

ALLEGHENY COUNTY BOARD OF HEALTH

MINUTES

May 5, 2021

Present: Lee Harrison, MD, Chair
William Youngblood, Vice Chair
Debra Bogen, MD, Secretary
Anthony Ferraro
Edith Shapira, MD
Donald Burke, MD
Caroline Mitchell
Ellen Stewart, MD
Joylette Portlock, PhD

Absent: Kotayya Kondaveeti, MD

1. **Call to Order**

Due to the emergency order issued by Governor Wolf in relation to COVID-19, the meeting was held virtually. The meeting was livestreamed online via Microsoft Teams Live, in order to enable the public to observe the meeting.

Dr. Harrison called the meeting to order and conducted a roll-call of the Board's members. He announced that an executive session was held to discuss litigation and personnel matters.

2. **Approval of Minutes from March 3, 2021**

Dr. Harrison asked if there were any comments or questions about the minutes. There were none.

Action: Dr. Shapira moved to approve the minutes, Dr. Stewart seconded the motion.
Motion passed unanimously.

3. **Public Comments on Agenda Items**

Mr. Bogdanovich read the following statement regarding the Public Comments that were submitted on Agenda Items:

It is important to note that each member of the Allegheny County Board of Health receives each written public comment and has had time to review them. I will summarize the Public Comments on Agenda Items.

The Board of Health received comments from a total of 64 individuals. Of those individuals, 5 commented on the proposed Mon Valley Air Pollution Episode Rule. All of these commenters expressed concern for air quality and supported stricter regulations, including the proposed rule.

The majority of comments, a total of 47, involved the proposed revisions to the Plumbing Code. All comments were in support of the proposed revisions to the section related to fixture counts with seventeen commenters expressing support for further loosening of regulations related to restroom facilities. Eleven of the comments focused on the importance of safety such regulations would provide. Five of the commenters talked about how these changes would benefit businesses. Twelve commenters explained these changes would also benefit caregivers and parents.

Twelve individuals commented on the proposed formulation of Article XXIV: Paid Sick Leave. All the comments supported the proposed regulation. Several individuals described how this regulation would enable them to care for family members.

4. **Old Business**

A. Director's Report

Dr. Bogen provided the Board with her report, focusing on COVID, air quality, and staffing. She reported that there have been 97,975 cases of COVID within the County since the beginning of the pandemic, and that almost half (540,039) of the County's population has been tested for COVID. Over the most recent seven days, there has been an average of 262 cases per day. She noted that there have been four waves of the pandemic, and that the County is still within the fourth wave.

She shared information from the state's dashboard comparing data from the most recent seven days against the previous seven days. The number of newly reported cases decreased to 1,191 from 1,608; the incidence rate per 100,000 residents decreased to 97.9 from 132.2; the PCR testing positivity rate decreased to 6.2% from 6.8%; the average daily COVID-19 specific hospitalizations decreased to 243.7 from 272.7; the average daily COVID-19 patients on ventilators increased to 40.6 from 29.1; and the percent of hospital emergency department visits due to COVID-like-illness increased to 0.5% from 0.4%.

A total of 678,511 individuals have been vaccinated in Allegheny County; 439,556 have been fully vaccinated and 238,955 have been partially vaccinated. ACHD has supported the administration of approximately 110,000 vaccinations. ACHD's large vaccination sites have been located in Castle Shannon, Ross Township, and Monroeville; while ACHD's smaller sites have been located in the Hill District and McKeesport. ACHD has also engaged in outreach to senior living facilities and senior centers. Dr. Bogen envisioned ACHD pivoting in the future to small community events and mobile vans to continue the vaccination campaign. Challenges for the vaccination campaign include equity, access, and vaccine hesitancy. She stated that access has

improved, and that hesitancy should be reframed as confidence. She encouraged vaccine distribution to doctors' offices and noted that people trust their own doctor.

She noted that the state is lifting all mitigation orders, except for masking, on Memorial Day (May 31st). She reminded everyone that the County still has 250 cases per day and that many individuals have not yet been vaccinated. She urged everyone to consider their own risk level and that of those who they come into contact with.

