

MINUTES OF THE MEETING OF THE  
INDIANA STATE DEPARTMENT OF HEALTH  
EXECUTIVE BOARD  
March 11, 2020

The meeting of the Executive Board of the Indiana State Department of Health (ISDH) was called to order at 10:05 am 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 meeting:

Naveed Chowhan, MD, FACP, MBA  
Brenda Goff, HFA (Chair)  
Robin Marks, DVM  
Martin Hanneman, DDS  
Suellyn Sorensen, PharmD, BCPS  
Stephen Tharp, MD (Vice Chair)  
Kristina M. Box, MD, FACOG, Secretary

Members attending via telephone:

Blake Dye  
Holly Robinson, MD  
Patricia Spence, PE

Member(s) not attending:

Joanne Martin, DrPH, RN, FAAN

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

Shane Hatchett, Chief of Staff  
Matt Foster, Assistant Commissioner, Consumer Services & Health Care Regulation  
Preston Black, Director, Office of Legal Affairs  
Kelly MacKinnon, Deputy Director, Office of Legal Affairs  
Anne McGuinness, Office of Legal Affairs  
Deanna Smith, Office of Legal Affairs

Guests:

Andrew VanZee, Indiana Hospital Association  
Zach Cattell, Indiana Health Care Association  
Mike Rinebold, LeadingAge Indiana  
Eric Essley, LeadingAge Indiana  
Jeff Groh, Indiana Department of Homeland Security  
Erin Rows, Indiana Department of Homeland Security  
Matthew Brown, Office of Administrative Law Proceedings  
Michelle Allen, office of Administrative Law Proceedings  
Avianna Torres, Student, IUPUI  
Desiree Martinez, Student, IUPUI  
Marianna Conteh, Student, IUPUI  
Fonda Howard, Student, IUPUI  
Sarah Fiege, Student, IUPUI  
Kelvin Quang, Student, IUPUI  
K.R. & R.S, ABC57 News  
Rich Nye, WTHR

## **Call to Order**

Brenda Goff, Chair, stated that a quorum was present and called the meeting to order at 10:05 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 8, 2020 Executive Board meeting. Hearing none, she entertained a motion for approval. On a motion made by Dr. Martin Hanneman, seconded by Dr. Stephen Tharp and passed by majority roll call vote, 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 COVID-19. Currently, there are 10 cases in Indiana. The Avon Schools closed on March 9 and will not reopen until after spring break. They were concerned for the safety of the students and staff given there was a positive case identified in the school system. The ISDH is working very hard to provide the most accurate and up-to-date information to all Hoosiers on steps to take to stop the spread of COVID-19, i.e. social distancing and staying home as much as possible. The Spring Local Health Officer Symposium that was scheduled for March 18 will be held electronically and not in-person.

### **Consumer Services and Health Care Regulation Commission**

#### **Final Adoption of Certificate of Need for Comprehensive Health Care Facilities Rule 410 IAC 40 (LSA #19-685)**

Matt Foster, Assistant Commissioner for Consumer Services and Health Care Regulation Commission presented Rule 410 IAC 40 Certificate of Need for Comprehensive Health Care Facilities to the Board for final adoption. This rule is being added to implement the certificate of need program required by IC 16-29-7. The ISDH received moratorium exception approval on December 17, 2019. The ISDH will accept applications beginning July 1, 2020. This rule is for long-term care facilities only and will help manage the number of beds to care for patients. This rule requires the ISDH to promulgate emergency rules to establish a point system for the application process in the event two applications to build in the same location are received. The Notice of Intent to Adopt a Rule was published in the *Indiana Register* on December 25, 2019, starting the one-year period to adopt this rule. The Executive Board reviewed the proposed draft rule at the January 8, 2020 meeting. The only changes between the proposed and final rule were grammatical changes. Staff recommends the Board approve this rule for final 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 Dr. Robin Marks and passed unanimously by roll call vote, the Board approved the Certificate of Need for Comprehensive Health Care Facilities Rule 410 IAC 40 for final adoption.

