

GOVERNOR'S LEAD POISONING PREVENTION COMMISSION

Maryland Department of the Environment
1800 Washington Boulevard
Baltimore MD 21230

MDE AERIS Conference Room
February 2, 2017

APPROVED Minutes

Members in Attendance

Mary Beth Haller, Susan Kleinhammer, Edward Landon, Patricia McLaine, Cliff Mitchell, Barbara Moore, Paula Montgomery, Leonidas Newton, Manjula Paul, Christina Peusch, John Scott, Adam Skolnik

Members not in Attendance

Nancy Egan

Guests in Attendance

Camille Burke (BCHD), Patrick Connor (CONNOR), Christopher Corzine (OAG), Jack Daniels (DHCD), Louis Dorsey, Jr. (MD Legal Aid), David Fielder (LSBC), Sheneka Frasier-Kyer (HCD), Warren Friedman (HUD), Syeetah Hampton-EI (GHHI), Jason Hessler (BC HCD), Lisa Horne (DHMH), Dawn Joy (AMA), Myra Knowlton (BCHD), Rachel Mutinda (DHMH), Remington Nevin (DHMH), Victor Powell (HUD), Zach Schlein (Bodie Law), Chris White (Arc Environmental)

Welcome and Introductions

Pat McLaine called the meeting to order at 9:30 with welcome and introductions.

Approval of Minutes

A motion was made by Ed Landon, seconded by Adam Skolnik to accept the January minutes as amended. All present Commissioners were in favor.

Old Business

Lead in Baltimore City Permitting Process

Jason Hessler, Baltimore City Housing, stated that Baltimore City is about to go live with their on-line permitting process. The Mayor will announce on February 10th and the process will be fully live on March 1st. Users will be able to complete the application on-line or walk into the office with a paper application. The new system will allow homeowners and contractors to apply for permits on-line. The system contains a lead safety advisement and information about RRP on the first screen; the user cannot get into the system to register without reading and acknowledging that they have read and understood the statement. This is a change since the last presentation. Jason Hessler said that contractors will get a secret code to protect their license number. Paula Montgomery said MDE will send language to amend the draft to reflect Maryland law. Pre-1978 housing is key and it is important to warn all owners. A major change is that the final draft does not include the RRP training number anywhere in the application, of concern to many Commissioners. Motion was made by Susan Kleinhammer, seconded by John

Scott, to send a letter to the Mayor urging that the contractor's RRP number be included in the on-line system as part of the application process. Nine Commissioners were in favor, 2
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abstained. Susan Kleinhammer agreed to help draft a letter. Patrick Connor noted that the RRP states that the disturbance of paint is a problem, not lead based paint; there is an exclusion if the paint is known to be lead-free. Jason Hessler said the City does collect other licensing information. Jason Hessler indicated that even though the contractor has acknowledged reading the statement and has not been trained, Baltimore City Housing is not empowered to issue a stop work order and has no enforcement authority, so nothing will change. Paula Montgomery noted that if the property was a rental, MDE could be involved in enforcement. But if the property was owner-occupied, EPA must enforce.

Key Issues for Report to the Governor

The draft Commission priorities for the Commission's letter to the Governor, developed by Mary Beth Haller, Adam Skolnik and Pat McLaine, were presented and briefly discussed. They are: data and data systems; testing more children; additional focus on owner occupants; other sources of lead; primary prevention; staffing and resources. A motion was made by Ed Landon to accept these priorities, seconded by Barbara Moore. Nine Commissioners were in favor, two abstained.

Thank you to Ed Landon

Pat McLaine thanked Ed Landon for his 12 years of service to the Commission, representing the Maryland Department of Housing and Community Development. Ed Landon stated that it has been a pleasure working with everyone and that he admires the work the Commission has been doing. His last day of work is February 14, 2017. He noted that he has 30 years of experience with the City and State and offered that Commissioners could still contact him if they need to make use of his expertise or any assistance he could provide.

New Business

Baltimore City HUD Lead Hazard Reduction Grant Program – Quarterly Update

Sheneka Frasier-Kyer provided a quarterly report for the period October-December 2016. The program exceeded most of their deliverables and benchmarks: 39 units received hazard evaluations and all had hazards identified; 25 units were completed and cleared; 23 units remain in-progress; 23 units are under contract; 3 training efforts were held with 7 people trained; 48 events were completed with 1,041 attendees; 63 home visits were completed by HD staff; post-remediation education was provided to 25 families by GHHI.

