

**GOVERNOR'S LEAD POISONING PREVENTION COMMISSION**

Maryland Department of the Environment  
1800 Washington Boulevard  
Baltimore MD 21230

MDE AERIS Conference Room  
March 2016

APPROVED Minutes

**Members in Attendance**

Susan Kleinhammer, Edward Landon, Patricia McLaine, Cliff Mitchell, Paula Montgomery, Barbara Moore, John Scott, Ken Strong

**Members not in Attendance**

Nancy Egan, Melbourne Jenkins, Manjula Paul, Christina Peusch, Del. Nathaniel Oaks, Tameka Witherspoon

**Guests in Attendance**

Camille Burke (BCHD), Patrick Connor (CONNOR), David Fielder (LSBC), Syeetah Hampton-El (GHHI), Duane Johnson (MDE), Dawn Joy (AMA), Myra Knowlton (BCHD), Rachel Hess Mutinda (DHMH), Christine Schifkovitz (CONNOR), Marvin Turner (HUD), Xaviour Walker (DHMH), Chris White (Arc Environmental)

**Welcome and introductions**

Pat McLaine called the meeting to order at 9:35 AM with welcome and introductions. Minutes of February 4, 2016 were reviewed. John Scott made a motion to accept and the motion was seconded by Ed Landon. All present commission members were in favor.

**Old Business**

**Follow-up on Rental Registry Compliance and Registration Targeting Efforts in Baltimore City and Baltimore County**

Joe Wright was not present at the meeting. Paula Montgomery reported that MDE has a referral process for jurisdictions and counties that require registration prior to issuing a license. Baltimore City has license requirements for all non-owner-occupied properties. Jason Hessler calls MDE when the City has issues with a property. Baltimore City Housing is ensuring compliance. Baltimore County only issues licenses on 2+ or 5+ units and MDE also has an open line of communication with Baltimore County. MDE has similar agreements with Anne Arundel County, Montgomery County, Cambridge, Salisbury, College Park and Hagerstown. Paula Montgomery indicated she does not know if the Department wants the Commission to know about the results of these efforts. She does not know if the Commission's time is best spent by auditing MDE's work. Paula Montgomery stated that out of 15,000 violations sent out by MDE, more than 3,000 were determined to be of concern.

**Child Care Subcommittee Report**

Ed Landon reported that the subcommittee met on February 4<sup>th</sup>, talked about research on non-compliance, identified geographic communities at higher risks and looked at resources. Ed

Landon introduced Jack Daniels, DHCD Special Loans Program, who will be part of this subcommittee. One issue raised to the subcommittee was how to apply for loan or grant assistance. Licensed child care facilities that receive notice that they are not in compliance need money for both a lead survey and for construction. Other issues included roof and mold. The subcommittee is trying to identify where licensed child care facilities are that need help because the local and state loan application processes differ. Another question is how best to market the program and get the word out – the subcommittee talked about the feasibility of having information available on line.

Paula Montgomery asked if there was a link on the Office of Child Care's site to lead remediation information from MDE. Ed stated that this could be done and he would follow-up with Manjula Paul; other resources could be provided geographically. Ken Strong noted that Flint Michigan is getting \$3.6 million for Head Start Centers and asked what we are doing with Head Start in Baltimore City. Syetta Hampton-El indicated that GHHL has trained staff and parents at Judy Centers and Head Starts. Pat McLaine stated that the University of Maryland School of Nursing is beginning a new Eco-Healthy Childcare initiative with Head Start and Early Head Start in Baltimore City. Baltimore County also works with their child care facilities and is happy to link facilities that need assistance to state resources. The Commission will ask Manjula to provide an update on Office of Child Care efforts around lead (last report was February 2015).

#### Update on Work with Paint Retailers

Christine Schifkovitz, Connor Institute, reported that Connor sent out posters and a copy of the law requiring their posting to 141 paint retailers including Home Depot, Lowes, Sherwin Williams, ACE Hardwares and local hardware stores. After the mailing, Christine followed up with site visits to 31 stores. Only three stores, all Lowes stores, had the poster up as required. One owner with ACE Hardware did not realize this was a problem. One ACE had an old poster on display. Experienced employees, who had been working in 2010, knew the importance of the year 1978. All were selling approved EPA test kits. One large retailer required installers to use the EPA test kits.

Paula Montgomery stated she applauds and appreciates this effort and asked for more details about this work so MDE could follow up. Ed Landon asked what the penalty is for not having the poster on display. Paula stated that EPA had just sued Lowes about disclosure information and suggested that maybe we should work smarter. Ed Landon noted that enforcement is very important; if you have a law you need to enforce it. Paula Montgomery stated that MDE can enforce under 848, Title VI. The Department will consider following up. Ed Landon said that the poster should be available for downloaded at DHCD.