Regarding air quality, Dr. Bogen informed the Board that the Air Quality dashboard was updated with plainer language in early April. Unfortunately, the dashboard has been offline for the past ten days. However, the monitors are still working. There is currently a software issue causing a disconnect between when the data is pulled from the monitors to when the data would be displayed on the dashboard. The software issue is being fixed as quickly as possible. Hourly air quality monitor readings have been, and continue to be, provided on the website of the Western PA Regional Data Center.

Dr. Bogen shared staffing news. She announced that Kell Wilkinson has been hired as the Health Equity Coordinator and that Chris Togneri has been hired as the Public Health Information Officer. An offer was made regarding the position of Solicitor. Dr. Bogen thanked Jeff Bailey for his work as the acting Solicitor. Currently posted positions include the Deputy Director of Clinical Services, the Human Resources Manager, an Environmental Health Communications Specialist, Public Health Nurses, and Inspectors in the environmental health programs.

5. **New Business**

A. Revisions to Article XXI: Mon Valley Air Pollution Episode Rule

Jim Kelly, ACHD Deputy Director for Environmental Health, stated that he is requesting a public comment period for this proposal. He stated that the Liberty monitor occasionally exceed the federal standard of $35\mu\text{g}/\text{m}^3$ for fine particulates ($\text{PM}_{2.5}$). In spring and fall, these higher days can repeat over several days. This proposed regulation is to minimize these days.

The proposed rule will have two phases: a Mon Valley Air Pollution Watch and a Mon Valley Air Pollution Warning. ACHD shall issue a Watch if the next day air quality forecast will exceed the Mon Valley $\text{PM}_{2.5}$ threshold level. ACHD shall issue a Warning if during a rolling 24-hour averaging period, the Mon Valley $\text{PM}_{2.5}$ threshold level is exceeded at an official monitoring station in the designated municipalities and ACHD has determined atmospheric conditions will continue for 24 hours. The rule will apply to all major and synthetic minor sources of $\text{PM}_{2.5}$, all sources that have combined allowable emissions from all emission unites of 6.5 tons or more per year of $\text{PM}_{2.5}$, and all sources that have combined allowable emissions from all emission unites of 10 tons or more per year of PM_{10} .

Each applicable source shall submit a Mon Valley Air Pollution Mitigation Plan with two phases. The Watch Phase will have procedures to ensure the source is operating in a manner

consistent with good engineering practice and all air pollution control equipment is maintained in good working condition. The Warning Phase shall include measures to reduce PM_{2.5} and PM₁₀ emissions.

When a Watch or Warning is issued, ACHD shall notify sources to implement the procedures and measures identified in their plan, notify municipalities, issue an advisory on the ACHD website and notify various media, and send out an Allegheny Alert. ACHD shall also issue a notification when ACHD has determined that a Watch or Warning is no longer in effect.

Mr. Kelly stated that a change is also proposed to the Open Burning regulation that Wood burning activities shall not be conducted on Air Quality Action Days or in the municipalities identified in Subsection 2106.06.d when a Mon Valley Air Pollution Watch or Warning under Section 2106.06 has been issued, with the exception of conducting such burning for the commercial preparation of food.

Dr. Portlock thanked Mr. Kelly for his presentation and stated that she is very happy to see this effort made. She asked if non-submission of plans under this rule would be subject to enforcement. Mr. Kelly stated that they would.

Action: Dr. Stewart moved to approve a public comment period for the Revisions to Article XXI: Mon Valley Air Pollution Episode Rule, Dr. Shapira seconded the motion.

The motion passed unanimously.

B. Clean Air Fund Request: Allegheny Alerts Informational Campaign

Mr. Kelly stated that this request is an integral part of the Mon Valley Air Pollution Episode Rule, as notifications of Watches and Warnings will be sent via Allegheny Alerts. The goal of this request is to fund an outreach campaign to encourage residents, especially in the Mon Valley communities, to sign up for Allegheny Alerts and to participated in ACHD Community Health Assessment updates. A Request For Proposals will be issued, and awards will be made to multiple organizations. Recipients will be required to collaborate with each other, in order to avoid duplication of efforts.