Update on HUD's New Rule on Elevated Blood Lead Levels

Warren Friedman, Senior Advisor to the Director of the HUD Office of Lead Hazard Control and Healthy Homes in DC, made the presentation; handouts were passed out. Warren Friedman indicated that safe and sanitary buildings have been in HUD's focus since 1937. The office was first created in 1991. The Residential Lead-Based Paint Hazard Reduction Act of 1992, known as Title X, is the primary legislative basis for their work. Lead Hazard Control Grant programs have been operating since 1993 and HUD is now working on the FY2017 grant opportunity. The Lead Disclosure Rule applies to rental and owner occupied properties at time of sale. The Lead-Safe Housing Rule is an approach to ensure that HUD housing and subsidized housing has a higher standard than private housing. Lead-safe work practices have been integrated into

training, maintenance, finance and rehabilitation. All HUD offices use the same criteria and are interested in effectiveness and evaluation. The American Healthy Homes Survey (2011), using Lead Commission Minutes
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data collected in 2005-2006, found that government-assisted housing has fewer lead hazards than unassisted housing; kids are better off too, with 30% lower BLL than their counterparts in unassisted housing, as shown in a CDC/HUD article. The prevalence of BLLs greater than 3µg/dL among children living in assisted housing was one half of the prevalence among children living in unassisted housing. So, these rules work.

Warren Friedman indicated that for elevated BLLs, HUD will follow CDC's guidance. Until recently, HUD used CDC's environmental intervention BLL; this was once a BLL of 20µg/dL or two BLLs of 15µg/dL at least 3 months apart. In 2012, CDC accepted the ACLPP recommendation to recommend environmental investigation at 5µg/dL. This level was based on the highest 2.5% of BLLs in the US, based on NHANES. HUD asked for comment and information about changing the environmental intervention BLL to 5µg/dL; would there be any problems in including children with BLLs 5-9 µg/dL? Feedback HUD received was that this was doable although harder. The Proposed Rule was published 9/1/2016 in the Federal Register with a 60-day comment period and would do the following: reduce the BLL triggering environmental investigation to the level at which CDC recommends environmental investigation, currently 5 µg/dL (trigger would change if CDC changes guidance); enhance evaluation of the child's unit from a risk assessment to environmental investigation (per HUD Guidelines Chapter 16); maintain 15 day period for evaluation and 30 day period for control of any identified LBP hazards; would require reassessment of other assisted units in a multi-family property with children under age 6 using a lead risk assessment; would expand reporting of cases to HUD . The HUD organized, reviewed and prepared justification. On January 13, the review process ended and HUD published an amendment to the LSH Rule. The Rule is under review by the new Administration.

Warren Friedman indicated that the new rules would ensure effectiveness with minimum burden on the housing owner. For Project Based Section 8 – owner informs the HUD field office and main office and would conduct an Environmental Investigation in property of child with a BLL of 5 or higher. If 20 or fewer units, owner has 30 days to complete risk assessment of other assisted units with children; if more than 20 units, owner has 90 days to complete the risk assessment. Owner controls hazards and sends documentation of completion of each step to HUD Field Office. Public Housing also has to do these things. Project Voucher – PHA does Environmental Investigation and conducts risk assessments, owner controls LBP hazards. With regards to the BLL for action, Warren noted it was based on CDC guidance, now 5 µg/dL. However, the top 2.5percentile has dropped from 5µg/dL to 3.5µg/dL now.

Patrick Connor asked if an Environmental Investigation identified problems, would that housing need to be reviewed more often? Warren Friedman said that HUD can only require action on housing hazards as its authority is limited to housing. If lead-based paint hazards are identified in the housing, after correcting them, owner would need to repeat the risk assessment evaluation in 2 years. Barbara Moore asked if it was the owner's responsibility to notify HUD if a child living there has a higher BLL. Warren Friedman replied yes. Barbara Moore indicated that Mount Washington has heard from parents that the owner hasn't done anything; how will HUD coordinate? Warren Friedman said that HUD datashares and encourages health departments to convey BLLs to HUD directly; HUD is a public health agency. Cliff Mitchell asked if counsel