#### Lead Legislation

Ed Landon reported that 2016 legislative session is very busy with 1700 House and 1200 Senate bills filed to date. Bills must be passed in one house by 3/21 in order to ensure cross-file in the other house before the end of the session. Ken Strong said he will be talking with the Baltimore

City delegation tomorrow; SB 951 is the biggest ticket item. Ken Strong asked what MDE's position was on the bill. Paula Montgomery stated that the bill allows only outreach and education about risk reduction. Ken Strong asked if the fund could be used to remediate lead hazards. Paula Montgomery stated that the bill would provide oversight under the provision of Title 6, only for risk reduction. If MDE was to inspect 20% of all rental properties, Paula Montgomery indicated that MDE would need 150 additional enforcement staff. Syetta Hampton-El said the bill was much more than outreach and education. The bill can also be supported with amendments. The hearing is March 9, 2016. Syetta Hampton-El stated she was very concerned that the Commission has not taken a position on any of these bills. Barbara Moore stated that unless you are present in Annapolis or present testimony, you aren't involved in the process. Pat McLaine noted that the Commission has taken a position on bills in the past and can provide written or oral testimony if members are in support. Ed Landon stated that the Commission could submit a written letter of support and that Commissioners can watch the hearing on March 9<sup>th</sup>. Paula Montgomery said she feels there is a conflict of interest for her and that she feels uncomfortable with the Commission testifying on this. Cliff Mitchell said he does not believe the Commission can vote to support any bill without a two week public notice because of the Open Meeting Law requirements. Cliff Mitchell suggested that the Commission might be better off to identify what a bill ought to do more proactively. He suggested that moving from 10µg/dL to 5µg/dL now may be premature. John Scott asked when the Commission would do this. Cliff Mitchell suggested that ideally before the legislature meets. Barb Moore stated that the Commission has taken positions on bills in years past and has sent letters. Ed Landon suggested that the Commission indicate what is needed, based on meetings and deliberations, in an annual report.

SB 308/HB 396 – Susan Kleinhammer said she supports this legislation because it would bring requirements for multi-family housing into compliance with current Federal requirements and RRP rule. The bills also changes the time frame for limited lead free from two to 5 years but owners have to provide an affidavit yearly to affirm paint is in good condition; they must provide that affidavit if MDE requests it. Syetta Hampton-El said the change from two to five years was not clearly justified based on data and GHHI is appalled. She asked what a "notified affidavit" was and expressed concern about this change based on on-going MDE investigations into questionable inspections. Barb Moore noted that the law has required that owners must do a re-inspection if there is a change in occupancy and asked what the data show: are there any suggestions that there are problems? What are the trends? Do we have a source of data to look at this problem? Paula Montgomery stated that MDE has some data to support that paint is stable for 2+ years. Paula Montgomery stated that mechanisms are in place for this, making the tenant aware of rights when there are defective conditions. She stated that MDE will not enforce provisions of the law if the tenant stops paying rent because then it is not a rental property. Myra Knowlton stated that people often don't pay rent because they don't want to. The City's focus is to get them to set up rent escrow; judges do hear these cases. In Baltimore City, the violation stays with the property, regardless of whether rent is paid. Paula stated that MDE says that if a tenant stops paying rent, MDE will not enforce. Myra Knowlton stated that this happens

frequently – sometimes tenants don't pay for a year. Pat McLaine requested that the Commission be given a legal opinion about this by one of MDE's Attorneys General.

SB 951/HB 1154 – Ken Strong stated that Baltimore City Housing was still debating their position on these bills, holding the paint manufacturers responsible for damages. He asked if the Commission was in support of the bill, indicating that more resources are needed for remediation, outreach and education. Barb Moore said she agreed that more resources are needed but that she needs to study the bill. Ken Strong requested that the Commissioners study the bill, and vote their support (up or down) by email. Pat McLaine will send out an email to Commissioners.

HB 810 – Paula Montgomery did not know MDE's position on this bill.

Cliff Mitchell stated that during Legislative Session, people get caught up in issues. He suggested that the Commission's role is to establish the important public health goals for the state. Further discussion by Commissioners supported that the Commission's job is to identify the big public health concerns, set goals and determine what the state needs to do to meet these goals.

#### Update of Lead Free Certificate Investigation and Enforcement Issues

Paula Montgomery stated that the investigation is active and that EPA has offered assistance in follow-up of some areas. Three inspectors and one supervisor from MDE are working on the investigation. MDE is going out into Southern Maryland in the next few weeks. Marvin is following up in Section 8 Housing in Prince Georges and other counties. Paula Montgomery indicated that the inspector no longer works for the company and is not accredited. MDE is focusing on prre-1950 rental properties. MDE sent out 800 letters to owners saying there might be a problem and that MDE may be visiting. John Scott said a landlord had approached him because he had hired the company in good faith and had received letters from MDE. The landlord was concerned about what he is expected to do. He has 14 affected houses; reinspection would cost about \$10,000. Maybe all contractors need to be bonded so that owners are protected. Maybe it is too easy to become a lead inspector. The landlord hired a lead inspector because he needed to get work done quickly; he was trying to comply.

