

GOVERNOR'S LEAD POISONING PREVENTION COMMISSION

Maryland Department of the Environment
1800 Washington Boulevard
Baltimore MD 21230

July 7, 2016

APPROVED Minutes

Members in Attendance

Nancy Egan, Susan Kleinhammer, Edward Landon, Patricia McLaine, Paula Montgomery, Cliff Mitchell, Del. Nathaniel Oaks, John Scott, Adam Skolnik

Members not in Attendance

Mel Jenkins, Barbara Moore, Manjula Paul, Christina Peusch, Ken Strong, Tameka Witherspoon

Guests in Attendance

Patrick Conner (CONNOR), David Fielder (LSBC), Michelle Fransen (Cogency), Mary Beth Haller (BCHD), Syeetah Hampton-EI (GHHI), Lesa Horne (DHMH), Rachel Hess-Mutinda (DHMH), Christine Schifkovitz, (CONNOR), David Skinner (GHHI), Tommy Tompsett (MMHA), Marcia Williams (Baltimore County) Ron Wineholt (AOBA)

Welcome and Introductions

Pat McLaine began the meeting at 9:35 AM. Everyone in attendance introduced themselves.

Old Business

Child Care Facilities Workgroup Report – The report is not yet ready for review. A draft was prepared in June but the Committee is waiting for input from the Office of Childcare.

Approval of Minutes

One change was identified on page 1. Ed Landon made a motion to accept the minutes with this amendment and the motion was seconded by Nathaniel Oaks. All present Commission members were in favor and the minutes from the June 2, 2016 meeting were approved as amended.

Old Business, continued

MDE Rental Registry Quarterly Update – Paula Montgomery stated that MDE staff were not available to provide an update. Pat McLaine requested that this update be provided in August.

Lead in Drinking Water - Pat McLaine noted that many articles on lead in drinking water have been published recently, a number being distributed at this meeting including an article on lead in Congressional office buildings, in the DC libraries, and lead in schools. Paula Montgomery noted that the issue is one of enforcement; the laws are clear. Pat McLaine suggested that the Commission may want to consider additional legislation if there are gaps in protections. Pat has invited Nancy Reilman from the Water Supply Program to meet with us when she has additional information on the state-wide picture of lead in school drinking water. Tommy Tompsett, referencing HUD Chapter 16, stated that we should be looking at the totality of a child's exposure, including water and soil. We are starting to see that these are real problems; maybe

we need to start looking at this. Ed Landon stated this was raised in the 1990s as an issue in public housing with discussion about the water delivery system to the property line. He agreed

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that we need to look at other places, noting that brass fittings were found to be a problem in drinking water fountains. John Scott stated that we should be looking comprehensively at where lead is, but asked who would pay to have that done. Ed Landon noted that the aging public water infrastructure is a real issue in Baltimore. People don't look at this stuff. The Commission needs to think about this; it will cost a lot of money to replace pipes and lines.

Mary Beth Haller was asked to give a synopsis of her previous work at Baltimore City Public Schools on the lead in water issue. She noted she no longer works for the Baltimore City Schools so could not directly speak for them, but could provide an overview of the history as she was aware of it from her work there for 6 years. The process to deal with lead in drinking water in schools had been going on for years. When the national recall for lead-lined water coolers was issued, City Schools put forth a tremendous effort to identify, inventory and replace those coolers. Baltimore City Schools identified high levels in a smaller group of eleven (11) schools. For these schools, parts replacement and flushing protocols were set up. At some point, before Mary Beth's time at City Schools the issue fell somewhat off of the radar until in 2006 a school parent, Mr. Williams brought it to the forefront. He did this because his father had worked in City Schools facilities and he had been very concerned about lead levels in water. After his retirement he asked his son to keep people focused on this problem and his son brought renewed attention to the issue culminating in then Health Commissioner Peter Beilenson issuing an order for City Schools to disable water fountains until they could be tested and to bring bottled water into schools in the interim. A major effort of testing, repair, replacement and re-testing ensued. Still; some school fountains – even those on the same plumbing line and located side by side could result in one passing and one failing to meet EPA recommendations. The problem was that “lead-free” components under the law at the time could still contain up to 8% lead and could vary in their lead content.

