

MINUTES OF THE MEETING OF THE
INDIANA DEPARTMENT OF HEALTH
EXECUTIVE BOARD
March 10, 2021

The virtual meeting of the Executive Board of the Indiana Department of Health (IDOH) held via Microsoft Teams was called to order at 12:00 noon in the Robert O. Yoho Executive Board Room of the ISDH building by Brenda Goff, Chair. The following Board members were present for all or part of the virtual meeting:

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

Members not attending:

Martin Hanneman, DDS

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

Shane Hatchett, Chief of Staff
Matt Foster, JD, Assistant Commissioner, Consumer Services and Health Care Regulation
Eldon Whetstone, JD, Assistant Commissioner, Health and Human Services
Kelly MacKinnon, Director, Office of Legal Affairs

Call to Order

Brenda Goff, Chair, stated that a quorum was present and called the meeting to order at 12:00 noon. 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 13, 2021 Executive Board meeting. Hearing none, she entertained a motion for approval. On a motion made by Dr. Stephen Tharp, seconded by Dr. Robin Marks and passed by majority roll call vote via Microsoft Teams, 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 863 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 669,164. Sixteen additional Hoosiers died from the virus, which brings the total of Indiana residents who have died from the virus to 12,350. Vaccination clinics are scheduled for March 20 to 21 at Calumet New Tech High School in Gary; March 12 to 13 at Ivy Tech Community College in Sellersburg; and March 26 to 27 at the University of Notre Dame. Brenda Goff asked the estimated time for all Hoosiers to receive the vaccine. Dr. Box stated that vaccine availability is still the issue at this point. Suellen Sorensen asked about university students receiving the vaccine. Dr. Box stated that universities are stepping up to hold vaccination clinics for their students as soon as ample vaccine is available. Indiana has been directed by the Federal government to start vaccinating all teachers. Kroger and Meijer pharmacies have appointments available for teachers. Dr. Tharp asked who to contact if someone needed to change an appointment through a mobile vaccination clinic. Dr. Box noted that anyone can call 211 to change any appointment. Dr. Box reported that reinfections have been reported but they are very rare. Dr. Robyn Marks asked about the efficacy of the vaccine against the variants. Dr. Box stated that all the vaccines have a high efficacy against the variants at this point. Joanne Martin asked about a possible surge during the March Madness basketball tournament being held in Indianapolis. Dr. Box responded that the Marion County Public Health Department is working with all involved to make sure all precautions are taken to allow for a safe tournament.

Shane Hatchett, Chief of Staff provided a legislative update.

HB 1001 – Budget Bill (passed by the House and is now being considered by the Senate)

This bill: 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 CF 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.
- House Republican agenda item appropriates \$50 million to IDOH to fund a new grant program (HB 1007) to address key health issues.
- Increases the current cigarette tax by 50 cents per pack (making the total tax \$1.50).
- The cigarette tax increase would bring in approx. \$150 million in extra revenue, which would go toward Medicaid.
- Imposes an e-cigarette tax of 10% at the retail level on both e-cigarettes and e-cigarette products.

HB 1007 – Health Grants

- Requires agency to create the State Health Improvement Plan – we already do this, but this is putting it into statute.
- Establishes a grant program to address significant health issues impacting Indiana, to be administered by the agency.
- 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, etc.
- The agency has publicly supported the bill.

HB 1203 – Agency Bill

- Makes administrative changes in statute for the agency.
 - Puts 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 Exec 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 2030.
- Added language in committee to allow the agency to continue sharing COVID data with the Indiana Health Information Exchange (IHIE) after the public health emergency and executive orders end.

SB 10 – Maternal Mortality

- Agency has been working with the American College of Obstetricians and Gynecologists (ACOG) on language to ensure that all maternal deaths are reported to the Maternal Mortality Review Committee (MMRC).
- The bill also ensures the MMRC is getting records from mental health professionals.

SB 202 – Facility Visitation

- Requires Long Term Care facilities to allow visitation of residents in compassionate care situations.
- Formalizes the essential family caregiver program during public health emergencies. The agency issued guidance on this during COVID, and this will put that into statute mandating facilities to offer this option to residents and families.

HB 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.
- 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.

SB 5 – Appeal of local health enforcement actions

- Allows businesses to appeal an enforcement action from a local health department through their local elected body (county commissioners/council).
- The agency shared concerns with the bill and hope to see amendments in the House.

SB 407 – State disaster emergencies

- Establishes a legislative state of disaster advisory group to consult with the Governor and make recommendations pertaining to a widespread disaster emergency.
- Sets limitations on the duration and renewal of a disaster emergency effecting more than 10 counties.

