

GOVERNOR'S LEAD POISONING PREVENTION COMMISSION

Maryland Department of the Environment
1800 Washington Boulevard
Baltimore MD 21230

MDE AERIS Conference Room
August 1, 2019

APPROVED Minutes

Members in Attendance

Benita Cooper, Anna Davis, Mary Beth Haller, Susan Kleinhammer, Patricia McLaine, John Martonick, Cliff Mitchell, Paula Montgomery, Leonidas Newton (via phone), Manjula Paul, Adam Skolnik

Members not in Attendance

Shana Boscak, Barbara Moore, Christina Peusch

Guests in Attendance

Camille Burke (BCHD), Chris Corzine (OAG), Jack Daniels (DHCD), Sheneka Frasier-Kyer (DHCD-LHRP), Ali Golshiri (PGCHD), Anita Goodman (HABC), Ludeen Green (GHHI), Elizabeth Heitz (MDH), Rachel Hess Mutinda (MDH), Kaley Laleker (MDE), William Loehr (HABC), Dawn Joy (AMA), Bill Peach (HABC), Michael S. Spangler (CONNOR), Susan Thweatt (PGCHD), Patrick Wallis (PGCHD)

Welcome and Introductions

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

Approval of Minutes

A motion was made by Anna Davis, seconded by Adam Skolnik to accept the May 2019 minutes as amended. All present Commissioners were in favor and the minutes were approved. A motion was made by Anna Davis, seconded by Susan Kleinhammer, to accept the June 2019 minutes as amended. There were two abstentions, all other Commissioners were in favor and the minutes were approved.

Old Business

Universal Screening Evaluation – no comments were offered; Commissioners were requested to send any comments directly to Cliff Mitchell.

Asset and Gap Analysis – Paula Montgomery indicated that the Commission needs to first determine where the gaps are. Anna Davis stated she was not completely clear based on the slides what would be done in Maryland. The approach looks fairly thorough but it is hard to know what GHHI would do and what the product would look like. The approach appears to identify all programs and all areas and reviews funding sources. It could be a useful tool for the Commission and this is a key element of our Strategic Plan. Anna Davis stated that in her opinion, the Commission should engage GHHI to do this. Adam Skolnik asked if GHHI could share a real sample of an Asset and Gap analysis; he would be very interested in looking at that. John Martonick stated he agreed with this and found the approach interesting. He

suggested that it might be possible to check with the state of New Jersey about the result of their Asset and Gap

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Analysis. Ruth Ann Norton stated that GHHI is offering to do this work pro bono. It is a highly transparent, engaged process. She said she would be happy to have the Commission talk to the Health Department, the Governor's Office, the Fund for New Jersey. GHHI has now done this for more than 60 entities. It is a guide to help map out economic resources, human resources. GHHI will assess surveillance, look at blood lead levels and case management, examine the funding and deficits in needs, and identify gaps. Ruth Ann Norton noted that GHHI is doing this for many jurisdictions that are applying for HUD funds; the Asset and Gap Analysis allows the jurisdictions to identify and go after additional needed dollars. This is not advocacy work – it is empirical engaging work. GHHI just completed the process for Utica. They identified a \$5 million gap, the funds were secured to address this gap. This has been repeated in other states including Rhode Island.

Anna Davis asked what the timeline was. Ruth Ann Norton said it was a 3-month process in New York, Connecticut and New Jersey. Adam Skolnik stated he would like to see a sample of the analysis; Ruth Ann Norton said she would ask participating states if they would agree to share this. She specified that the expected time to complete the analysis was three months. Wes Stewart participated in this work, other GHHI staff are not based in Maryland. If Commission members want to call other states for references, Ruth Ann Norton requests that Secretary Grumbles be part of the call. John Martonick stated he would be satisfied with a letter from a state that GHHI had worked with. Ruth Ann Norton stated that GHHI does things in a very business-like fashion. GHHI's goal is to eradicate lead poisoning. GHHI will identify barriers and suggest regulatory changes that are needed. Adam Skolnik indicated that he wants to see an example of the work product and hear from other states that have completed the process. Ruth Ann Norton stated that September 15-17, all states would be at a meeting at the Renaissance Hotel and there would be a panel on the Asset and Gap Analysis; Commissioners are welcome to register for the meeting. Ruth Ann Norton stated she also has to talk to her Board to see if they agree to pay for the Asset and Gap Analysis for Maryland. She stated that GHHI will require MDE to agree formally to the process. She said she would have an answer within 2 weeks. The Commissioners are in favor of moving forward based on GHHI providing a copy of the product and Commissioners having an opportunity to talk with at least one state about the process.