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

#### **Final Adoption of Amendments to Diagnostic Testing and Hyperbaric Oxygen Treatment (HBOT) Pilot Program Rule 410 IAC 37-1-15 (LSA #19-575)**

Kelly MacKinnon, Deputy Director, Office of Legal Affairs on behalf of Eldon Whetstone, Assistant Commissioner for Health and Human Services Commission, presented Rule 410 IAC 37-1-15 Amendments to Diagnostic Testing and Hyperbaric Oxygen Treatment (HBOT) Pilot Program Rule for final adoption. The amendments will extend program rules in accordance with IC 10-17-13.5-6. The current rule is set to expire on June 30, 2020. By statute, the HBOT Program is extended to June 30, 2020. The Notice of Intent to Adopt a Rule was published in the *Indiana Register* on November 3, 2019 starting the one-year period to adopt this rule. The Board reviewed the proposed draft at the November 13, 2019 meeting. The ISDH has not made any changes to the rule based on public comment. Staff recommends the Board approve this rule for final 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 Dr. Martin Hanneman and passed unanimously by roll call vote, the Board approved the amendments to the Diagnostic Testing and Hyperbaric Oxygen Treatment (HBOT) Rule 410 IAC 37-1-15 for final adoption.

### **Epidemiology Resource Center**

#### **Final Adoption of Amendments to Reporting of Healthcare-Associated Infections Rule 410 IAC 15-4 (LSA #19-572)**

Deanna Smith, Office of Legal Affairs, on behalf of Pam Pontones, Deputy State Health Commissioner, presented Rule 410 IAC 15-4 Amendments to Reporting of Healthcare-Associated Infections Rule for final adoption. The amendments add definitions and updates reporting requirements for healthcare-associated infections. The Notice of Intent to Adopt a Rule was published in the *Indiana Register* on November 6, 2019, starting the one-year period to adopt this rule. The Board reviewed the draft version at the April 3, 2019 meeting. In response to public comment, a minor change was made to the rule since the proposed rule was posted in the *Indiana Register* on February 5, 2020. The change was to clarify the applicability of the data access requirement to a facility that participates in a CMS program of any type that requires data to be reported to the National Healthcare Safety Network (NHSN).

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. Martin Hanneman, seconded by Dr. Stephen Tharp and passed unanimously by roll call vote, the Board approved the amendments to Diagnostic Testing and Hyperbaric Oxygen Treatment (HBOT) Rule 410 IAC 15-4 for final adoption.

### **Other**

#### **Office of Administrative Law Proceedings Update**

Preston Black, Director, Office of Legal Affairs, presented an overview of the new Office of Administrative Law Proceedings (OALP). The OALP was established by HEA 1223 (2019) and enacted as IC 4-15-10.5. Preston introduced Matthew Brown, Director and Michelle Allen, Deputy Director & General Counsel of OALP. Beginning July 1, 2020 this chapter applies when an agency is required to assign, appoint, or otherwise make use of an individual to act in the capacity of an Administrative Law Judge (ALJ) to preside over administrative proceedings to review a disputed action for the agency. The OALP will hire or contract with ALJs, train ALJs, assign ALJs to administrative agencies, adopt rules of judicial conduct, investigate complaints about ALJs, and consult with agencies on hiring/evaluations of ALJs. The OALP was created for fairness, efficiency and standardization. The ISDH Executive Board Appeals Panels will be led by an OALP-appointed ALJ. Currently, the Appeals Panels are comprised of 2 Board members and 1 ALJ. The proposal in the Resolution before the Board would change that composition to 1 Board member and 2 appointed ALJs. The expected benefits of this change would be less disruption and time required by Board members and less time for the ISDH Office of Legal Affairs to assemble panels. Staff recommends the Board approve Resolution #4 as presented.

Ms. Goff asked for comments from the Board, staff and/or public. Dr. Stephen Tharp mentioned that the ALJs should be familiar with ISDH issues. Preston explained that the ISDH will continue to use the ALJs currently assigned. Hearing no other comments, she entertained a motion for approval. On a motion made by Suellyn Sorensen, seconded by Dr. Stephen Tharp and passed unanimously by roll call vote, the Board approved Resolution #4.

### **Distribution**

Ms. Goff thanked the staff for the Professional New Hire and Separation Reports, 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 10:40 am. The next meeting is scheduled for May 13, 2020.