

MINUTES OF THE MEETING OF THE  
INDIANA DEPARTMENT OF HEALTH  
EXECUTIVE BOARD  
May 12, 2021

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 the Robert O. Yoho Executive Board Room of the IDOH building by Brenda Goff, Chair. The following Board members were present for all or part of the meeting:

Naveed Chowhan, MD, FACP, MBA  
Blake Dye  
Brenda Goff, HFA (Chair) – in-person  
Martin Hanneman, DDS – in-person  
Joanne Martin, DrPH, RN, FAAN  
Holly Robinson, MD  
Patricia Spence, PE – in-person  
Stephen Tharp, MD (Vice Chair) – in-person  
Kristina M. Box, MD, FACOG, Secretary

Members not attending:

Robin Marks, DVM  
Suellyn Sorensen, PharmD, BCPS

The following staff members were present for all or part of the meeting:

Shane Hatchett, Chief of Staff  
Pam Pontones, Deputy State Health Commissioner/State Epidemiologist  
Lindsay Weaver, MD, FACEP, Chief Medical Officer  
Matt Foster, JD, Assistant Commissioner, Consumer Services and Health Care Regulation  
Eldon Whetstone, JD, Assistant Commissioner, Health and Human Services  
Shirley Payne, PhD, Assistant Commissioner, Public Health Protection  
Lixia Liu, PhD, Assistant Commissioner, Laboratory Services/State Lab Director  
Kelly MacKinnon, Director, Office of Legal Affairs  
Donna Sembroski, Office of Legal Affairs  
Micha Burkert, Deputy Director, Office of Legislative Affairs

Call to Order

Brenda Goff, Chair, stated that a quorum was present and called the meeting to order at 10:02 am. She then asked if Board members had any known conflicts of interest to declare. Hearing none she proceeded with the meeting.

## Minutes

Ms. Goff asked for discussion and/or corrections to the minutes of the March 10, 2021 Executive Board meeting. Hearing none, she entertained a motion for approval. On a motion made by Dr. Stephen Tharp, seconded by Patricia Spence and passed by majority roll call vote of both in-person and virtual attendees, the Board approved the minutes as presented.

## **OFFICIAL BUSINESS OF THE STATE DEPARTMENT OF HEALTH**

### SECRETARY'S REPORT

Dr. Box provided a brief update on the COVID-19 response. An additional 687 Hoosiers have been diagnosed with COVID-19 through testing at state and private laboratories. This brings the total of Indiana residents known to have had the virus to 730,969. Fifteen additional Hoosiers died from the virus, which brings the total of Indiana residents who have died from the virus to 13,018. This week vaccination clinics are scheduled at the Roosevelt High School in Gary, Indianapolis 500 IndyCar Parking Lot, Center Lake Pavilion in Warsaw, Tolson Center in Elkhart, the Community Action of Southern Indiana in Jeffersonville, the Tipton County Fairgrounds in Tipton, and McMillen Park in Allen County. Dr. Box stated that according to federal statistics, Indiana ranks 39<sup>th</sup> in the nation for hospitalizations, 40<sup>th</sup> in the nation for fully vaccinated individuals, and 19<sup>th</sup> in the nation for deaths per 100,000. The current positivity rate as of today is 5.2%. Pam Pontones, Deputy State Health Commissioner/State Epidemiologist mentioned that jails continue to see outbreaks. Some genetic sequencing is being done to identify the variant. Dr. Shirley Payne, Assistant Commissioner for Public Health Protection Commission reported that insurance claims are being processed with \$5 million for administrative fees received to date.

Shane Hatchett, Chief of Staff, reported that the IDOH has received official notification of accreditation from the Public Health Accreditation Board as of May 19, 2021. Other counties in the state that have also achieved accreditation are Rush, Montgomery, and Vanderburgh, respectively. He also updated the Board members on the roll-out of the Database Registration of Indiana's Vital Events (DRIVE). It appears all issues have been resolved and the system is running smoothly.