Amazon's Sale of Leaded Products – Anna Davis reviewed the facts of an investigation and subsequent legal matter brought by the Washington State Attorney General's office against Amazon. The investigation revealed that products sold on Amazon's website, including children's school supplies, costume jewelry, contained toxic levels of lead, cadmium and other metals and affected more than 15,000 customers nationwide. It was clear the items were highly contaminated – one pencil pouch had 8500 ppm lead. As a result of the investigation, Amazon entered by consent into a binding Assurance of Discontinuance filed in the King County Superior Court that required Amazon to discontinue the sale of children's school supplies or jewelry containing lead and cadmium levels exceeding those allowed by state and federal laws. In addition, Amazon notified customers of the toxic products, offered refunds, encouraged disposal of the items, and initiated an upstream seller's certification process. The Commission initially discussed the Amazon matter at our May 2019 meeting. The suggestion was made at that time that we ask the Maryland AG's office to look into this matter further. Specifically, the

Commission wanted to know how many, if any, Maryland consumers were affected and what action was taken. Anna Davis drafted a letter asking the Maryland AG's Office to look into the matter --- to identify the number and type of items that may have been sold in Maryland, to determine how many, if any, Marylanders received refunds, and to determine what, if any, steps have been taken to protect children and families in our state. The letter also asks Attorney General Frosh to continue to monitor compliance going forward. As the Commission noted in its letter, these other sources of lead are much more insidious and difficult to control. This issue with Amazon highlights the necessity for agencies to remain vigilant as on-line retail is very difficult to control. A motion was made by Adam Skolnik that the Commission send the letter as written, the motion was seconded by John Martonick. Nine commissioners were in favor, two abstained; the motion passed. Pat McLaine will work with Pet Grant to get the letter sent out; a copy of the Assurance for Discontinuation will be included in the letter.

Update on Strategic Plan – Paula Montgomery distributed the updated goals; the Gap Analysis is a mid-term goal.

New Business

Update on Baltimore City Housing Authority – Bill Peach presented on behalf of the Housing Authority of Baltimore City (HABC), Lead Compliance, REAL and RAD programs. He indicated that there are many misconceptions about the HABC: it is a separate entity, not a city agency. Funding is federal and HABC is overseen by HUD. HABC was created December 13, 1937 during the Great Depression when 15 million American workers were out of work. Conditions in cities were rough: many people were out of work, living in very substandard housing. The New Deal package included creating public housing projects including a private housing authority, funded by the Federal Government to create low income housing for low income families. HABC is the fifth largest Housing Authority in the US. It owns 7,000 public housing units in 13 sites and scattered sites and has more than 700 employees. It serves 1200 households through Housing Choice Voucher program. A total 8,200 households are served.

Earliest projects were financed in 1941 including Poe, Douglas, McCulloh Low Rise and Latrobe Homes. Later developments included Fairfield Homes, Brooklyn Chery Hill – wartime housing that was converted to Public Housing. In the 1950s, family high rises were built. During the 1980s to 1990s, these were taken over by drug lords. In the 1990s, all high rises were demolished and redevelopment included a mix of public and private. In the 1970s, mixed income high rises for seniors and individuals with disabilities were developed. In the 1980s, scattered sites were added to the inventory.

With regards to compliance, HABC tried to ensure that the dwelling units were in full compliance with lead standards: all were tested and certified before they were leased. Rental units were all registered with MDE; now HABC is submitting all information electronically. All tenants receive educational material on lead at least every two years. An annual inspection is usual; the EPA pamphlet and MDE's Tenants Rights document are distributed. HABC must meet the risk inspection standard. If there is a Notice of Defect, the tenants are relocated while

work is being done. Permanent relocation is typically not needed. Staff are trained by certified trainers. HABC pays about \$27,000 per month for testing. 65-70 units turn over every month.