Consumer Services and Health Care Regulation Commission

Final Adoption of Amendments to the Abortion Clinic Rules 410 IAC 26 and 410 IAC 26.5, LSA 20-604

Matt Foster, JD, Assistant Commissioner, Consumer Services and Health Care Regulation Commission, presented the Abortion Clinic Licensure Rules 410 IAC 26 and 410 IAC 26.5 for final adoption. The proposed rule:

- Amends 410 IAC 26-2-8 to state that the commissioner may take action under this section for any violation of state law;
- Amends 410 IAC 26-3-2 to require licensing surveys comply with state law;
- Amends 410 IAC 26-3-4 to require a plan of correction for non-compliance with any state law;
- Amends 410 IAC 26.5-3-8 to state that the commissioner may take action under this section for any violation of state law;
- Amends 410 IAC 26.5-4-2 to require licensing surveys comply with state law; and
- Amends 410 IAC 26.5-4-4 to require a plan of correction for non-compliance with any state law.

The Notice of Intent to Adopt a Rule was published in the *Indiana Register* on December 2, 2020 starting the one-year period to adopt this rule. The Executive Board reviewed the proposed draft of this rule at the November 18, 2020 Executive Board meeting. The Department received no public comments on this 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 Suellyn Sorensen, seconded by Dr. Naveed Chowhan and passed unanimously by roll call vote via Microsoft Teams, the Board approved the Abortion Clinic Rules 410 IAC 26 and 410 IAC 26.5 for final adoption.

Final Adoption of Disposition of Fetal Remains Rule 410 IAC 35, LSA 20-563

Matt Foster, JD, Assistant Commissioner, Consumer Services and Health Care Regulation Commission, presented the Disposition of Fetal Remains 410 IAC 35 for final adoption. The proposed rule:

- Amends 410 IAC 35 to remove references to expired Indiana Code citations;
- Adds 410 IAC 35-1-2.5 to add the definition of abortion clinic;
- Amends 410 IAC 35-1-3 to update the definition of cremation;
- Amends 410 IAC 35-1-4 to update the definition of health care facility;

- Amends 410 IAC 35-2-1 to update language to reflect statute;
- Adds 410 IAC 35-2-2 to update record-keeping requirements to reflect statute; and
- Repeals 410 AIC 35-1-6 and 410 IAC 35-1-7.

The Notice of Intent to Adopt a Rule was published in the *Indiana Register* on November 11, 2020 starting the one-year period to adopt this rule. The Executive Board reviewed the proposed draft of this rule at the September 9, 2020 Executive Board meeting. The Department received no public comments on this rule.

Ms. Goff asked for comments from the Board, staff and/or public. Joanne Martin questioned where to find a code citation and Matt Foster stated he will check to make sure it is included. Dr. Tharp asked what constitutes an abortion clinic. Kelly MacKinnon, Director, Office of Legal Affairs, stated that if you perform more than five abortions, you are an abortion clinic and if you perform less than five you are a provider. This language matches what is in Indiana Code. Hearing no other comments, Ms. Goff entertained a motion for approval. On a motion made by Dr. Stephen Tharp, seconded by Dr. Holly Robinson and passed unanimously by roll call vote via Microsoft Teams, the Board approved the Disposition of Fetal Remains Rule 410 IAC 35, LSA 20-563 for final adoption.

Final Adoption of the Long-Term Care Medication Disposal Rule 410 IAC 16.2, LSA 20-603

Matt Foster, JD, Assistant Commissioner, Consumer Services and Health Care Regulation Commission, presented the Long-Term Care Medication Disposal Rule 410 IAC 16.2 for final adoption. This rule specifically targets unused medications in long-term care facilities. The proposed rule:

- Amends 410 AIC 16.2-3.1-25 to remove language allowing for unused portions of medications to be destroyed within seven days and replace with language to render non-retrievable within three days;
- Defines rendering non-retrievable;
- Adds authorized storage containers as a method of disposing of unused portions of medications;
- Amends 410 IAC 16.2-5-6 to align with 410 IAC 16.2-3.1-25.

The Notice of Intent to Adopt a Rule was published in the *Indiana Register* on December 2, 2020 starting the one-year period to adopt this rule. The Executive Board reviewed the proposed draft of this rule at the September 9, 2020 Executive Board meeting. The Department received no public comments on this rule.

Ms. Goff asked for comments from the Board, staff and/or public. There was discussion on the difference between destroyed and non-retrievable. Matt Foster commented that during inspections, agency staff look at the time limit for destruction of unused medications. Hearing no other comments, Ms. Goff entertained a motion for approval. On a motion made by Suellyn Sorensen, seconded by Dr. Naveed Chowhan and passed unanimously by roll call vote via Microsoft Teams, the Board approved the Abortion Clinic Rules 410 IAC 26 and 410 IAC 26.5 for final adoption.

Distribution

Ms. Goff thanked staff for the Professional New Hire and Separation Report.

Adjournment

Hearing no additional comments from the Board, staff and/or public, Ms. Goff adjourned the meeting at 12:45 pm. The next meeting is scheduled for May 12, 2021.