for local inspection programs. He said he supported the proposed rules in concept, if adequate funding is provided to implement it. He said they are an improvement over the existing rules. He commented on the importance of good relationships between local health, school, and educational service district personnel. A collaborative approach is the key to school safety and should be encouraged for all jurisdictions. He said local health agencies need funding for staff resources and training to allow implementation. He said a two-year phase-in should allow adequate time, provided resources are available. He said he supports a delay in adoption so the Legislature can consider funding, not only for school districts, but also for local health and DOH. He said he would be submitting technical comments in writing later.

Doug Matson, Deputy Superintendent for West Valley School District in Spokane and President of Washington Association of School Business Officials, testified that many schools are having severe financial problems and cannot balance their budgets. He encouraged the Board to postpone adoption until the Legislature has finished its study of basic education school funding. He said schools could not handle an unfunded mandate. They are very concerned about the kids but need funding to be able to handle all they have to do.

Dan Hornfelt, Pullman School District, testified that compliance would be difficult for school districts. Resources are becoming tighter. Schools were constructed according to codes of the time. He asked that implementation of new requirements be incremental. He encouraged the Board to be sensitive to resource limitations of schools. He said that many initiatives seem to be addressing the same concerns simultaneously. These parallel efforts should be coordinated. He cautioned the Board about individual case sensationalism.

Thelma Simon, parent, thanked the Board for the rule and asked for immediate adoption. She said she has been working on this issue for 14 years. She commented about a DOH health survey in Cle Elum schools that identified health problems in students, including depression and asthma. She testified that commissioning of new schools is very important to assure contractors build safe schools and schools get what they have paid for. She expressed concern that many provisions in the proposal have been part of the rules for 37 years. The fact that only some counties enforce them is an issue. She said that rules are necessary. Rules are needed for the ombudsman system to work. Regarding funding for the WASL, she said children could not learn unless their environment is safe.

She commented that carpet cleaning and drying are important. She said that providing walk off mats is also important.

Vice-chair Crump closed public testimony at 2:10 p.m. and recessed the meeting until 2:22 p.m.

10. SCHOOL RULE, CHAPTER 246-366 WAC – PUBLIC HEARING, BOARD MEMBER DISCUSSION

Vice Chair Crump said this was the time to discuss the rule proposal and ask question about additional information needed. John Austin, SBOH Member, asked whether there was a definition of a “health room” Mr. McLaughlin said there is no definition in the rule; however, the term seemed understood during the process.

Deputy Secretary White commented that rules are written to try to fit all. He said he would ask staff to look into adding language for a provision for a hardship variance for very small, cash-strapped districts. Mr. McLaughlin said that hardship issues seem to be addressed through correction schedules already provided for in the proposal. Member VanDusen asked staff to look at whether a hardship variance concept fit within the variance section language in the current proposal. She said it seemed to be more about giving time to make corrections than trying to get out of doing anything. Member Yu commented that in the example of the Vader school, the issue was a building code violation, for which a variance could not be provided in this rule. Member Tonasket said he would be hesitant to add language about hardship variances because every school district could claim a hardship. Member Higman said he thinks current language would allow enough flexibility to address such concerns. He said, however, that he sees some value in making a public statement that local health jurisdictions need flexibility in the face of school district hardships. He explained how local health jurisdictions balance risk in decisions all the time. Deputy Secretary White emphasized the need for collaborative programs, which could be taken care of through guidelines. Members discussed the expectation for an inspection checklist. Member VanDusen commented that the level of risk must be considered in decisions. Mr. McLaughlin said corrections might be incremental improvements.

Member Tonasket asked for a list of areas of the rule where training would be needed and where it is available. He said the level of training needed did not seem to be very difficult. Member VanDusen said that availability of training was an important issue, but the training did not need to be in place before the rule is adopted. Deputy Secretary White said that his staff could put something together for the next Board meeting. Vice Chair Crump asked where the five-year retesting for lead in water comes from. Member Higman said that it is consistent with the model for public water systems adopted by U.S. Environmental Protection Agency. Vice Chair Crump asked where the ten square feet for mold remediation came from. There was Board discussion about EPA guidance for remediation and a lack of guidance containing notification advice.

Vice-chair Crump asked what the next steps might be after the September 10 hearing. Mr. McLaughlin described some options. He said the Board needs to get to other policy issues soon that have been deferred. Deputy Secretary White commented that a decision tree could be helpful. Member Tonasket asked for clarification when the rule would take effect if the Board adopts the proposal. Mr. McLaughlin replied that it would be September 2010 for most of it. Member VanDusen asked if the Board could be given guidance at the next meeting about what kinds of changes to the rule that would require another hearing. She said many other unfunded mandates have been imposed on schools without this level of scrutiny about costs. She said the Board should

be an advocate for children's health, rather than spending so much effort considering costs. Member Higman asked all Board members to be prepared to voice their decisions on the rule at the end of the meeting on September 10.

Mr. McLaughlin commented that there are many legislative committees and other initiatives looking at total school costs. The Office of Superintendent of Public Instruction also has been looking at school costs. He said that the Board's rule is seen by the Legislature as one piece of the big puzzle that is school funding. Vice Chair Crump said he is encouraged by the Legislature looking at the rule. He said it is not just small districts that have financial problems, big ones do too. Member Tonasket commented that he understands the political issues, but the Board's responsibility is to protect health. He said he took to heart the Governor's statement that children are this state's #1 priority. Everything the Board does costs someone something.

ADJOURNMENT

Vice Chair Crump adjourned the meeting at 3:17 p.m.

WASHINGTON STATE BOARD OF HEALTH

Treuman Katz, Chair