An article from the Real Estate Assessment Center (REAC) in March 2019 said that HABC was miserably failing REAC inspections, citing data from 2017 inspections. Although inspection data from 2018 was better, HABC had a problem at Rosemont due to low City water pressure that caused the pumps to burn up. Also, elevators and exterior brick in the project were being repaired. Tenants had blocked egress to windows, a fire safety issue. HABC lost points due to erosion, graffiti that had been sprayed the night before and dumping on the property. REAC provided the information to the Sun and an article was published about the failures.

Bill Peach noted that the REAC inspection was done by a contractor following national standards. The results are a snapshot in time of recordable deficiencies. Decreased federal funding is part of the problem. HABC does not have enough money to do what they need to do. HABC does have regular meetings with supervisors and with other agencies (including Health Department and Department of Public Works) to maximize available funding from HUD. HABC has an independent consultant inspect 100% of the units preventatively and generate work orders to be addressed by maintenance staff. HABC is hiring 10 inspectors to search for REAC deficiencies throughout the properties. HABC will provide REAC training to all staff and supervisors. Starting July 2019, Baltimore is included in HUD's new demo pilot program in Region 3.

A new acronym – National Standards Physical Inspection of Real Estate (NSPIRE) will emphasize lead based paint hazards and molds. HUD will double the number of inspectors, which should be helpful. The goal will be to improve how well HABC does. The new focus will be on living conditions and functionality.

HUD estimates that it will take about \$26 billion to meet the needs of Housing Authorities.

The Rental Assistance Demonstration (RAD) Program – Housing Authorities can rehab/repair units using outside private developers. Outside developers have a 20-year lease. Residents in the buildings will be allowed to stay without increase in rent. Developers get tax incentives and rental income. Now 12 high-rise, 4 mid-rise and 3 low-rise properties are in the RAD program, more than 3200 units. Other developments are in the process of going to RAD in Baltimore. Bill Peach sees this as a win-win-win for HUD, the Housing Authority and residents. The buildings will be completely re-vamped.

John Martonick asked about Region 3 HUD pilot program. Bill Peach said he did not know who HUD would choose to participate in the program.

A representative from HUD stated that he did not think it would apply to everybody. The kinks are being worked out. Housing stock is different in 10 different offices. HUD expects to have more information later regarding whether this will be industry-wide.

Cliff Mitchell asked if NSPIRE's look at mold and lead involved assessment of the health of occupants; Bill Peach clarified that the focus is on the structure itself.

Bill Peach was asked how the no smoking policy was going; Bill Peach said it was working well and he had not heard any negative feedback.

The RAD units are not counted in the total number of units. HUD RAD converts to the Multi-family Housing Program with funding from another pot. Bill Peach stated he was not sure what happens after the 20-year agreement ends. Camille Burke stated that the Baltimore City Health Department and the Housing Authority of Baltimore City were working closely together.

Impact of Changing EPA's Lead Dust Hazard

Kaley Laleker, MDE, provided an initial review. EPA published a Final Rule in July 9, 2019 amending the dust lead hazard standard, the concentration of lead in dust that determines if a hazard is present during a risk assessment. The Final Rule changed the floor standard from 40 micrograms of lead/square foot to 10 micrograms of lead per square foot and changed the sill standard from 250 micrograms of lead/square foot to 100 micrograms of lead per square foot. This determination does not change the post-abatement clearance testing standard but EPA intends to address the clearance standard by July 2020 with a final rule in July 2021.

The EPA rule is effective January 6, 2020. Maryland state standards must be as stringent as EPA standards. States have two years to adopt the standard (January 6, 2022). MDE regulations reference the federal regulation, incorporating all future amendments, so the new EPA rule will automatically go into effect for risk assessment in Maryland on January 6, 2020.

But the clearance standards would remain unless MDE decides to change the regulations to make the clearance standards the same as the dust lead hazard standard. MDE is considering this.

EPA says they looked at the achievability based on results from the HUD lead hazard control grantees: 85% of properties completed recently passed the lead floor dust standards and 97% passed the lead sill dust standard.

There are also lab reliability issues. MDE is looking at this. MDE wants to determine if HUD lead hazard control properties are similar to those regulated by MDE. MDE is planning to put out a bulletin to training providers.

