

MINUTES OF THE MEETING OF THE
INDIANA DEPARTMENT OF HEALTH
EXECUTIVE BOARD
March 9, 2022

The in-person and virtual (Microsoft Teams) meeting of the Executive Board of the Indiana Department of Health (IDOH) was called to order at 10:30 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 (via teams)
Blake Dye (via teams)
Brenda Goff, HFA (Chair)
Martin Hanneman, DDS (via teams)
Robin Marks, DVM
Joanne Martin, DrPH, RN, FAAN (via teams)
Shelley Rauch, HFA (via teams)
Holly Robinson, MD
Suellyn Sorensen, PharmD, BCPS (via phone)
Patricia Spence, PE
Stephen Tharp, MD (Vice Chair)
Kristina M. Box, MD, FACOG, Secretary

The following staff members were present for all or part of the meeting (in-person or via teams):

Pam Pontones, MA, Deputy State Health Commissioner / State Epidemiologist
Lindsay Weaver, MD, FACEP, Chief Medical Officer
Shane Hatchett, Chief of Staff
Micha Burkert, Director, Legislative and External Affairs
Amy Kent, Assistant Commissioner, Consumer Services and Health Care Regulation
Lixia Liu, PhD, MP(ASCP), D(ABMM), Assistant Commissioner, Laboratory Services Commission/State Lab Director
Eldon Whetstone, JD, Assistant Commissioner, Health and Human Services
Tina Feaster, Epidemiology Resource Center
Kelly MacKinnon, JD, Chief Legal Counsel
Donna Sembroski, JD, Office of Legal Affairs
Jonathan Nagy, JD, Office of Legal Affairs
Laura Parks, JD, Office of Legal Affairs

Call to Order

Brenda Goff, Chair, stated that a quorum was present and called the meeting to order at 10:30 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 January 12, 2022, 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 in-person and virtual attendees, the Board approved the minutes as presented.

OFFICIAL BUSINESS OF THE INDIANA DEPARTMENT OF HEALTH

Dr. Box provided an update on the Governor's Public Health Commission established by the Governor's Executive Order 21-21. The Commission's mandate is to generate a report this summer that:

- Analyzes Indiana's current public health system, including its strengths and weaknesses;
- Makes recommendations to improve the delivery of public health services, address funding challenges, promote health equity, and ensure the sustainability of our local health departments;
- Analyzes the performance of state and local health departments during the pandemic and makes recommendations to ensure Indiana is well prepared for future emergencies;
- And propose draft bill language to address these recommendations for the 2023 legislative session

Discussions are focused on six key areas:

- Funding
- Workforce
- Governance and infrastructure
- Emergency preparedness
- Integration of data and analytics
- Childhood and adolescent services

Seven listening tours will be held around the state to gather input and hundreds of public comments have already been received through the on-line comment form. Currently, 25 virtual or in-person stakeholder meetings have been held as well to enlist support and explain the goals of the Commission.

Dr. Box reported that COVID cases are down. The IDOH is in the process of decommissioning strike teams and mass vaccination sites now until the end of June. The agency will continue to report cases, hospitalizations and resources in case of a surge. There are five sites in Indiana that are looking at (studying) COVID-19 in sewage which could indicate a possible rise in COVID cases.

She also announced that Dr. Lindsay Weaver, Chief Medical Officer is leading the Oral Health program since the retirement of Dr. James Miller. The agency will discuss the position with the Indiana Dental Association prior to posting.

Shane Hatchett, Chief of Staff provided a brief Legislative update. There will be a more complete legislative update at the May Executive Board meeting.

Consumer Services and Health Care Regulation Commission

2nd Emergency Adoption of Abortion Complications Reporting Rule

Shane Hatchett, Chief of Staff, presented the Abortion Complications Report Rule for a 2nd emergency adoption. The first emergency rule was filed on January 12, 2022. Once approved this rule will be filed on April 12, 2022, when the previous rule expires and will stay in effect for 90-days.

The proposed rule adds regulations to clarify the abortion complications reporting required in IC 16-34-2-4.7 for providers, hospitals, and abortion clinics.

