

**GOVERNOR'S LEAD POISONING PREVENTION COMMISSION**

Maryland Department of the Environment  
1800 Washington Boulevard  
Baltimore MD 21230

MDE TERRA Conference Room Room  
October 1, 2015

APPROVED Minutes

**Members in Attendance**

Nancy Egan, Susan Kleinhammer, Edward Landon, Patricia McLaine, Cliff Mitchell, Paula Montgomery, Barbara Moore, Del. Nathaniel Oaks, Christina Peusch, Ken Strong

**Members not in Attendance**

Mel Jenkins, Linda Roberts, John Scott, Tameka Witherspoon

**Guests in Attendance**

C. E. Burke - BCHD, Elizabeth Dissen – DHMH, David Fielder – LSBC, Laura Fox – BCHD, Michelle Fransen – Cogency, Syeetah Hampton-EI – GHHI, Audra Harrison – DHCD, Ken Holt – DHCD, Duane Johnson – MDE, Myra Knowlton – BCHD, Ariane Kouamou – MDE, John Krupinsky – MDE, Rachel Mutinda – DHMH, Mike O'Leary – BCHCD, Dean Rhoad – MIA, Christine Schifkovitz – CONNOR, Horacia Tablada – MDE, Tommy Tomsett – MMHA, Ron Wineholt – AOBA, Joseph Wright – MDE, Carol Payne – HUD.

**Introductions**

Pat McLaine called the meeting to order at 9:40 with welcome and introduction.

**New Business**

Secretary Kenneth C. Holt, Maryland Department of Housing and Community Development  
Secretary Holt addressed the meeting. He stated he had spent a lot of time learning from Commission members about lead poisoning. He indicated that this has been an immersion, an education that will convert to action. DHCD has spent \$13 million on lead hazard control in the last 10 years, including \$6.2 million in Baltimore City and \$1.5 million on the Eastern Shore. Funds have remediated 1,000 dwellings. A variety of issues need to be addressed. Maryland Insurance Agency is focusing on improvement of structural settlement money. Dr. Wen and Laura Fox have discussed the importance of uniform testing to get a benchmark. DHCD has been involved with weatherizing homes and identifying older homes. He stated he wants to ensure that Maryland's older housing stock is in a condition that young children can thrive. He understands that everyone is working together. He indicated that DHCD will focus on blight remediation. Secretary Holt indicated that Governor Hogan has met with the Mayor **Stephanie Rawlings-Blake** and details are forthcoming. They are very positive about strategic demolition followed by redevelopment. He stated that he believed this would advance the aims of all members of the Commission. He stressed the need to address structural issues with older stock and tactical issues to make sure all kids are tested. When settlements are reached, he wants to make sure people who need capital get it. He indicated that he had a long term commitment and looked forward to helping to eradicate lead paint hazards in Maryland.

John Krupinsky stated he was concerned about access to funds to remediate lead hazards. The process is very time consuming – could it be streamlined? The current requirements result in many families dropping out; many do not qualify. He suggested Secretary Holt might want to speak with families. Secretary Holt replied that the process needs to be improved. He stated he would talk to Ed Landon to look at the steps that families go through and stated that DHCD will improve. Michael O’Leary stated that the documents are very time consuming to complete and that by the time some families have completed all documents, the time has expired and new documents are needed. Secretary Holt said DHCD would get on this and that he understands there are many concerns about red tape.

David Fielder (Baltimore County) noted that combining health and housing was a unique problem: often there was no conversation between the two groups. The Governor should ask the county to create dialogue between health and housing which in turn would create more successful conditions. Secretary Holt replied that he has started a dialogue with DHMH.