One Baltimore public school put in new pipes and 64 new fountains. In addition, a filtration system was installed, but only common area outlets were part of that closed loop. The additional outlets in classrooms were not on the system and while many passed, some did not. Mary Beth Haller said that Seattle had experienced something similar. The issue is incredibly complex and since it had become apparent that even a school with brand new plumbing could fail to meet standards that the only recommendation that could be made was that schools, as they are being renovated, install a filtration system in addition to any newly installed piping. Ed Landon said that with renovation the City had not always acknowledged the need for new pipes and a filtration system. He said the city also did not acknowledge the need to replace infrastructure with old public housing, suggesting that a holistic approach is needed. Mary Beth Haller indicated that the City schools spent millions over the years. They didn't realize that they might need to appoint someone to oversee this effort continually. Sometimes new plumbing is the worst until passivation occurs--a mineral layer is built up.

With renewed public interest after Flint, BCHD and Baltimore City schools did a fresh round of testing in the Baltimore City schools which have new plumbing and filtration systems. About two months ago [April], 202 primary and flush samples were taken. All flush samples passed. On 2 primary samples they found two fountains that were higher than recommendations and 2

that were borderline high. It was pointed out that primary samples are taken after periods of disuse when the system has been inactive overnight and are designed to capture the very first “burst” of water emitted. This does not really represent how fountains are used, but is based on an EPA test to identify possible sources for lead. The filtration contractor was consulted and made parts replacement at the outlets after which the primary tests resulted in zero lead. This would suggest that some wear may occur. Nathaniel Oaks asked how often the schools should be retested. Mary Beth Haller suggested for those locations to test in 6 months. The American Academy of Pediatrics has recommended that schools and child care facilities be tested. Pat McLaine will get copies of this recommendation for the Committee. Mary Beth Haller noted that the samples taken by BCHD were primary samples; all schools would have passed requirements for lead under the Lead and Copper Rule.

Patrick Connor stated that HUD Chapter 16 is the standard for investigations of poisoned children and recommended by CDC. Maryland has not been testing lead in soil or water. In many areas of the City, accessible soil levels are 10 to 100 times higher than the health-based standards. There have been many studies of this including articles on old manufacturing sites (ghost factories) and many research studies. When Maryland has children with elevated blood lead levels, we should be investigating with HUD Chapter 16, not HUD Chapter 5. Water sampling for lead is very complicated. Most inspectors don't follow the EPA lead in copper protocol, which requires a one liter sample. Water has to sit for the proper time in the pipes and proper flush time is needed for a flush sample. Most people find that the problem is not the water supply; the failure resides within the fixture or piping (brass valve, fittings, aerators, solder). Lead-containing water restrictors can have up to 8% lead. Brand new buildings have failed lead in drinking water tests because of added post-market devices that are heavily leaded: 69 cent parts purchased by maintenance. We will continue to find sources of lead outside housing and these will increase.

Mary Beth Haller noted that in Baltimore City schools, staff collected a smaller sample of 250ml per EPA's “3 T for Reducing Lead in Drinking Water” which is designed to help schools identify the source for lead but that Baltimore Schools were looking for level of 15ppb, not 20ppb as advised by EPA. Patrick Connor advised that if samplers did not use a one liter sample, the results would be concentrated at the fixture level and it would be more likely to have a higher result. The general public, including PTA parents, does not understand the difference between one liter and 250 ml sampling. Mary Beth Haller agreed but noted that the sampling plan for City Schools was developed with a parent advisory committee and Mr. Williams; they agreed to 15ppb but had really wanted 0ppb.

Lead from Non-Housing Sources - David Fielder stated that there are protocols for risk assessment. If there is more than 9 square feet of soil, must sample soil. There may not be that much soil on the property but there may be other nearby soil sources. Patrick Connor stated this is why Chapter 5 is not the proper tool for follow-up of EBL children – it is Chapter 16. Health Departments are not doing risk assessments: they are doing environmental Investigations, defined by Chapter 16, to follow up the sources identified by the family. Risk assessment is property-driven; Chapter 16 is child-driven.

Paula Montgomery stated that MDE's questionnaire asks for all of these things: where the child plays and if there is bare soil, inspectors test there. Paula stated that she understands we are having more children not exposed to lead in housing. MDE currently has a 3 month old child with a level of 51µg/dL BLL due to Kohl. Maryland has many immigrants. People travel to their home countries and come back with higher BLLs. Often at lower BLLs, the program is unable to identify lead hazards. The problem is often multi-source, multi-media. If the family is afraid that local or state government is going to take the child away, the family may not give information to the program.

