

GOVERNOR'S LEAD POISONING PREVENTION COMMISSION

Maryland Department of the Environment
1800 Washington Boulevard
Baltimore MD 21230

March 1, 2012

APPROVED Minutes (3-1-12)

COMMISSIONERS IN ATTENDANCE

Patrick Connor, Dr. Maura Dwyer, Cheryl Hall, Melbourne Jenkins, Edward Landon, Pat McLaine, Barbara Moore, and Linda Roberts.

COMMISSIONERS UNABLE TO ATTEND

Delegate Nathaniel Oaks and Mary Snyder-Vogel.

GUESTS IN ATTENDANCE

Shakietta Denson – CECLP, Ruth Ann Norton – CELP, Dana Schmidt -MMHA, Donna Messick – WCHD (via conference phone), Geraldine Woodson – BCHD, Genevieve Birkby – BCHD, Hosanna Asfau-Means – BCHD, Ken Strong – Baltimore City HCD, Sheneka Frasier-Kyer – Baltimore City HCD, Horacio Tablada – MDE, Heather Barthel – MDE, John O'Brien – MDE staff, John Krupinsky – MDE staff, Paula Montgomery – MDE staff, Joe Wright – MDE staff, and Tracy Smith – MDE staff.

INTRODUCTIONS

Pat McLaine began the meeting @ 9:30am. Minutes from January and February meetings were approved with edits.

FUTURE MEETING DATES

The next scheduled meeting is **Wednesday**, April 4, 2012 at MDE in the AERIS conference room. The Commission will meet from 9:30am - 11:30am.

2010 Work Group met twice and will meet on March 9th. There has been a lot of progress.

DISCUSSION

MDE Overview – Horacio Tablada/Coalition's Bill Synopsis – Ruth Ann Norton

Horacio Tablada stated that most of the hearings for proposed legislation will be discussed next Wednesday. MDE does not have a final position on the bills.

Ruth Ann Norton commented about concerns that there was not a defined committee to decide (including not having a representative on the committee) for a privately funded compensation fund [HB 472 (introduced by Delegate McIntosh)/SB 873]. Additional concerns with the proposed legislation included fees paid by both non-compliant and compliant owners and how/who decides compensation. There may be five (5) amendments that may go in to this proposed legislation that may be go to a study.

Horacio Tablada stated that HB 554 (Lead Safe Income Tax Credit) was heard last week. Horacio Tablada stated that HB 644/SB947 included several recommendations from last year's Summer study, including:

- expanding the definition of an affected property to 1978,
- explicit authority for ordering lead abatements,
- reversing rebuttable presumption,
- authority for implementing the RRP Federal rule, and
- dust testing before settling when purchasing (that the settler can waive)

Ruth Ann Norton commented that the reversing rebuttable presumption was not from the Summer study. The Coalition opposes the clear and convincing evidence provision but will support the bill.

Ruth Ann Norton commented that the Coalition supports Delegate Rosenberg's HB 977 as it is more effective (to perform dust sampling) at the time of disturbance and not at the time of sale.

Horacio Tablada requested clarification that the Coalition supported HB 977 (and not HB 644).

Barbara Moore (nurse from Mt. Washington Pediatric Hosp.) commented that owners performing work themselves are not being captured. Ruth Ann Norton commented about looking at the bigger pool of risk and what and where would be the largest impact.

Patrick Connor questioned whether conceptually the proposed legislation is preventative. Currently, purchasers have up to seven (7) days (for testing) prior to settlement. Most people are already maxed out when buying.

Patrick Connor questioned if purchasers can waive the results of lead testing. Horacio Tablada commented that tests but not results can be waived.

Ed Landon commented that DHCD had no position on this bill.

Ruth Ann Norton commented on concerns with public access for inspections.

Horacio Tablada commented that more information will be on line but that IT projects cost money. Rental registration only currently on-line (and not inspection certificates.)

Horacio Tablada commented that HB 955 involved replacing windows for a triggering event and lowering blood lead levels from 10 – 5 µg/dl. HHS has to make a decision with regards to CDC's recommendations for lowering blood lead levels of concern. The Summer study recommended to wait for CDC's position. Horacio Tablada commented that there were some legal concerns with the title/wording of the bill that can be fixed.

Cheryl Hall commented if lead-free replacement windows would need to be replaced again. Horacio Tablada stated that this was not required. Ruth Ann Norton commented that only leaded windows would need to be replaced and that the Coalition would be supporting HB 955 (replacing windows.)

Ruth Ann Norton commented that there is science supporting children being affected by lower levels of lead exposure and that Maryland should follow Cleveland and 6 other states who take action @ blood lead levels of 5 µg/dl. Ruth Ann Norton commented on Pat McLaine's work in Rhode Island.

Genevieve Birkby commented that lowering levels of concern for lead in blood would have an impact on enforcement and staff capacity.

Pat McLaine commented that reducing levels of lead in blood from 10 -5 µg/dl would result in 4 or 5 times of children being impacted from lead (and not just a doubling of the number of children being affected.)