Mr. Hatchett also provided a legislative update:

### HEA 1001 – Budget

- IDOH budget
  - Maintains funding levels from the last biennial budget, with a couple exceptions:
    - Increases the appropriation for Children's Special Healthcare Needs Program from just over \$10.5M to just under \$15M (\$14.95) to meet the current expenses incurred (substantial increase due to Cystic Fibrosis coverage beyond age 21 and high pharmaceutical costs)
    - Restores the Minority Health Initiative & epidemiology funds to their pre-Recession high water marks. These funds support various planning projects and initiatives such as community-based programming, minority professional recruitment, and promoting culturally and linguistically appropriate health and disease prevention programs.

- Consolidates some duplicative or similar funds to ease the administrative workload for our program and finance team, does not have any practical impact on program focus or funded initiatives.
- Appropriates \$50 million to IDOH to fund a new grant program (HB 1007) to address key health issues funded through the American Rescue Plan.
- Imposes an e-cigarette tax of 15% at the retail level on both e-cigarettes and a 25% wholesale tax of closed system cartridges for e-cigarettes.
- Cigarette tax increase was removed from the Budget by the Senate.

#### HEA 1007 – Health Challenge Grants (\$50 Million to be granted out to help local level)

- Requires IDOH to create the State Health Improvement Plan – we already do this, but this put it into statute.
- Establishes a grant program to address significant health issues impacting Indiana, to be administered by IDOH.
- The program is designed after our Safety PIN program, but will address other health issues outside of infant and maternal health such as diabetes, Hepatitis C, cancer screenings, lead poisoning, etc.
- IDOH publicly supported the bill.

#### HEA 1203 – Agency Bill

- Makes administrative changes in statute for the agency.
  - Put in statute our agency name change.
  - Clearly delineating in statute the Commissioner is the head of the agency and has appointing authority, which will be helpful to our accreditation process.
  - Clarifying that the Governor and State Budget Agency set the Commissioner’s salary and allow the Commissioner to re-organize the agency as needed (without Executive Board approval).
  - Extending the same statutory authority as the Commissioner to other physicians to continue practicing medicine while employed with the agency.
  - Moving from two internal administrative appeals to only one appeal with an ALJ (no panel) to allow for individuals to have the opportunity to move out to the courts faster.
  - Extends the syringe service statute sunset to 2026.
  - Allows IDOH to continue sharing COVID data with IHIE after the public health emergency and executive orders end.

#### SEA 10 – Maternal Mortality

- IDOH worked with ACOG on language to ensure that all maternal deaths are reported to the Maternal Mortality Review Committee. The bill also ensures the MMRC is getting records from mental health professionals.

#### SEA 202 – Facility Visitation

- Requires long term care (LTC) facilities to allow visitation of residents in compassionate care situations.

- Formalizes the essential family caregiver program during public health emergencies. IDOH issued guidance on this during COVID, and this put that into statute mandating facilities to offer this option to residents and families.
- Added hospitals into the bill to allow visitation of patients in compassionate care situations.

#### SEA 20 – Regulation of Micro Markets

- Removed the requirement for a micro market to submit any documentation or pre-approval plan before the installation of a micro market.
- Prohibits an owner/operator from be subjected to a fee associated with providing notice of installation.

#### SEA 361 – Eyelash Extension Specialists

- Requires IDOH to establish sanitary operation rules for facilities where eyelash extensions are being applied.
- IDOH to establish training and certification requirements for eyelash extension specialists.

#### SEA 301 – Child Services Oversight

- Allows for other members of a child fatality review committee to call a meeting other than the county prosecutor for purposes of the first meeting of the local child fatality review committee. Requires the annual local child fatality review committee reports and statewide report be submitted to legislative council each year.

#### SEA 416 – Hospitals and Certificates of Public Advantage (COPA)

- Requires IDOH to establish the certificate of public advantage pertaining to the merger of trauma hospitals within rural counties in Indiana. (Basically, geared toward 2 hospitals in Vigo County. Board will be dealing with this rule at the July 2021 meeting)

### **COVID-related bills**

#### HEA 1123 – State of Emergency & General Assembly Special Sessions

- Addresses Governor’s executive powers for a state of emergency and when the legislature can be called in for a special session.
- Establishes a legislative state of disaster advisory group to consult with the Governor and make recommendations pertaining to a widespread disaster emergency.
- Requires federal economic stimulus funds sent to the State to be appropriated by the legislature.
- Sets limitations on the duration and renewal of a disaster emergency effecting more than 10 counties.
- Governor vetoed and the legislature overrode the veto. Governor has filed suit.