Action: Dr. Portlock moved to approve the expenditure of up to \$200,000 from the Clean Air Fund for the Allegheny Alerts Informational Campaign, Dr. Stewart seconded the motion.

The motion passed unanimously.

C. PM10 Second Maintenance Plan

Mr. Kelly stated that this request was for final approval of the Plan, as the Board had already voted to approve a public comment period. Mr. Kelly stated that the comment period was from Jan 29, 2021 to March 1, 2021. Three basic comments were received: more emission reductions are needed and COVID-19 aided attainment, ACHD should support the EPA adopting

more stringent PM_{2.5} and PM₁₀ standards, and that ACHD should pursue more health-protective standards for PM₁₀.

Dr. Portlock asked what the EPA's process is for setting NAAQS limits. Mr. Kelly explained that it is a lengthy process. The NAAQS are reviewed every five years by national experts and that subcommittees exist for each of the six criteria pollutants. ACHD fully supports the EPA's review of the NAAQS and changing them based on science.

Action: Mr. Youngblood moved to grant final approval to the PM₁₀ Second Maintenance Plan, Dr. Stewart seconded the motion.

The motion passed unanimously.

D. Revisions to Article XV: Site Work & Restroom Fixture Counts

Jeff Bailey, ACHD's Acting Solicitor, stated that as Pennsylvania has not yet adopted the 2018 International Plumbing Code, Allegheny County must meet the minimum requirement of the state's plan which is the 2015 International Plumbing Code. Mr. Bailey stated that he is requesting the Board vote to approve a public comment period for these proposed revisions.

ACHD previously requested to amend the language of AC-106.4.2 to require site work to be installed only by a licensed plumber. This amendment was never effective. ACHD proposes to remove this amendment and to keep AC-106.4.2 the same as it currently states in Article XV. Mr. Bailey noted that the Plumbing Advisory Board voted not to recommend this change.

The revisions propose changes to the Footnotes to Table AC-403.1. Footnote 14 is proposed to read (changes underlined): "In A-2 occupancy, when the aggregate of 8 or more male and female water closets are provided, a single-user toilet room, including family assisted or assisted use bathroom, is required. Single-user bath toilet, and family or assisted bathrooms may be identified as being available for use by all persons regardless of their sex." And a new Footnote 21 is proposed to be added and reads: "If the minimum number of required plumbing fixtures for an occupancy under Table 403.1 exceeds the minimum number of required plumbing fixtures under Table 403.1 of the International Plumbing Code promulgated by the Pennsylvania Department of Labor and Industry, then the additional plumbing fixtures may be located in single-user toilet and bathing room(s), including family or assisted-use toilet and bathing room(s). Single-user toilet and bathing rooms, and family or assisted-use toilet rooms and toilet rooms and bathing rooms may be identified as being available for use by all persons regardless of their sex." The provisions of AC-403.1.2 is also being modified to no longer require family or assisted-use toilet facilities to be identified as exclusive for use by either sex. The additional language is consistent with the 2015 International Plumbing Code.

Mr. Youngblood asked if changes regarding gender-neutral single-use bathrooms will be forced upon businesses. Mr. Bailey stated that it will be purely optional for businesses and gives them flexibility. Dr. Portlock stated that she appreciated the efforts to make changes more

inclusive. She noted that businesses will have the option to have gender-neutral bathrooms, but they will also have the option not to make gender-neutral bathrooms. She stated that while the regulation says 'you may' regarding gender-neutral bathrooms, perhaps 'you shall' is preferable. Dr. Shapira agreed with Dr. Portlock's comments. Ms. Mitchell stated that this issue needs to receive a lot of public comments and that community groups should be invited to share their input. She stated that the Board has received valuable comments from the public thus far.

Action: Ms. Mitchell moved to approve a public comment period for the Revisions to Article XV: Site Work and Restroom Fixture Counts, Dr. Shapira seconded the motion.

The motion passed unanimously.