Susan Kleinhammer asked what was going on in jurisdictions outside of Baltimore City with regards to enforcement of existing regulations on contractors – MDE and RRP Federal Rule. If we had more enforcement through permits or rules we would have fewer incidents and could prevent exposure to lead. Ed Landon noted that Maryland is a home rule state where counties enforce the codes; DHCD adopts building and livability codes and provides training for codes. Local jurisdictions are required to enforce all codes. Susan Kleinhammer clarified that she was asking about outreach, not enforcement per se. Secretary Holt stated that DHCD could do that from an information/training purpose. Pat McLaine noted the Commission’s work with Baltimore City on incorporating RRP training verification into the City’s permitting process. Ed Landon stressed that having the City incorporate RRP training verification in the permit process would set the standard for the state. Ken Strong stated that with regards to the permit issue, he has emailed Jason Hessler.

Ken Strong thanked Secretary Holt for authorizing matching funds for the HUD proposal; Maryland had one of the highest matches in the country. State DHCD is keeping lead follow-up alive. Many of the homes that are being treated have multiple problems and having state money is very important. Carol Payne stated she was pleased that Secretary Holt was here at this meeting and that she would like to talk again with him at a later time.

Secretary Holt stated that clearly it is partnership, teamwork and required execution. That is what DHCD is all about. Secretary Holt thanked the Commission and stated that it has been a blessing to hear from Commissioners including Tameka Witherspoon and Pat McLaine who are extremely committed. He indicated that his door is always open. He pledged to cut through red tape and improve administrative processes.

#### Update on meetings of the Special Sub Committee on Structured Settlements

Nancy Egan - Maryland Insurance Agency (MIA) stated that former Commissioner Bartlett wrote an op ed piece published in the Washington Post on August 26, 2015 stating that the courts should consider structured settlements based on how we do annuity buyouts. Devon Rhoad, Sr.

became part of the Rules Committee to develop new rules for the court, which will be reviewed October 9, 2015 and sent to the Court of Appeals for expedited approval. Devin L. Rhoad, Sr., an annuity expert at MIA, addressed the Commission. Articles about how victims of lead poisoning have been pressured to selling off portions or all of their settlements for as little as nine cents on the dollar. The law governs how payments can be transferred. Independent advice, if in the best interest of the payer, will be approved.

There are a large number of loopholes. The Committee put together a list of new rules that will address the problem and loopholes: (1) courtroom shopping – the petition to transfer the payment must be filed in the county of request; (2) disclosure must be provided to the payee and the court. The court will be in a better position to decide if it is a good deal; (3) Rules about how independent professional advisor can function – must provide detail on the number of structured settlements they have advised, and the relationship with the party trying to purchase payment. (4) the rules specifically apply to lead poisoned children or cases where cognitive or other impairments are present which requires additional scrutiny. (5) personal attendance of the payee will be required in court; (6) the court may appoint a guardian ad litem for the duration of legal action to also make sure the rights of individuals are being protected. The consent of the payee and affidavit of the professional advisor must both contain information on the current value and the present value (the annuity rate). The money being offered must also be disclosed. Carol Payne asked what evaluation method would be used to look at this going forward. Will someone be looking at the behavior of the individual attorney identified in these cases? Nancy Egan indicated that she would reach out to individuals about plans for the long term-term evaluation. The District Court rules communication and she will ask if they will be taking any action. Ed Landon asked how these rules will impact individuals who are in a position to receive structured settlements. There should be a way to stop it. He stated there should not be a way for the individual to sign away their benefits. Devin Rhoad, Sr. indicated that all structured settlements have a non-assignability clause. But in the 1990s, companies got Power of Attorney signature stamps and had the settlements going to companies. The legislature made a decision to allow a transfer but to regulate so it is in the interest of the payee. Syeetah Hampton-EI - GHHL stated he is working on a structured settlement piece. This adds protection for victims of lead poisoning. There was form shopping – sales of settlements were pushed through one court. These additional rules are beneficial, checks and balances are necessary. If this requires a judge to speak with the seller, it will have a benefit. Ed Landon noted that people who don't understand the value of long-term settlement don't understand this.