Genevieve Birkby commented that the Baltimore City Health Department has been working with Baltimore Housing with regards to primary prevention (and outreach) from levels of blood lead from 5 – 9 µg/dl but complicates enforcement.

Pat McLaine commented that there is good science that blood lead levels are lower when windows have been replaced.

Ruth Ann Norton commented about concerns with capacity, funding and budgets.

Ken Strong commented that blood lead levels between 5 – 9 µg/dl are being looked at in partnership with the Coalition and the Baltimore City Health Department.

Linda Roberts (?) commented if only windows in a unit or the entire complex/property would need to be replaced.

Paula Montgomery commented that she will be meeting with HCD on April 28th, including clarifying the impact on historical properties when windows are required to be replaced.

John Krupinsky questioned if HB 955 would affect only affected properties and if a risk assessment would be required or if a property owner would be notified via a Notice of Defect.

Ruth Ann Norton commented for concerns with knowing if windows are replaced.

Paula Montgomery commented that owners would have to prove that windows do not have lead.

Pat McLaine commented that Patrick Connor's lab accuracy concerns with DHMH would be addressed at next month's Commission meeting.

Horacio Tablada commented that HB 977 involves work practice standards when > 3 ft² of paint is disturbed, dust testing requirements, and authority for implementing the RRP Rule.

Ruth Ann Norton questioned whether EPA is supporting MDE.

Horacio Tablada commented that MDE is seeking the authority to delegate the RRP Rule to MDE.

Patrick Connor commented if only interior surfaces would be regulated for the proposed bill.

Pat McLaine commented that exterior surfaces may have more lead. Concerns were raised whether clearance would be required for the entire unit or for the work area and whether child occupied facilities would be covered under HB 977.

HB 1013 proposes money from the General Fund to include funding abatement orders in owner occupied properties. Ruth Ann Norton commented about concerns that would not be preventative. A brush fee may be introduced. Concerns with home owners on a limited income who can't pay for lead abatements.

Patrick Connor commented about the definition of occupants (visitors), that is not currently in Environment Article § 6-801. HCD will oppose HB 977. MDE has no position on this bill.

Horacio Tablada commented that HB 1268 (plumbing for drinking water) will be handled by a different administration @ MDE. Horacio Tablada commented that Alvin Bowles' position is in the process of being filled.

Ruth Ann Norton commented what MDE was doing if the CDC money was not available for surveillance and positions.

John Krupinsky commented that CDC money funds 3 positions at MDE, Donna Messick on the Eastern shore, and 6 educators at the Baltimore City Health Department.

Pat McLaine commented that the Commission is in agreement and that MDE to follow up for this funding concern. Horacio Tablada commented that MDE is aware and working on funding if CDC funding is lost.

Commission Support for Legislation

8/10 Commission members that were present voted on a letter of support for proposed legislation, including authorization for MDE to implement the RRP Rule, primary prevention, abatements authorized at local levels, increased funding for MDE, and changing affected date from 1950 to 1978.

Five Commissioners approved a letter of support, two opposed a letter (Linda Roberts and Mel Jenkins), and Patrick Connor abstained from a vote. Pat McLaine and Barbara Moore will work on a letter that will be circulated (including to Mary Snyder Vogel).

Linda Roberts commented about early detection, prevention, outreach, better data, and focusing on current laws on the books with regards to building codes.

Ruth Ann Norton commented that fines, penalties could generate funding for RRP. Patrick Connor commented that this money currently goes to the General Fund. Paula Montgomery commented that contractors are already paying for their RRP licenses (and not through penalties). The Summer Study indicated that it will take \$ 350,000 for MDE to administer an RRP program.

Agency Updates:

Lower Shore Lead and Healthy Homes Primary Prevention Initiative – Donna Messick/John Krupinsky - John Krupinsky agreed to defer on the presentation on the lower Eastern shore until the April meeting.

MDE - Registration – Joseph Wright

Joseph Wright presented rental registration statistics, including on-line registration data. There are currently 123,477 active units and 33,261 active property owners. MDE is actively pursuing non-paying property owners.

MDE - General Program Progress - Paula Montgomery

Paula Montgomery stated that MDE opened 1,584 cases in FY 11, which included 617 enforcement actions and 3,800 inspections. \$ 670,000 in penalties were collected. Most cases are generated by complaints. The second largest number of cases are generated based on audits. MDE will be providing additional data and information at the next Commission meeting.

BCHD –Lead and Healthy Homes Program – Genevieve Birkby

Genevieve Birkby stated that she is the acting Director for the Baltimore City Health Department as Olivia Farrow has left for a position in the Mayor's cabinet. A memo has been circulated to the Mayor's office with regards to the possible loss of \$350,000 in CDC funding. Case management staff case involve blood lead levels for 10 µg/dl and higher. City government has concerns with lead poisoning.

Ken Strong thanked the Commission for the letter of support and introduced the new director for the lead abatement program, Sheneka Frasier-Kyer.

The meeting adjourned at 11:48 A.M.