

GOVERNOR'S LEAD POISONING PREVENTION COMMISSION

Maryland Department of the Environment
1800 Washington Boulevard
Baltimore MD 21230

MDE AERIS Conference Room
February 1, 2018

APPROVED Minutes

Members in Attendance

Anna L. Davis, Benita Cooper, Mary Beth Haller, Susan Kleinhammer, Patricia McLaine, Cliff Mitchell (via phone), Barbara Moore (via phone), Manjula Paul, Christina Peusch, Adam Skolnik

Members not in Attendance

Shana G. Boscak, Paula Montgomery, Leonidas Newton, Sen. Nathaniel Oaks, John Scott

Guests in Attendance

Shante Branch (MDE), Jack Daniels (DHCD), Ludeen Green (GHHI), Lan Van De Hei (MDE) Rachel Hess Mutinda (MDH [via phone]), Lisa Horne (DHHK) Ruth Ann Norton (GHHI), Marché Templeton (GHHI)

Welcome and Introductions

Pat McLaine called the meeting to order at 9:35 AM with welcome and introductions. New Commissioner Benita Cooper, Assistant Chief at Maryland Insurance Administration, introduced herself; she manages a staff of investigators managing complaints, identifies trends for new legislation and oversees disaster response. New MDE Program Manager Shante Branch also introduced herself; she is from Baltimore, oversaw the family advocacy program at GHHI for three years and has experience in addictions and mental health.

Approval of Minutes

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

Old Business

Pat McLaine reported that letters went out to the Federal Congressional Delegation regarding the reauthorization of the Child Health Insurance Program (CHIP). One response was received from Steny Hoyer. Cliff Mitchell indicated he was unsure how the reauthorization would impact Maryland's program going forward but Maryland Department of Health is cautiously optimistic.

New Business

MDE's rental registry report was not available.

Lead Legislation - Anna Davis led the review of six pieces of lead legislation currently pending in the Maryland General Assembly.

1. HB 304 – Reduction of Lead Risk In Housing – Elevated Blood Lead Levels – in first reading, Environment and Transportation Committee. GHHI distributed a handout “10 to 5 So Kids Can Thrive!” The bill would lower level for case management, including environmental investigation, from 10 to 5µg/dL. CDC proposed this change in 2012 and it has already been adopted by North Carolina, New Jersey and Maine. Baltimore City is already providing follow-up at this level but environmental investigations are not being done across the state. Adam Skolnik suggested the bill should reference a “reference level” rather than 5µg/dL, which is likely to change. He noted that the focus of Maryland law has not been changed greatly to reflect the extent that poisoning is occurring in owner occupied as well as rental properties. He also indicated that if the investigation finds that the child was not poisoned from the house, the bill requires rental property owners to do a modified risk reduction, which is not reasonable. Ruth Ann Norton stated that MDE is interested in addressing this if there is no proven other source; Maryland must address this issue to save money and protect the future capacity for children living in Maryland. Susan Kleinhammer asked for information about the safety of children in owner occupied property vs rental property, suggesting that the law should apply to all at-risk properties. It is not clear what is being done by other states in terms of requiring housing remediation for rental and owner-occupied housing. Cliff Mitchell stated that Baltimore City is choosing to visit children with 5-9µg/dL BLLs; there is not a state mandate. Maryland Department of Health (MDH) requires health care providers to follow up on children with 5-9µg/dL BLLs but there is no requirement for jurisdictions to provide case management follow-up. The Childhood Lead Registry has been reporting on 5-9µg/dL BLLs for local jurisdictions for several years. Adam Skolnik stated he has concerns about false positive BLLs identified with the hand-held analyzers that are calibrated to 3µg/dL plus or minus 4µg/dL. GHHI has proposed amendments giving Local Health Department sanitarians ability to inspect owner occupied and rental properties. The Committee had two concerns: that the bill should target the reference level, not a level of 5µg/d and that the requirement should apply to owner-occupied properties as well as rental properties. Cliff Mitchell stated that MDE and MDH have looked at information regarding the identified sources in cases reported 2016 and sources are complex. In many cases, there are multiple sources. Ruth Ann Norton noted that the predominant problem is lead in housing and we need to be clear about the importance of protecting children from leaded housing in Maryland. Adam Skolnik stated he understands that housing is the main source for lead exposure for young children but that action needs to be taken on all lead sources identified in the investigation of the case.