has determined how information would be treated under a FOIA request; Warren Friedman said yes, HUD and CDC have two letters to Health Departments on this. HUD has systems of records including confidentiality and use of records. HUD needs to know addresses, not names of the child or family. HUD does keep information close and secure. A question was asked if there was a problem with the Health Departments and MDE knowing that property is HUD-associated. Camille Burke, BCHD, indicated that they had good cooperation with Baltimore Housing. Paula Montgomery stated that MDE asked the parent if a home is HUD-assisted but they do not record this. Housing ownership records show HUD-owned properties, but cannot help identify project-based or Section 8. Victor Powell of HUD indicated that the assisted units are safer than non-assisted units. Baltimore City Public Housing keeps everything, all files, even on units that have been destroyed. Ed Landon stated that the problem has been that HUD housing has been sued, even if they have done everything correctly. Paula Montgomery stated that Housing Quality Standards do not require dust testing. Warren Friedman stated that Congress did not want restrictions for the Housing Choice Voucher Program so they did not require lead dust testing. HUD is looking at a new system for evaluation but also does not include lead dust testing. Pat McLaine noted there had been a case recently in DC of a child with a BLL of 120µg/dL living in Section 8 housing. Paula Montgomery asks who oversees Public Housing Authorities in Maryland outside Baltimore City. Victor Powell said most were overseen by the HUD Field Office, but in Southern Maryland by the DC field Office.

Warren Friedman said that HUD has been using EPA levels for dust testing for hazard identification and clearance. Starting April 1, 2017, HUD lead hazard control grantees are to use lower levels: 10µg/ft² for floors; 100µg/ft² for window sills; 100µg/ft² for troughs; 40µg/ft² for porch floors (will try to get to 10µg/ft²). Dust lead levels on porches are not regulated by EPA. HUD is setting 40µg/ft² for porch floors and urging 10µg/ft². This has been posted to grantees and Leadnet. Warren Friedman said that HUD had looked at compliance for floors at 10µg/ft² and that the vast majority (about 90%) achieved 10µg/ft², with same findings for new trough and sill standards. EPA has discussed 10µg/ft² for floors and 100µg/ft² for sills but has not proceeded to rule making. These action levels for the lead hazard control grantees are not health-based standards; that is determined by EPA. Warren Friedman confirmed that troughs are not part of the requirements for risk assessment testing and not health-based linked per EPA 2001 Health Standards. EPA requires testing both sills and trough for abatement clearance. Ed Landon thanked Warren Friedman for his work in trying to get lead into the International Property Maintenance Code. Warren has been very active in advocating for these changes and this would do a lot to protect citizens. Warren Friedman noted that these standards are very important in adoption by reference. HUD is also making recommendations based on radon, mold and other healthy homes issues. Syeettah Hampton-El noted that there was still no funding or certification for mold inspection and no money for staffing.

Lead Legislation

Ed Landon led review of lead legislation currently before the Maryland General Assembly.
SB 542 – re-issue from last year

HB-7 – Christina Peusch asked if this would apply to child care facilities. Adam Skolnik stated that the Commission has requested redacted Environmental Investigation forms from MDE and

BCHD. He is concerned about how the questionnaire is used and whether testing of all environmental media are being done per the HUD Guidelines Chapter 16. He would like to see samples of both pre-1978 and post-1978 investigations. Mary Beth Haller indicated that this questions the integrity of the individual inspector. It raises a presumption that programs are not doing what they should be doing. Does the Commission want to challenge the integrity of program staff? It should be enough to know what the programs do. Leon Newton noted that if the issue is what has been done, seeing the form won't answer that question. John Scott stated that is the argument: if testing stops at paint, you never know if other hazards are present. Ed Landon noted if the house was near an industrial area, that could have an effect; if the form requires information, it requires information. Barb Moore stated she had seen completed forms and results and the City and the State have done a fantastic job looking at other sources but there have been inconsistencies with testing water and soil. The inspectors look at car, toys, and spices. If Mount Washington comes up with another identified source, MDE or BCHD will test other items. It would be optimal if Mount Washington could see the results of forms to see if better outcomes would be feasible. However, Barb Moore indicated we should not further burden the programs. Syeetah Hampton-El noted that the topic of other sources beyond paint was discussed at a legislative meeting last year. But no one from MDE came and said this is what MDE does. GHHI is supporting this bill. Paula Montgomery indicated that MDE is looking at sources outside of paint. Adam Skolnik stated that there have been discrepancies. Paula Montgomery stated that an owner can request a copy of the record if they have concerns or questions. John Scott noted that we all come from different backgrounds and need to all be respectful of these different approaches; Adam Skolnik is raising a legitimate issue. Mary Beth Haller stated that she has a lot of inspectors who work under her. If there are discrepancies, people bring it to her attention and she figures out what is right and what is wrong. If a mistake was made, it is corrected.