Tommy Tompsett noted that owners worry when they see lead coming from other sources. Property owners' responsibilities are written into statute. Owner occupants do not have similar requirements. Syeeta Hampton-El asked if a child was in a rental property and lead was identified in the rental property, should soil and water at the property also be tested? Is there staff and funding to do this? Adam Skolnik noted that if leaded surfaces are identified in a rental property, statutory requirements kick in. But if there is no lead, the statute still requires the owner to take action, even if there is no lead. Tommy Tompsett asked if Chapter 5 triggers a modified risk reduction, what would owners be required to do? Owners have done a lot to protect children. Paula Montgomery responded that if an owner has a lead free certificate, there is probably nothing to do. But if there is a defect, it should be corrected. Paula Montgomery noted that if there is no lead in the house, MDE looks for all sources in the environment. MDE regulation states that MDE follow the risk assessment in HUD.

Ed Landon asked how many cases of EBLL children were investigated last year that identified NO lead in the housing. Paula Montgomery stated that in cases investigated by MDE, lead in housing was not frequently seen. Many of the properties had lead free certificates. There were many immigrant children living in pre-1978 rental properties that were lead free. Paula Montgomery stated that she would see what the state data shows about refugee populations. Last year, 26-30 children tested high on admission to the country. Adam Skolnik stated that in 2014, 59 children with EBLs had lived in post-1978 rental properties. Ed Landon noted that even Public Housing is being sued for lead-safe properties, and landlords are still worried. Marybeth Haller noted that there is no testing of libraries or public buildings. Libraries will be open 9AM to 9PM next year in Baltimore. Pat McLaine suggested that the Commission look at the protocols for Chapter 16 and MDE's protocol for investigation of a child with an EBL. David Skinner (GHHI) suggested that the Commission could invite a representative from International Rescue Committee (IRC) to discuss lead testing requirements for immigrants newly entering the US. Pat McLaine will invite the IRC to attend an upcoming meeting.

New Business

Pat McLaine read an email from Ken Strong; contact information for Ken Strong is available from Pat McLaine.

Baltimore County HUD Grant Program - David Fielder provided an update on progress of the Baltimore County HUD Grant Program. The program's goal is 225 completed units. Landlords, non-profits and owner occupants are eligible for the program. The property must have a child

under 6 or a pregnant woman living in or visiting the property and must meet income requirements. A number of older communities in Baltimore County are being targeted. With regards to community outreach, GHHI has provided assistance in the past; other non-profits are now working with the program.

In the last year (since July 2015) the program has received 118 applications; 102 have completed the risk assessment and lead education. This includes 96 houses (including 6 landlords) and 6 in-home child care providers privately owned. The program has completed 32 units and 6 are ready to start construction. The properties are in 25 zip codes. Average cost has been \$10,898/unit; up to \$15,000 is available per unit. Thirty (30) units were de-enrolled because they had no lead or minor amounts of lead; 11 units dropped out (applied but program was unable to schedule risk assessment).

Maria Williams, Chief of Housing Finance, reported that the program was initially awarded in August 2013. New staff was hired in April 2015 and the program has now requested a one year extension. GHHI staff provided assistance until the program was able to hire their own staff. A MOU with the Health Department has been helpful. The program is now working with Lyons Homes in Turner Station, where poisoned children have been identified. This development received tax credits and the Program will help to abate 100 units in the development that are income-eligible. Ed Landon said DHCD could help with a support letter for the extension, if that was needed. The state program may be able to assist with 8 units. Maria Williams stated that the program would meet its goals and currently has a waiting list. They have developed a video and presentation for older communities and have had assistance from a Morgan State student. Link to the video will be made available to the Commission.

Lead Legislation for 2017 – Ed Landon provided a quick summary of legislation from 2016 (Also noted in the Maryland Realtor magazine):

- HB-396/SB-308 – Lead Risk Reduction Standards - Maintenance of Exemptions - Both bills lengthen the frequency of lead paint inspections for properties with lead paint on the exterior only from 2 to 5 years as summarized by the magazine. The bill made it through the House but died in the Senate.
- HB 42 – Transfer of Structured Settlements - Childhood Lead Poisoning Claims - Requirements and Limitations – received an unfavorable report but it was approved in another bill.
- HB-810/ HB-1331 – Reduction of Lead Risk in Housing - Fees and Enforcement/ Environment - Reduction of Lead Risk in Housing - Blood Lead Level – Both bills were referred to study.