A motion was made by Anna Davis, seconded by Susan Kleinhammer, to support HB 304 with amendments: (1) all housing is covered, including owner-occupied properties; (2) CDC language of a reference level is used (not 5µg/dL); (3) definition of “reference level” is added to 6-801. The motion passed: 6 yes votes, 3 abstentions.

2. HB 479/SB 1066 – Juvenile Law – Lead Testing and Behavioral Health Assessment. Hearing 2/8 in the Judiciary Committee. Requires juvenile court to order BLL testing of juveniles with parental consent and to create a behavioral health assessment of the child. Regarding the genesis

of the bill, Ruth Ann Norton stated she had reached out to Nick Mosby. GHHI wants resources put on prevention. Previous states attorneys were frustrated at the number of young people with Lead Commission Minutes

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a history of increased BLL. GHHI has no position on the bill. Cliff Mitchell said he is unsure what BLL is associated with earlier lead paint exposure; if the child had a retained bullet fragment, they would also have an elevated BLL. This will require someone to identify the source and to take action. Ruth Ann Norton suggested that the purpose of the bill may be to establish a cost for reparations. Adam Skolnik stated that part of the rationale behind the bill is to determine if lead paint is associated with crime. Anna Davis said the only benefit might be to change services a child would get or change the way to approach the child, if history of elevated BLL is known. The disparity is in who is getting charged and how they are getting charged. Barb Moore said it would be difficult to determine the lead source. Pat McLaine stated it would be possible to identify a child's history or lead exposure as a child from CLR records. Anna Davis noted that this is a requirement and obligation of the child's counsel to investigate a child's lead history and take it into account and that the court can do this if asked. Christina Peusch noted that the Commission's charge is prevention. Anna Davis made a motion that the Commission NOT take a position on HB479; the motion was seconded by Christina Peusch. The motion passed: 6 yes votes, 3 abstentions.

3. HB 604 Baltimore City Lead Remediation and Recovery Act– this is bill holding paint manufacturers liable for lead damages based on their market share of sales in Baltimore City; it does not waive future claims. Bill is assigned to both the Judiciary and Environment and Transportation Committees. Adam Skolnik stated that we can't know who produced paint used on individual properties. The bill precludes parents and children from suing. Only the City, Housing Authority, and property owners could sue. This is a change from last year's bill where anyone could sue. It is unclear if Baltimore City is supporting this bill. Ruth Ann Norton stated that California had secured a \$1.1 billion judgement against Sherwin Williams based on nuisance. She said it troubles her to take away individual right to sue, which is a civil liberty issue. GHHI has supported market share liability in the past. Sherwin Williams voted in 1904 not to enter production of lead-based paint because of harm to children and pregnant women. But in 1904, the company changed course and decided to enter the market. Anna Davis asked if this was a concern of the Commission. Pat McLaine noted that having resources is critical and of concern to the Commission. The Commission decided to revisit this bill at the March meeting.

4. SB 444 – Task Force on Social Determinants of Health in Baltimore City. Bill is assigned to Finance Committee and was introduced by Senator Nathan-Pulliam. The bill calls for the investigation of social factors and development and implementation of solutions for Baltimore City with a report due December 1 each year. Bill includes provision for recommendations on housing, including lead, mold and blight. Concern was raised that the Task Force should include both residents and representatives of housing interests. A motion was made by Anna Davis, seconded by Susan Kleinhammer, to support SB444 with amendment that the Task Force includes Baltimore City residents and representatives of housing interests. The motion passed: 6 yes votes.