Paula Montgomery stated that the new standard does not apply to abatement or risk reduction until 2020 unless we change our regulations. Cliff asked if there were any implications for cost. The Final Rule describes this. Some labs can meet these lower levels now. There may be some things done that could help (for example, increase the area sampled). Adam Skolnik noted his concern that if you pass Maryland clearance standard but don't pass EPA standard, property owners have to disclose that there is a lead hazard. Some of his members are already informing cleaners that they must clean more thoroughly so that the property is able to pass both standards.

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Sheneka Fraiser-Kyer indicated that HUD programs have been following the new EPA standard since 2017. Ludeen Green asked if MDE is considering lowering the standard and asked what other information could help. Kaley Laleker said MDE was looking for additional studies to determine the achievability of meeting the standard and is also looking at the lab issue.

Susan Kleinhammer noted that change was hard. She made a motion urging MDE to adopt the EPA lead dust hazard standard for clearance.

Kaley Laleker noted that MDE would need a regulatory change to lower the number to the lead hazard standard. The clearance standard is in regulation. Risk Assessment refers to EPA in regulation.

Mary Beth Haller said it was logical: if you asked a parent would they rather have clearance or a health-based standard, the answer would be the health-based standard. Ali Golshiri noted that many currently acceptable levels will be violations. What will happen to licensing and certification? What will happen to certifications? It is a question of application of the new standard. Ali Golshiri indicated that he went to a home that was 3 years old and found more than 10 micrograms/square foot of lead on the floor. Vinyl mini-blinds were hanging on the windows. In Prince Georges County, there are a few apartment complexes with immigrants. The County does a limited environmental investigation. If he sees mini-blinds and lead dust in the window sill, he suggests a change of mini blinds to non-vinyl. Although the box says “lead free” mini-blinds, the product often has some lead in it. CPSC approval is not enough. Susan Kleinhammer noted that Section 8 properties will have to comply with the new lower standard for hazard reduction activity.

A new motion was made by Susan Kleinhammer: the Commission encourages MDE to lower the risk reduction standards to the new EPA lead hazard dust levels as of January 6, 2020. The motion was seconded by Anna Davis. Six Commissioners voted in favor, five Commissioners abstained, the motion passed.

Future Meeting Dates

The next Lead Commission Meeting is scheduled for Thursday, September 5, 2019, 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 – MDH just completed a fiscal year review of the Medicaid CHIP program and is now doing budgets for FY2020 and talking with nine local programs in the Asthma and Lead Program. MDH will be looking closely at the data. Federal fund matching has

declined from 88% to 79% but MDH is committed to keeping the program intact. In 2008, Children's Environmental Health Advisory Council, MDE and MDH released a comprehensive

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report on environmental health. MDH is updating that report now and would like someone to work on an update of progress that has been made with lead in the last 10 years..

Maryland Department of Housing and Community Development – DHCD is moving quickly through loan applications and will have numbers next month. There will be at least \$2 million this year because of matching. Some costs remain high.

Baltimore City Health Department – testing continues. There is a Back to School rally this weekend. Staff are providing lead testing along with immunization – 60 children were tested last week. BCHD will also be testing in two WIC locations. City also plans to kick off a program to encourage lead testing in the fall and spring.

Baltimore City Housing and Community Development – Staff are busy closing out the 2015 HUD grant. 241 units were completed and cleared (goal was 230). The City is still in close-out as a result of the ransomware attack. City is now in negotiation for the new HUD grant. BCHCD will also apply for \$9.1 million high impact grant that is due August 9th. A motion was made by Paula Montgomery, seconded by Anna Davis, that the Commission provide a letter of support for Baltimore City's HUD application. All seven remaining Commissioners were in favor, the motion passed. Paula Montgomery will draft the letter and work with Pat McLaine and Pet Grant to get the letter to BCHCD.

Office of Child Care – nothing to report

Maryland Insurance Administration – nothing to report

Public Comment

Ludeen Green reported that GHHI is holding property owner trainings at their location and making webinars available focused on the change lowering the blood lead level.

Pat McLaine thanked Ali Golshiri for his participation in Lead Commission meetings over many years and his outstanding contribution to Lead Poisoning Prevention efforts in Prince George's County.

Adjournment

A motion was made by Anna Davis to adjourn the meeting, seconded by Manjula Paul. The motion was approved unanimously and the meeting was adjourned at 11:31 AM.