Interim study – Representative Kumar Barve requested input for a session on Tuesday, 9/13. Nancy Egan noted that this was not an official study but that a report would be forthcoming. Ed Landon stated that one of the bills would require a MDE report every October 1st. Tommy Tompsett will send information regarding the meeting to Pet Grant to send to the Commission. Syeetah Hampton-El indicated that GHHI is planning to attend. She indicated that the legislature

did not have enough time to discuss lead legislation last year because all bills were heard on one day. Hopefully, this will provide sufficient time for discussion.

- SB 951/HB 1154 – Maryland Lead Poisoning Recovery Act – Senate bill received an unfavorable and house bill hearing was canceled. Market Share – big insurance issue, to be discussed on 9/13/16 also.
- HB 1328- Environment - Lead and Mercury Wheel Weights – Prohibited and HB 1307 – Environment - Municipal Water Supply Contamination - Remediation Costs – both passed in the house and died in the Senate
- HB 1563 –Reduction of Lead Risk in Housing - False Reports - Criminal Penalties - did not move in House.

Nancy Egan wants to go through with legislation to repeal sections of the insurance code related to Dackman decision on qualified offer. She has asked what has happened on the insurance side following the Dackman decision and is following up on this. John Scott stated that Dackman did not relinquish insurer's requirement to provide coverage. The statute requires insurance companies to make qualified offers; landlords are not off the hook. Nancy Egan said that the AG has reviewed this. She would like the Commission to send a letter to the AG for an opinion on this. In 1994, qualified offer was made available. Since Dackman, can we remove this from the insurance code? Nancy Egan will help write a request for the Commission to consider.

Ed Landon noted that state agencies have a September 1st deadline for legislation for the Governor.

Future Meeting Dates

The next Lead Commission Meeting is scheduled for Thursday, August 4, 2016 at MDE in the AERIS Conference Room – Front Lobby, 9:30 AM – 11:30 AM.

Agency updates

Maryland Department of Environment – Paula Montgomery reported that a contract had been secured for additional inspections following the investigation of fraudulent lead-free certificates. Of 384 identified properties, MDE has issued Invalid Certificate Letters on 37 pre-50 rentals. Eleven of these properties were subsequently issued new lead free certificates. The company gave up its certification through July 2016. Additional investigations are on-going: 1600 letters were sent to residents and 1600 letters are being mailed to owners of properties inspected between 1996 and 2008.

Maryland Department of health and mental Hygiene – Cliff Mitchell reported that the Department is printing and stuffing 14,000 packets for primary care providers (PCPs). 8,400 have been mailed to pediatricians, family practitioners, nurse practitioners and OBGYNs. Additional packets have been mailed to local health departments, school nurses and other new providers. They will also be distributed at Grand Rounds for PCPs. DHMH plans to speak with Maryland Insurance Administration regarding the private insurance market and requirements for

lead testing, based on new state requirements. DHMH is also meeting with child care supervisors at the Office of Childcare next week and will participate in a meeting with school nurses in August. Cliff Mitchell will send packages to all Commissioners. DHMH is also working with MDE on registry issues and consumer product issues. Unclear what consumers do if identify questionable contaminated material – FDA looks at food or cosmetics; CPSC looks at consumer products. Cliff Mitchell indicates there will be gaps and there may be need for additional legislative authority.

Maryland Department of Housing and Community Development – Ed Landon stated there were no department updates at this time.

Baltimore City Health Department - Mary Beth Haller stated there were no department updates at this time.

Baltimore City Housing and Community Development – no representative present

Office of Child Care – no representative present

Maryland Insurance Administration – Nancy Egan stated there were no updates at this time.

Public Comment

David Fielder attended a joint HUD/NEHA Conference and reported on a panel discussion presenting evidence on feasibility of reducing clearance levels on floors to 10µg/SF. HUD may be considering a change in required levels.

Delegate Nathaniel Oaks reported that the Subcommittee of Environment and Transportation will hold a meeting focused on lead on September 13. Delegate Holmes will chair the Committee, which has not yet been announced to the public.

Adjournment

A motion was made by John Scott to adjourn the meeting, seconded by Nathaniel Oaks. The motion was approved unanimously and the meeting was adjourned at 11:30 AM.