

MINUTES OF THE MEETING OF THE
INDIANA DEPARTMENT OF HEALTH
EXECUTIVE BOARD
January 12, 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 10:32 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) (via teams)
Joanne Martin, DrPH, RN, FAAN (via teams)
Shelley Rauch, HFA (via teams)
Holly Robinson, MD (via teams)
Suellen Sorensen, PharmD, BCPS (via teams)
Patricia Spence, PE (via teams)
Stephen Tharp, MD (Vice Chair) (in-person)
Kristina M. Box, MD, FACOG, Secretary (in-person)

Members not attending:

Martin Hanneman, DDS
Robin Marks, DVM

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

Shane Hatchett, Chief of Staff
Lindsay Weaver, MD, FACEP, Chief Medical Officer
Lixia Liu, PhD, MP(ASCP), D(ABMM), Assistant Commissioner, Laboratory Services Commission/State Lab Director
Shirley Payne, PhD, Assistant Commissioner, Public Health Protection Commission
Eldon Whetstone, JD, Assistant Commissioner, Health and Human Services
Kelly MacKinnon, JD, Director, Office of Legal Affairs
Donna Sembroski, JD, Office of Legal Affairs

Guests

Samantha Montgomery (via teams)
Cathy (Guest – via teams)

Call to Order

Brenda Goff, Chair, stated that a quorum was present and called the meeting to order at 10:32 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 November 10, 2021, Executive Board meeting. Hearing none, she entertained a motion for approval. On a motion made by Dr. Stephen Tharp, seconded by Joanne Martin 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. On August 18, 2021, the Governor announced the establishment of the Governor's Public Health Commission via Executive Order 21-21. This Commission will spend the next year examining Indiana's public health system and then make recommendations to the legislature. This is the first thorough examination of Indiana's public health system in decades and is designed to better position Indiana to serve Hoosiers well into the future. In addition, the COVID-19 pandemic exposed the need to review how the Indiana public health system works, its strengths, and what resources are needed. This is an exciting opportunity to help ensure that every Hoosier has the opportunity to achieve their optimal health and access to public health services regardless of where they live. The kick-off meeting of the Commission was September 21, 2021. There will be presentations and discussion on emergency preparedness; governance, structure and services; funding and financing; data and information integration; healthcare and public health workforce; and childhood and adolescent health integration at the monthly meetings through July 2022. In addition to the monthly meetings, presentations are being given to partners and stakeholders throughout Indiana and listening tours are being scheduled for public input. The final report is to be submitted to the Governor in July 2022. Language will be drafted from these recommendations for the 2023 legislative session.

Dr. Box provided a brief update on COVID-19. The current positivity rate for COVID is 27%. Currently, 75% of hospital admissions are unvaccinated. The National Guard is helping ease the staffing shortages in eight hospitals currently. This aid can continue through April 1, 2022.

Consumer Services and Health Care Regulation Commission

Emergency Adoption of Abortion Complications Reporting Rule

Shane Hatchett, Chief of Staff, on behalf of Amy Kent, Assistant Commissioner for Consumer Services and Health Care Regulation Commission presented the Abortion Complications Report Rule for emergency adoption. Once approved this rule will stay in effect for 90-days beginning the date filed with the Legislative Services Agency. 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 rule was drafted in consultation with the Office of the Attorney General to address issues of concern that were raised during the litigation. 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 recommends the Board approve the Abortion Complications Reporting Rule be approved for emergency adoption.

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 Patricia Spence and passed by majority roll call vote of in-person and virtual attendees, the Board approved the Abortion Complications Reporting Rule for emergency adoption.

Emergency Adoption of Certificate of Public Advantage Rule

Shane Hatchett, Chief of Staff, on behalf of Amy Kent, Assistant Commissioner for Consumer Services and Health Care Regulation Commission presented the Certificate of Public Advantage (COPA) Rule (for hospital mergers) for emergency adoption. Once approved this rule will stay in effect for 90-days beginning the date filed with the Legislative Services Agency. The proposed rule adds regulations to set the application fee and process for the COPA program. This program is required by IC 16-21-15. The legislature established the COPA for hospital mergers program for qualifying hospitals. This program allows two hospitals to merge, under state monitoring, when the merger could otherwise be an anti-trust violation. The IDOH is seeking emergency rules to allow an application for COPA to be filed, and the fee collected, so the IDOH can start receiving funding to operate the program. Mr. Hatchett and Ms. MacKinnon discussed the needs for these preliminary rules and that future rules for the program will be different based on broader input and feedback from external counsel. Those rules will be brought back to the Board for review and approval at a later date.

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 Shelley Rauch, seconded by Joanne Martin and passed by majority roll call vote of in-person and virtual attendees, the Board approved the Certificate of Public Advantage Rule for emergency adoption.

Other

Dr. Tharp responded to a question in the chat from Cathy around evidence that masks do not work. He politely disagreed and reiterated that if masks are worn properly, they are one of the best defenses in our arsenal to slow the spread of COVID-19.

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 11:05 am. The next meeting is scheduled for March 9, 2022.