Paula Montgomery said MDE is very sensitive to what has transpired. She hopes this is an isolated incident. She is not sure what percentage of errors is typical or tolerable for an inspection. David Fuller stated that 5-7 properties were in Baltimore County. The County sent out two letters to the tenant and owner of each property and went door to door to these properties, offering free inspections but only got one response accepting their assistance.

Paula Montgomery stated that EPA Region 3 has volunteered six inspectors to do preliminary interviews. MDE has a lot of support. She estimated that about 60,000 certificates/year are being issued. MDE targets the risk reduction certificates because they are not lead-free.

### Baltimore City Council Hearing

Ken Strong indicated that at the City Council Hearing on lead in February, many problems had been identified along with too few resources. Ken Strong stated that Mary Pat Clark would welcome an invitation to attend the Commission meeting, possibly in April, and could speak about where the City Council wants to take this. The Commission will extend an invitation to attend the April meeting, or a future meeting.

### New Business

#### Remediating Lead Problems – Health Provider Perspective

Barb Moore stated that the clinic at Mount Washington sees 20-30 new patients per year, most with BLLs over 10µg/dL, some with BLLs in the 5-9µg/dL range. The clinic follows 50-100 patients/year. Barb Moore said she had examined recent cases to see how quickly the children's BLLs go down. Children living in rental units where the owner responded quickly to make the unit safe experienced decreases in BLLs much more quickly than children living in owner occupied homes. If a Notice of Defect was issued, action typically occurred in 6-12 months. If the property was owner-occupied, action took 6 months to three to four years. Resources have not been available for low income owner occupant families whose children have high BLLs. Grants and loans are not available: many families bought a fixer upper and cannot afford to remediate their home.

In addition, with regards to closing the loop with primary care providers (PCPs), Barb Moore indicated that PCPs don't get feedback on what is happening. They hear from their patients, not from the state or local agency. Sonia from BCHD gets back quickly, but it is very important to close the loop and get information back to the PCP. If the PCP issues a Notice of Defect (NOD), the process is very tedious. The PCP has to download the form. It isn't clear what the PCP needs to do – send a copy to MDE, send the NOD with return receipt requested and then do what with the little green card? If no one signs the green card, the NOD gets dropped. The Commission has discussed that future follow-up for children with BLLs 5-9µg/dL will be done by the PCP and that the PCP can initiate a NOD. However, based on experience of Mount Washington Pediatrics, Barb Moore said she isn't clear what will actually be done.

Cliff Mitchell stated that anyone can give a NOD to a landlord and that triggers the process. The receipt triggers the process and this is a big issue. Cliff Mitchell stated that MDE and DHMH will meet with all local health department case managers to talk about case management for children with BLLs 5-9µg/dL. The PCPs will be doing this, using a phone script. Health educators across the state will follow up on this. Health educators will walk through the process; many steps are involved. Cliff Mitchell indicated that the PCP will call. The goal is to have families do this so they are in control of the process. Cliff Mitchell stated that DHMH/MDE will schedule monthly case management calls with all local health departments. Pat McLaine expressed concern about the length of time it was taking to get action when a Notice of Defect was filed, indicating that this appeared to be unchanged from or possibly worse than 10 or more

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years ago. David Fielder asked what a reasonable timeline would be to get action on a Notice of Defect.

State of the Insurance Industry – due to time constraints, this presentation was bumped to the April meeting.

#### **Future Meeting Dates**

The next Lead Commission Meeting is scheduled for Thursday, April 7, 2016 at MDE, 9:30am – 11:30am.

#### **Agency Updates**

In the interest of time, Agencies were asked to provide only necessary reports.

**Maryland Department of the Environment** –Paula Montgomery indicated there was nothing further to report.

**Maryland Department of Health and Mental Hygiene** – Cliff Mitchell indicated there was nothing further to report.

**Maryland Department of Housing and Community Development.** – Ed Landon reported on Project Core, planned demolition in Baltimore City. Baltimore City, DHCD and the Maryland Stadium Authority will implement this work. Information about Project Core including a Frequently Asked Questions (FAQ) document was distributed and is available on DHCD's website. If commissioners have any questions, please let Ed Landon know.

**Baltimore City Health Department** – nothing further to report.

**Baltimore City Housing Department** – Ken Strong indicated that he is retiring the end of June from City Government. Olivia Farrow, Deputy Commissioner for Baltimore City, has been suggested to represent Baltimore City. Ken Strong stated it has been an honor to serve on the Commission.

**Office of Child Care** – not in attendance

**Maryland Insurance Administration** – not in attendance

**Public Comment** – none offered

#### **Adjournment**

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