5. SB 469 Public Health – School Buildings – Minimum Health Standards (Healthy Schools Program) – The bill would establish a new section on school building minimum health standards. It is assigned to Budget and Taxation with a hearing scheduled for February 21st. The bill establishes a healthy schools program to promote healthy environment in schools. Each district would adopt regulations to establish minimum standards to protect the health of occupants of school buildings. The scope includes indoor air quality, water, asbestos, lead, temperature, mold and pests. There has been a voluntary program and Baltimore City has taken the lead in addressing these issues in Maryland. Is there concern about lead in the schools? This bill would give specific authority to focus on schools and specific regulatory authority to take action to address problems. It was discussed that the bill should include private schools as well, but private schools are not covered by this bill. Adam Skolnik noted that there have been concerns raised in Baltimore County schools about temperature and need for air conditioning. A motion was made by Anna Davis, seconded by Susan Kleinhammer, to support SB469. The motion passed: 6 yes votes.

6. SB 524 Landlord and Tenant – Repossession for Failure to Pay Rent – Lead Risk Reduction Compliance – The bill is sponsored by Senator Kelly. The hearing is scheduled for February 15th in Judicial Proceedings. Landlords are required to have lead paint registration and compliance information; currently if that information was not available, judge **may** dismiss landlord's attempt to repossess the property. SB524 says the judge **shall** dismiss the landlord's attempt to repossess if lead paint registration and compliance information is not available. Ruth Ann Norton stated that MDE should support actions on property owners who lie on this form. Enforcement is not being done. The Bill would open up this process – GHHI supports the bill. Adam Skolnik noted that the information is required to be given now and judges already have the authority to dismiss a complaint based on information not being present. Susan Kleinhammer asked if there are any statistics about the number of cases. Ludeen Green said it is a best practice issue. If the law is clear cut, it would be easier to argue that an action against a tenant should be dismissed. Adam Skolnik stated that the tenant still owes rent and it is important to have the landlords paid. Ruth Ann Norton noted that landlords should not be permitted to collect cash rents if rental property is not in compliance with the law. Adam Skolnik stated this is an issue when the tenant doesn't show up to a hearing. Susan Kleinhammer noted that this would only impact affected properties. Motion was made by Christina Peusch, seconded by Anna Davis, to support SB524. The motion passed: 5 yes votes, 1 opposed.

2018 Calendar – Pat McLaine distributed a draft calendar for 2018. Adam Skolnik suggested that if each agency reported in writing, the Commissioners would have the opportunity to review the report and ask questions. This would be of value to Commission. Requirement would apply to agency updates and specific required reports. In the interest of time, the Commission decided to discuss this issue at the March meeting to give individuals who are impacted to chance to discuss this issue.

Future Meeting Dates

The next Lead Commission Meeting is scheduled for Thursday, March 1, 2018, at MDE in the AERIS Conference Room – Front Lobby, 9:30 – 11:30 AM.

Agency updates

Maryland Department of Environment - nothing to report

Maryland Department of Health – no representative present

Maryland Department of Housing and Community Development – DHCD is moving forward through the procurement process for Healthy Homes for Healthy Kids. All state fiscal year funds for lead will be spent by the end of this week. Last fiscal year was the first year that the Department used all the lead money. DHCD is informing local agencies that they will continue to accept applications but funding won't be available until 7/15/18.

Baltimore City Health Department – no representative present

Baltimore City Housing and Community Development – no representative present

Office of Child Care – Manjula Paul reported that the agency has proposed regulatory change to change the year built from 1950 to before 1978; this will be proposed legislation. Manjula Paul will let the Commission know the bill number when available. Regarding the Commission's letter and request that Office of Childcare capture information about the age of property: Office of Childcare has given this priority status and the data is expected to be available in the next 6-10 months. A new Director of Childcare has been appointed, Jennifer Nizer, who will begin work on February 15, 2018.

Maryland Insurance Administration – nothing to report

Public Comment – no public comment.

Adjournment

A motion was made by Adam Skolnik to adjourn the meeting, seconded by Anna Davis. The motion was approved unanimously and the meeting was adjourned at 11:44 AM.