HB 133 – this allows MDE in addition to the local health department to notify the owner of an elevated BLL, lowers the BLL for intervention from 15 to 10µg/dL. This will allow MDE to get to the regulated community and affected children in a more effective manner and to make sure it triggers a modified risk reduction. It is expected to reduce time, reduce notice and improve monitoring and oversight. Susan Kleinhammer made a motion that the Commission testify on behalf of this bill, the motion was seconded by John Scott, 6 commissioners were in favor, 4 abstained, the motion passed. Pat McLaine will testify on behalf of the Commission at the bill hearing in Annapolis.

HB 270 – drinking Water – GHHI is supporting this bill. Concerns were raised that there wasn't enough information. In particular, there was no fiscal note and no indication of cost. Ed Landon asked if a decision had been made to not do plumbing changes. Mary Beth Haller stated that Baltimore City made a decision to install a filtration system when schools were doing major demolition but that retrofitting was extremely costly.

HB 1358 – Market Share Bill - Adam Skolnik stated that this sets a bad precedent with Maryland law. It goes after the pigment manufacturers. In the real world, the pigment manufacturers will sue property owners to recover their findings. Syeetah Hampton-El stated that GHHI has typically supported this type of legislation but will look at changes made this year. Market share

idea was tried in Wisconsin, California and Rhode Island. It was successful only in California but now on appeal. She recommended Commissioners watch the bill hearing from last year if they have questions; paint manufacturers and property owners both testified last year.

Future Meeting Dates

The next Lead Commission Meeting is scheduled for Thursday, March 2, 2017 at MDE in the AERIS Conference Room – Front Lobby, 9:30-11:30 AM.

Agency updates

Maryland Department of Environment – nothing more to report

Maryland Department of Health and Mental Hygiene – Cliff Mitchell reported that February 28 is the second quarterly Case Management meeting with all local health departments. DHMH is inviting housing agencies to participate in that. He has been working with Dr. Kavon (MDE) to look at data for testing rates since March 2015 to get a more rapid update on testing outcomes. DHMH would like to use local health departments and Medicaid to communicate with providers, especially through MCOs. Cliff Mitchell also reported that the Maryland Insurance Administration has helped to set up meetings with private insurers to determine if testing coverage policies are appropriate.

Maryland Department of Housing and Community Development – Jack Daniels stated that DHCD has finalized a proposal for DHMH that has been sent to CMS; the state should hear back by April 12. This requests \$4.3 million: \$500K for the state, set aside through DHMH and DHCD and 3.8 million for lead remediation and temporary housing relocation for Medicaid children less than 19 years of age identified with a BLL of 10µg/dL or higher.

Baltimore City Health Department - BCHD is working with partners on protocols.

Baltimore City Housing and Community Development – nothing further to report

Office of Child Care –Liz Kelly met with Christina Peusch. Providers have concerns about BLL testing at 12 and 24 months; the form is very vague and there is confusion. Specialists need to be trained better. A meeting is scheduled with DHMH and Liz Kelly to follow-up.

Maryland Insurance Administration – no representative present

Public Comment

David Fielder, Lead Safe Baltimore County, reported that the County has reached out to MSDE and is on the agenda for their next staff meeting to build a relationship and talk up the program within the county. They expect to be part of the Round Table next month.

Barbara Moore reported that DHMH, GHHI and Mount Washington are doing videos for providers featuring both Barbara Moore and Camille Burke. One video is for providers, one for parents and both will be in English and Spanish. The videos focus on the importance of lead

testing and the idea that all children should be tested. It will be available as a link to u-tube on DHMH's webpage.

Barbara Moore noted that Mount Washington recently ran into a problem where an OB doctor refused to test a pregnant mother living in a home with a poisoned child. The doctor's argument was that since this did not affect the Mom, they would not test. Neither GHHI nor BCHD were able to help.

Cliff Mitchell noted that a bill has been filed by Senator Rubio to prohibit HUD from keeping geospatial data. Pat McLaine will send the link for that information to Commissioners.

Adjournment

A motion was made by Ed Landon to adjourn the meeting, seconded by John Scott. The motion was approved unanimously and the meeting was adjourned at 11:35 AM.