#### SEA 5 – Appeal of local health enforcement actions

- Allows businesses to appeal an enforcement action from a local health department through their local elected body during a public health emergency (county commissioners/council).

- Allows a local health department to be less stringent than a state executive order (if allowed in the EO) OR be more stringent than if approved by the county executive or by a local ordinance.
- Requires the appointment of a Local Health Officer is subject to the approval of the local elected body.
- Governor vetoed and the legislature just voted to override that veto on May 10, 2021.

### **Health and Human Services Commission**

#### **Emergency Adoption of Amendment to Newborn Screening Rule 410 IAC 3-3**

Eldon Whetstone, JD, Assistant Commissioner, Health and Human Services Commission, presented the amendment to the Newborn Screening Rule 410 IAC 3-3 for emergency adoption. The proposed emergency rule amendment adds one additional disorder to the newborn and infant screening panel and increases the newborn screening fee to cover the cost of the additional disorder.

During the 2020 Legislative Session, the Indiana General Assembly passed HEA 1129, affecting newborn screening. HEA 1129 added the disorder Adrenoleukodystrophy (ALD) to the newborn screening panel. The IDOH is seeking to amend its rule to reflect these legislative changes. In addition, IDOH is seeking to increase the newborn screening fee to cover the cost associated with screening for the additional disorder. This condition can be fatal and is a contributor to Indiana's infant mortality rate. With early detection and rapid intervention, newborns with this condition have a chance for a longer, and higher quality life. Staff recommends approval by the Board.

Ms. Goff asked for comments from the Board, staff and/or public. Hearing none, she entertained a motion for approval. On a motion made by Dr. Stephen Tharp seconded by Dr. Martin Hanneman and passed unanimously by roll call vote of both in-person and virtual attendees, the Board approved the amendment to the Newborn Screening Rule 410 IAC 3-3 for emergency adoption. The emergency rule will be effective July 1, 2021.

#### **Discussion of Amendments to the Diagnostic Testing and Hyperbaric Oxygen Treatment (HBOT) Pilot Program Rule 410 IAC 37-1**

Eldon Whetstone, JD, Assistant Commissioner, Health and Human Services Commission, presented amendments to the Diagnostic Testing and Hyperbaric Oxygen Treatment (HBOT) Pilot Program Rule 410 IAC 37-1 for discussion.

The proposed rule amendment:

- 1) Makes permanent the removal of the co-pay requirement for veterans who participate in the grants;
- 2) Removes the requirement that patient health improvement be a condition for approval of payment for treatment under the hyperbaric oxygen treatment pilot program; and
- 3) Removed the requirement that the IDOH receive pre-treatment and post-treatment evaluation documentation as a condition for approval of payment for hyperbaric oxygen treatment.

During the 2021 Legislative Session, the Indiana General Assembly passed SEA 91, affecting hyperbaric oxygen treatment. SEA 91 removed patient health improvement as a condition needed for approval of payment for treatment, removed the requirement for the IDOH to receive evaluation documentation, and extended the pilot program until June 30, 2025. IDOH is seeking to amend its rule to reflect these legislative changes.

The rule will be effective June 29, 2021.

Ms. Goff asked for comments from the Board, staff and/or public for discussion purposes. Dr. Stephen Tharp asked if there were any facilities participating in the pilot program at this time. Mr. Whetstone stated that Clark Memorial Hospital has a hyperbaric chamber.

#### Distribution

Ms. Goff thanked staff for the Professional New Hire and Separation Reports, the Summary of Final Orders and Consent Decrees and Variance Waiver Approvals.

#### Adjournment

Hearing no additional comments from the Board, staff and/or public, Ms. Goff adjourned the meeting at 10:55 am. The next meeting is scheduled for July 14, 2021.