#### 2014 Annual Report – Childhood Lead Surveillance in Maryland

Dr. Keyvan provided a power point presentation for the Commission reviewing the major points from the 2014 Annual Report. He noted that lead, cadmium, arsenic, mercury and lead are all part of the Adult Heavy Metal reporting, but essentially all reports to that registry are lead. The number of children screened continues to go down. Lab slips are essentially complete per the statute except for race, which is reported by the family. The highest BLL in 2014 was a 64. The number of sites using Lead Care 2 is increasing. The volume of hard copy reports has increased tremendously: 13.3% from 2013 to 2014, more than 50% since 2010. Resources are needed for case management in the City at 10ug/dL. All 10-14 get EH inspections in the counties but a

county nurse may not make a home visit to the family of children with this BLL. Concerns were raised that no case management outcomes are being reported. The number of cases outside Baltimore City was higher than the number of cases for Baltimore City. Commissioners were asked to please bring a list of issues for MDE to consider.

### **Future Meeting Dates**

The next meeting is scheduled for Thursday November 5 at 9:30 in the Aeris Conference Room.

### **Approval of Minutes**

A change was made to the September meeting minutes on page 2. Ken Strong moved to approve the minutes, Christina Peusch seconded and the motion was passed unanimously.

### **Old Business**

**Child Care Subcommittee** – Christina Peusch reported that the Sub-Committee met on Monday (Ed Landon, Christina Peusch, Les Paul and others). The sub-committee is looking at targeting needs for child care providers and will provide a short report next time.

### **Agency updates**

**MDE** – Horacio Tablada stated that Lead Week is the last week in October, October 25-31. MDE will coordinate with the Coalition to have a kick-off on October 26; the Commissioners will be invited. They may do testing at St. Agnes Hospital. MDE will get a calendar out to the Commission.

**DHMH** – Cliff Mitchell stated that DHMH is finishing up revised testing strategy and coordinating with state agencies about how to improve testing rates to ensure that every child is tested. He is hoping for events on the Eastern Shore, Western Maryland and PG County.

**DHCD (State)** – Ed Landon said that DHCD can provide information about new codes.

**Baltimore City Health Department** – Camile Burke has scheduled something for every day of the week with culminating event on Friday. Laura Fox invites participation of other organizations.

**Baltimore City Housing and Community Development** – Ken Strong indicated he was closing out the grant ending 6/30 and starting work on the new grant. The department is coordinating efforts with BCHD and Green and Healthy Homes Initiative.

**Child Care Administration** – No representative present

**Maryland Insurance Administration** – Nancy Egan indicated that MIA was contacted by MDE to remove obsolete language about the qualified offer still in the insurance code. Now they are working with MDE to add language in to remove the qualified offer and change the effect date to 1978 in the insurance code.

**Public Comment**

Barbara Moore indicated that she had done a presentation to Johns Hopkins Community Partners on screening and neurodevelopmental effects and would be doing a presentation to PG County.

Pat McLaine read an email from Commissioner Tameka Witherspoon. She was unable to attend the meeting today but wanted the Commissioners to know that last weekend she and her daughter Dallas went to East Baltimore on Ashland Avenue, passed fruit out to the neighborhood and spoke with parents. She indicated the parents were glad and excited to see someone out in the community and that she plans to go back soon. Pictures from her meeting in East Baltimore were passed around.

Christine Schiffkovitz from Connor Environmental showed a copy of the posters sent to 150 local hardware stores including ACE, Home Depot, Lowes, McCormick, Sherwin Williams. Connor will be following up to see if the posters were put up in stores.

Baltimore County reported that to increase community awareness, they are planning their own lead week on October 13, partnering with GHHI. They are planning media events and outreach throughout the County.

Vacants to Value Summit (November 18-19) – Connor will be there; MDE also hopes to attend.

**Adjournment**

A motion was made by Ed Landon to adjourn the meeting, seconded by Christine Peusch. The motion was approved unanimously and the meeting was adjourned at 11:42 AM