

CITY OF PHILADELPHIA
DEPARTMENT OF PUBLIC HEALTH
MEETING OF THE BOARD OF HEALTH

Thursday, May 16, 2019

The Philadelphia Board of Health held a public meeting on Thursday, May 16, 2019 in the Municipal Services Building, 1401 J.F.K. Boulevard, 14th Floor, Room 1450.

Board Members Present: Tyra Bryant-Stephens, MD; Ana Diez-Roux, MD, PhD, MPH; Thomas Farley, MD, MPH; Marla J. Gold, MD; Jennifer Ibrahim, PhD, MPH; Amid Ismail, BDS, MPH, DrPH, MBA; Scott McNeal, DO; John Rich, MD, MPH.

Attendees: Dr. Caroline Johnson, Dr. Kristen Feemster, Dr. Jeff Hom, Josh Roper, Jo Altman, Jeanine Ortiz.

WELCOME AND INTRODUCTIONS:

Health Commissioner and Board President Thomas A. Farley, MD, MPH called the meeting to order at 5:41 PM. Dr. Farley asked for comments and questions about the minutes of the meeting of the Board of Health held on January 10, 2019. Hearing none, he entertained a motion to approve the minutes as submitted. It was moved and seconded. **Motion passed unanimously.**

IMMUNIZATION REQUIREMENTS FOR CHILDCARE FACILITIES:

Dr. Kristen Feemster, Medical Director for the Department's Immunization Program, explained the need for an influenza vaccine requirement for childcare attendees. In particular, she highlighted the increased risk of influenza morbidity among young children.

Dr. Caroline Johnson, Deputy Health Commissioner, explained an additional component of the regulation, intended to align the regulations with preexisting state requirements, concerning the timing of required vaccine doses for students entering school (K-12).

There was discussion among Board members about the timing of the influenza vaccine's annual availability; given typical October availability, the requirement to extend the annual vaccination requirement to December 31 was deemed appropriate. Dr. Gold asked if there were concerns about missing childcare attendees who started in January. Dr. Feemster acknowledged the concern, and Dr. Farley noted that overall vaccine uptake is expected to improve despite reasonable regulatory boundaries.

Dr. Jennifer Ibrahim noted that the definition of "health care provider" in the regulation was on its face limited to providers licensed by the Commonwealth of Pennsylvania, thereby potentially limiting the scope of the regulation's effect. The Board expressed agreement that changing "Commonwealth of Pennsylvania" to "state" would be appropriate. Dr. Farley proposed so amending the draft regulation. It was moved that the draft regulation be so amended and the motion was seconded. **Motion passed unanimously.**

It was moved that the Regulation be approved as amended. Motion seconded. **Motion passed unanimously.**

NUISANCE HEALTH ESTABLISHMENT REGULATION:

Dr. Jeff Hom from the Health Commissioner's Office provided background about the current state of the opioid epidemic in Philadelphia, including noting a reduction in overdose deaths from 2017 to 2018. Despite that, Dr. Hom pointed out that the number of overdose deaths in 2018 (1,116) was still extremely high and that there was still a great deal of work to be done.

Dr. Hom explained that one current focus of the Department is high opioid prescribing, and in particular the distribution of opioid prescribing among providers. Available data reveals that a disproportionately small number of providers are responsible for about a quarter of all prescribed opioids. The Department's goal is to reduce the quantity of opioids prescribed unnecessarily, including through the Department's educational efforts. Unfortunately, some providers, particularly those in the top 1% of opioid prescribers, have been resistant to educational efforts the Department has engaged in (including academic detailing, peer prescribing data provision, and letters sent following patient overdoses). Accordingly, the Department seeks to pursue a regulatory mechanism.

Dr. Gold asked if we know who the aforementioned high prescribers are. Dr. Farley noted that they are generally primary care physicians, and Dr. Hom noted that surgeons in particular may be inclined to overprescribe opioids in an effort to avoid refill requests.

Dr. Farley and Dr. Hom noted some of the limitations of currently active enforcement efforts among federal and state agencies, and further noted that efforts to address suspected overprescribing identified by the Department through relevant agencies and MCOs have yielded limited results.

Dr. Hom shared a de-identified example of a provider who to the Department's knowledge had not been penalized for his prescribing: in the past five years, nine of the provider's patients had fatally overdosed. This number is not inclusive of any fatal overdoses that may have occurred without the Department's knowledge, and does not include non-fatal overdoses.

Dr. Hom proceeded to explain the regulatory approach the Department planned, which is based on the City's "nuisance health establishment" law. Current law defines a nuisance health establishment, and that definition includes language about the appropriate standard of care related to the prescribing of controlled substances, which the Department seeks to elaborate on through a Board of Health regulation.

In particular, Dr. Hom noted that the regulation would elaborate on the standard by focusing on four categories: patient evaluation, dangerous dose level, contraindications, and inappropriate indications.

Dr. Hom highlighted the fact that a provider may prescribe opioids outside of the generally accepted standard of care on occasion without running afoul of the regulatory approach the Department seeks to take. The Department seeks to identify providers who demonstrate an

ongoing *pattern* of prescribing that is sufficient to justify a nuisance health establishment finding.

Dr. Hom referenced relevant sources for opioid prescribing guidelines, which included Pennsylvania's Board of Medicine and Department of Health, and the Centers for Disease Control and Prevention.

Dr. Hom then identified the criteria expected to trigger investigation, which included prescribing patterns identified through available data and referrals. Investigation would include requests for appropriate documentation. An opioid prescribing expert would review the documentation received and make a recommendation to the Health Commissioner, who would determine if the establishment should be deemed a nuisance health establishment. If the Health Commissioner were to so determine, the establishment would be sent an order to abate the nuisance, which would contain actions necessary to abate the nuisance. Failure to abate the nuisance appropriately could result in the City's Law Department filing suit against the establishment.

Dr. Farley noted that the regulation was complicated, and he wanted the Board members to have time to review independently.

Dr. McNeal asked what would happen if the provider refused to provide requested documentation, and Jo Altman, an attorney with the City's Law Department, responded that the Law Department would go to court.

Dr. Rich asked about the opportunity for the Pennsylvania Board of Medicine to have a larger role in enforcing against providers who overprescribe opioids. Dr. Farley noted that the Department has made complaints to the Board of Medicine about overprescribing but had not seen action as a result of those complaints.

Dr. Ismail noted that there is the opioid crisis was widespread and asked about the possibility of purchasing relevant prescribing data with broad coverage. Dr. Farley noted that the regulation the Board may consider is designed to build on a regulatory mechanism that is triggered by overprescribing data, and there will be many appropriate ways to be considered to obtain relevant data.

Dr. Diez-Roux asked about controlled substances other than opioids, and Dr. Farley expressed openness to discussing them as the Board saw fit, but did not think other controlled substances had yet reached the same emergent state opioids had.

Dr. Rich asked if the Department had broader nuisance authority it could use. Dr. Farley explained that the Department did have such authority and had used it in the past. Jo Altman explained that the availability of such authority requires a fact-specific analysis.

Dr. Farley requested that Board members come to the next public meeting ready to discuss the nuisance health establishment regulation in more detail.

Dr. Farley adjourned the meeting at 6:58 PM.