The abortion complications reporting requirement was initially enacted by the Legislature in 2018, with amendments in 2019. However, the requirement was enjoined before going into effect while its constitutionality was litigated. In October 2021, the requirement was found to be constitutional, and the injunction was lifted. This emergency rule is needed to provide guidance to the providers, hospitals, and abortion clinics that are required to report. It clarifies that "best medical judgement" which was recommended in litigation to be that it is up to the doctor to determine what is an abortion complication; provides a timeframe of 30-days so providers know how much time they have to report and ensures that complications are reporting in a timely fashion; clarifies that both the provider and facility do not have to report, but they must ensure that it does get reported. Staff is working to make this rule a final rule, but the emergency rule is needed until the final rule is enacted. Staff recommends the Board approve the Abortion Complications Reporting Rule be approved for a 2nd emergency adoption.

Ms. Goff asked for comments from the Board, staff and/or public. Joanne Martin inquired when the Terminated Pregnancy Annual Report would be available for the public. Shane stated that it would be available this summer. Joanne asked that staff send the link to the report to the Board members. Hearing no other comments, Ms. Goff entertained a motion for approval. On a motion made by Dr. Tharp, seconded by Patricia Spence and passed by majority roll call vote of in-person and virtual attendees, the Board approved the Abortion Complications Reporting Rule for a 2nd emergency adoption.

Epidemiology Resource Center

2nd Emergency Adoption of Eyelash Extension Rule

Pam Pontones, Deputy State Health Commissioner/State Epidemiologist presented the Eyelash Extension Rule for a 2nd emergency adoption. This rule adds provisions governing the operation of facilities where eyelash extensions are applied and sets out education and training requirements for individuals applying eyelash extensions. SEA 361 (P.L. 55-2021) provides that individuals providing eyelash extension services are no longer required to obtain an esthetician license from the State Board of Cosmetology and Barber Examiners. The legislation requires the IDOH to adopt rules by January 1, 2022, setting out training and sanitation requirements for those services. In order to comply with this mandate, it is necessary to adopt an emergency rule to take effect December 31, 2021. The emergency rule expires on March 31, 2022. To remain compliant, it is necessary to approve a 2nd emergency adoption to take effect April 1, 2022, while the permanent rule process is underway. This emergency rule applies to individuals who provide eyelash extension services to members of the public who are not licensed estheticians or cosmetologists. The Epidemiology Resource Center and Office of Legal Affairs are working on the final permanent rule. Staff recommends the Board approve the Eyelash Extension Rule for a 2nd emergency adoption.

Ms. Goff asked for comments from the Board, staff and/or public. Based on a question raised by Dr. Holly Robinson, Pam stated that licensed estheticians and cosmetologists who apply eyelash extensions along with other cosmetology services will continue to be governed by the rules of that license. Hearing no other comments, Ms. Goff entertained a motion for approval. On a motion made by Dr. Tharp, seconded by Dr. Robin Marks and passed by majority roll call vote of in-person and virtual attendees, the Board approved the Eyelash Extension Rule for a 2nd emergency adoption.

Health and Human Services Commission

Final Adoption of amendments to the Diagnostic Testing and Hyperbaric Oxygen Treatment (HBOT) Pilot Program for Veterans Rule 410 IAC 37-1

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

The proposed final rule:

- Updates definitions in 410 IAC 37-1-5, 37-1-7, 31-1-8, 37-1-11 and 31-1-13;
- Removes the requirement for a copay for veterans who participate in the grants for the HBOT pilot program;
- Removes the requirement that patient health improvement be a condition for approval of payment for treatment under the HBOT pilot program;
- Removes the requirement that the Indiana Department of Veterans' Affairs receive pre-treatment and post-treatment evaluation documentation as a condition for approval of payment for HBOT; and
- Extends the program to the expiration date set by statute.

During the 2021 Legislative Session, the Indiana General Assembly passed Senate Enrolled Act (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 IDOH to receive evaluation documentation and extended the pilot program until June 30, 2025. IDOH is seeking to amend the rule to reflect these legislative changes.

The Notice of Intent to Adopt a Rule was published in the *Indiana Register* on September 29, 2021, starting the one-year period to adopt this rule. IDOH did not receive any public comments on the rule.

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. Tharp, seconded by Dr. Marks and passed by majority roll call vote of in-person and virtual attendees, the Board approved the amendments to the Diagnostic Testing and Hyperbaric Oxygen Treatment (HBOT) Pilot Program for Veterans Rule 410 IAC 37-1 for final adoption.

Distribution

Ms. Goff thanked staff for the professional new hire and separation reports and summary of final orders and consent decrees.

Adjournment

Hearing no additional comments from the Board, staff and/or public, Ms. Goff adjourned the meeting at 11:00 am. The next meeting is scheduled for May 11, 2022.