E. Formulation of Article XXIV: Paid Sick Leave

Otis Pitts, Deputy Director of Public Policy and Community Relations, requested that the Board vote to approve a public comment period for a newly formulated Article XXIV: Paid Sick Leave. He stated that 16 states, 29 cities, and 3 counties have paid sick leave laws. Paid sick leave policies increase the likelihood that employees stay home when sick or keep their children home when they're sick. Nationwide, Fewer than half of low-wage workers have access to paid sick leave compared to 90% of high wage workers. Workers without paid sick leave are three times more likely to forgo medical care for themselves when they're ill or injured and they're 1.6 times more likely to forgo medical care for their family. Mr. Pitts stated that both the American Public Health Association (APHA) and the National Association of City and County Health Officials (NACCHO) support paid sick leave.

The Board's legal authority to require paid sick leave comes from Pennsylvania's Local Health Administration Law which states in 16 Pa. Stat. § 12011 (c) that the board of health shall exercise the rule-making power conferred upon the county department of health by the formulation of rules and regulations for the prevention of disease, for the prevention and removal of conditions which constitute a menace to health, and for the promotion and preservation of the public health generally.

Mr. Pitts explained that under the proposal, all employees of employers with twenty-six or more employees shall accrue at least one hour of paid sick time for every 35 hours worked. Employees would be entitled to use accrued paid sick time beginning on the 90th calendar day following their first day on the job. Employees can accrue a maximum of 40 hours of paid sick time, unless their employer allows more. Paid sick time accrued by an employee may be used for: the employee's, or employee's family member's, mental or physical illness, injury or health condition; need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition; or employee's or employee's family member's need for preventive medical care; or the closure of employee's place of business due to a public health emergency or an employee's need to care for a child whose school or place of care has been closed due to a public health emergency.

Mr. Youngblood asked how the number of 26 employees was decided as the cut-off. He asked if the number is too large or too small. Dr. Harrison agreed that the number seemed arbitrary. Mr. Ferraro asked what the average number of employees was for an establishment in the hospitality industry. Mr. Pitts stated that ACHD is in talks with Allegheny County Economic Development to get a sense of how many employers and employees would be impacted.

Mr. Youngblood stated that if 26 employees is the cut-off, then an employer could choose to hire only 25 employees to avoid the requirements. Ms. Mitchell stated that the US Equal Employment Opportunity Commission covers companies that have fifteen or more employees. She had concerns about setting 26 as the cut-off for this proposal. She also asked about part-time employment and stated that employees may only be scheduled for 18 hours if the cut-off would be 20 hours per week. Dr. Harrison stated that huge loopholes exist. Dr. Bogen stated that this request is for a public comment period and that ACHD will hope for a robust response.

Mr. Pitts resumed his presentation by explaining the exercise of rights and enforcement under the proposal. Employers shall not retaliate or discriminate against an employee as a result of an employee exercising the right in this Article 24 proposal. Under this proposal, it shall be unlawful for an employer's absence control policy to count paid sick time taken under this regulation as an absence that may lead to or result in discipline or other adverse actions. Employees will be able to file complaints for noncompliant employers with Allegheny County. Mr. Youngblood asked who within the County the complaints will be filed with. Mr. Pitts stated that the proposal has built-in flexibility to assign enforcement roles as the County Executive sees fit.

Dr. Burke stated that in 2013, a Pitt group published a paper in the Journal of Public Health using Allegheny County as a model to demonstrate the likely reduction of influenza cases due to paid sick leave. He stated that he is happy to help.

Action: Mr. Youngblood moved to approve a public comment period for Article XXIV, Dr. Shapira seconded the motion.

The motion passed unanimously.

6. **Public Comments on Non-Agenda Items**

Mr. Bogdanovich read the following statement regarding Public Comments that were submitted on Non-Agenda Items:

The Board of Health received 14 comments on non-agenda items.

There were eleven comments expressing concern regarding the recent fire at Metalico and its impact on air quality in the immediate vicinity. Of those comments, five expressed a

desire for improved notification to the public of fires and six expressed general concern about the operations of Metalico itself.

Three additional commenters expressed general concerns regarding air quality in Allegheny County. Two of these commenters called for stronger fines or enforcement of regulations.

One commenter described the work of US Steel and the importance of permanently idling coke batteries 1, 2 and 3 at the Clairton Coke Works.

7. **Adjournment**

Mr. Youngblood moved to adjourn the meeting, Mr. Ferraro seconded the adjournment.