

MINUTES OF THE MEETING OF THE
INDIANA DEPARTMENT OF HEALTH
EXECUTIVE BOARD (SPECIAL MEETING)
October 27, 2021

The in-person and virtual (Microsoft Teams) special 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 Dr. Stephen Tharp, Vice Chair. The following Board members were present for all or part of the meeting:

Blake Dye
Martin Hanneman, DDS (via teams)
Robin Marks, DVM (via teams)
Joanne Martin, DrPH, RN, FAAN (via teams)
Shelley Rauch, HFA (via teams)
Holly Robinson, MD (via teams)
Patricia Spence, PE (via teams)
Stephen Tharp, MD (Vice Chair) (in-person)

Members not attending:

Naveed Chowhan, MD, FACP, MBA
Brenda Goff, HFA (Chair)
Suellyn Sorensen, PharmD, BCPS
Kristina M. Box, MD, FACOG, Secretary

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

Shane Hatchett, Chief of Staff
Shirley Payne, PhD, Assistant Commissioner, Public Health Protection Commission
Paul Krievins, Director, Lead and Healthy Homes
Kelly MacKinnon, Director, Office of Legal Affairs
Donna Sembroski, Office of Legal Affairs
Micha Burkert, Director, Legislative & External Affairs
Shireesha Vuppalanchi, Medical Director for Long-Term Care

Guests

Leah Wilson, Stand for Health Freedom (in-person)
Dr. David Welsh, Health Officer, Ripley County (via teams)
Desiree Koger Gustafson (via teams)
Rachel Connor (via teams)
Justin Swanson (via teams)

Call to Order

Dr. Stephen Tharp, Vice Chair, stated that a quorum was present and called the meeting to order at 10:00 am. He then asked if Board members had any known conflicts of interest to declare. Hearing none he proceeded with the meeting.

Minutes

Dr. Tharp asked for discussion and/or corrections to the minutes of the September 8, 2021 Executive Board meeting. Joanne Martin questioned the effective dates of the Emergency Adoption of the Newborn Screening Rule. Staff will correct the effective dates in the minutes. Hearing no other comments, Dr. Tharp entertained a motion for approval. On a motion made by Blake Dye, seconded by Robin Marks and passed by majority roll call vote of in-person and virtual attendees, the Board approved the minutes as amended.

OFFICIAL BUSINESS OF THE STATE DEPARTMENT OF HEALTH

Consumer Services and Health Care Regulation Commission

Final Adoption of Rule to Clarify IC 16-44-2 (Gasohol), LSA #21-388

Shane Hatchett, Chief of Staff presented the rule to Clarify IC 16-44-2 (gasohol), LSA #21-388 for final adoption. The Department is promulgating this rule to clarify regulations concerning the sale of E15 ethanol in Indiana. The current statute regulating gasohol in Indiana defines gasohol through an old IRS regulation while most of this industry is regulated by the EPA, which uses different definitions. Historically, the EPA had different Reid Vapor Pressure (RVP) limits for E10 and E15 but extended the E10 limits to meet those of E15 in 2019. Indiana's reference to a different definition of gasohol left some ambiguity if Indiana's RVP limits for gasohol applied to E15. This rule will make it clear that the definition of gasohol in Indiana does allow for the sale of E15. The change also clarifies what tests can be used to determine the RVP limit because it is ambiguous in the statute.

The Notice of Intent to Adopt a Rule was published in the *Indiana Register* on August 25, 2021 starting the one-year period to adopt this rule. The Department made one change to the rule based on public comment. Staff recommends the Board approve this rule for final adoption.

Dr. Tharp asked for comments from the Board, staff and/or public. Hearing none he entertained a motion for final adoption. On a motion made by Blake Dye, seconded by Joanne Martin and passed by majority roll call vote of in-person and virtual attendees, the Board approved the rule to clarify IC 16-44-2 (Gasohol) for final adoption.

Public Health Protection Commission

2nd Final Adoption of Radon Rule 410 IAC 5.1, LSA #21-23

Shirley Payne, Assistant Commissioner for Public Health Protection Commission introduced Paul Krievins, Director of Lead and Healthy Homes to present the rule. Mr. Krievins presented the amendments to the Radon Rule 410 IAC 5.1, LSA #21-23 for final adoption at the September 9, 2021 Executive Board meeting. At that time, it was believed that no public comments were received, but it was later discovered that comments were submitted timely. The rule was recalled prior to approval by the Attorney General so that the Board could consider the comments, and the changes to the rule made in response to those comments, before adopting the rule. The proposed amendments to 410 IAC 5.1-1-10, 5.1-1-16, and 5.1-1-18 would revise definitions; proposed amendments to 410 IAC 5.1-1-22 through 5.1-1-29 would revise the certification and standards requirements applicable to radon testing, radon mitigation, and laboratory analysis; proposed amendments to 410 IAC 5.1-1-31 would revise the documents incorporated by reference as part of the rule; and repeal 410 IAC 5.1-1-3 and 5.1-1-9.

The Notice of Intent to Adopt a Rule was published in the *Indiana Register* on January 20, 2021 starting the one-year period to adopt this rule. The public hearing was held on August 26, 2021. Written comments were submitted by Kyle Hoylman of Protect Environmental, a radon services provider. A summary of the comments and the Department's response is attached.

The final rule contains revisions to the proposed rule to clarify points raised by the comments. The revisions also clarify that primary radon tester licensees are not required to be licensed as a laboratory if they are only analyzing the results from their personal instant readout device or electret ion chamber detection devices, and that training and certification courses need not be from an EPA recognized proficiency program if one is not available for the applicable certification type. The final rule also includes grammar and style revisions.

Dr. Tharp asked for comments from the Board, staff and/or public. Hearing none, he entertained a motion for 2nd final adoption. On a motion made by Dr. Martin Hanneman, seconded by Robin Marks and passed by majority roll call vote of in-person and virtual attendees, the Board approved the revised amendments to the Radon Rule 410 IAC 5.1, LSA #21-23 for 2nd final adoption.

Adjournment

Hearing no additional comments from the Board, staff and/or public, Dr. Tharp adjourned the meeting at 10:12 am. The next meeting is scheduled for November 10, 2021.