

# **INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE AND FAMILY SERVICES**

## **Minutes of the Seventh Meeting of the 2018 Interim**

**December 12, 2018**

### **Call to Order and Roll Call**

The seventh meeting of the Interim Joint Committee on Health and Welfare and Family Services was held on Wednesday, December 12, 2018, at 10:00 a.m., in Room 129 of the Capitol Annex. Senator Julie Raque Adams, Co-Chair, called the meeting to order at 10:08 a.m., and the secretary called the roll.

Present were:

Members: Senator Julie Raque Adams, Co-Chair; Representative Addia Wuchner, Co-Chair; Senators Ralph Alvarado, Tom Buford, Danny Carroll, Julian M. Carroll, David P. Givens, Denise Harper Angel, Stephen Meredith, and Max Wise; Representatives Danny Bentley, Daniel Elliott, Chad McCoy, Kimberly Poore Moser, Melinda Gibbons Prunty, and Russell Webber.

Guests: Sarah Moyer, MD, MPH, Public Health Director, Louisville Metro Public Health and Wellness; Allison Adams, MPA, RN, CLC, Public Health Director, Buffalo Trace District Health Department, and President of the Kentucky Health Department Association; Dianne McFarling, MA, CPS, ICPS, Director, RiverValley Regional Prevention Center; Jordan Hall, RiverValley Behavioral Health; Eddie Reynolds, Brain Injury Alliance of Kentucky; and Ben Carter, Kentucky Equal Justice Center.

LRC Staff: DeeAnn Wenk, Ben Payne, Chris Joffrion, Dana Simmons, and Gina Rigsby.

### **Approval of the Minutes**

A motion to approve the minutes of the November 27, 2018 meeting was made by Senator Alvarado, seconded by Representative McCoy, and approved by voice vote.

### **Citations**

Citations were presented to Senator Raque Adams and Representative Wuchner for their service and dedication as co-chairs of the committee, Representatives Benvenuti, L. Brown, Owens, and Wuchner upon their departure from the General Assembly.

### **Consideration of Referred Administrative Regulations**

**201 KAR 009:260** - Professional standards for prescribing and dispensing controlled substances; **900 KAR 005:020 & E** - State Health Plan for facilities and services; **900 KAR 006:020** - Certificate of need application fee schedule; **900 KAR 011:010 & E** - Medical review panels; **902 KAR 020:300** - Operation and services; nursing facilities; **902 KAR 100:018** - Repeal of 902 KAR 100:017, 902 KAR 100:060, 902 KAR 100:090; **902 KAR 100:022** - Licensing requirements for land disposal of radioactive waste; **902 KAR 100:052** - Specific domestic licenses of broad scope for byproduct material; **902 KAR 100:070** - Packaging and transportation of radioactive material; **902 KAR 100:072** - Medical use of byproduct material; **902 KAR 100:100** - Licenses for industrial radiography and radiation safety requirements for industrial radiographic operations; **902 KAR 100:142** - Licenses and radiation safety requirements for well logging; **921 KAR 003:025** - Technical requirements; **921 KAR 003:035** - **Certification process**; **922 KAR 001:411** - Repeal of 922 KAR 1:410; and **922 KAR 001:560 & E** - Putative father registry and operating procedures.

A motion to approve the referred administrative regulations was made by Senator Buford and seconded by Representative Moser. Tim Feeley, Deputy Secretary, Cabinet for Health and Family Services, stated that the Kentucky Supreme Court ruled on a 7 to 0 vote that the medical review panel legislation enacted during the 2018 Regular Session was unconstitutional. The cabinet has stopped taking cases and is in the process of wrapping up the entire program. The appellants in the case filed a petition for modification asking that the Supreme Court increase its opinion to clarify the issue regarding statute of limitations and the effect on the medical review panel cases that may be pending. There were 759 cases filed with the medical review panel for which the statute of limitations expired and clarification was needed. The emergency administrative regulation 900 KAR 011:010 & E was drafted before the Supreme Court decision, but it is still necessary to clarify the filing date and procedures for the MRP. The request before the Supreme Court is to extend the statute of limitations for any of the pending cases for 90 days after the Supreme Court decision is final as long as it was properly filed with the MRP.

In response to questions by Senator Buford, Deputy Secretary Feeley stated that, the statute of limitation for these cases was on hold while the medical review panels were in place. The administrative regulation would clarify the date of filing for an objection to the statute of limitation for these cases in the future.

In response to a question by Representative McCoy, Deputy Secretary Feeley stated that the administrative regulation would clarify that the filing date would be the day it was mailed and postmarked. After discussion of 900 KAR 011:010 & E, the motion to approve the administrative regulations was approved.

### **Public Health Modernization**

Sarah Moyer, MD, MPH, Public Health Director, Louisville Metro Public Health and Wellness, and Allison Adams, MPA, RN, CLC, Public Health Director, Buffalo Trace

District Health Department, and President of the Kentucky Health Department Association, stated that a 1988 Institute of Medicine, Future of Public Health article defined public health as what we, as a society, do collectively through organized actions to assure the conditions in which all people can be healthy. Public health departments cannot do everything to improve public health. Public health extends individual wellness and longevity, protects the available workforce, reduces costs to government, business, and individuals, and improves society in general. Local health departments (LHDs) meet the challenges and needs of the population by providing leadership in the community. Three core values of LHDs are to prevent disease, to promote wellness, and to protect people's health and the county level.

Kentucky consistently ranks among the worst states for health, but it can do better. The changes made today will lead to positive outcomes seen in the future. Healthy behavior choices and social and environmental factors make up 70 percent of a person's health and clinical care and physical environment make up 30 percent. Louisville has neighborhoods where life expectancy is 12.6 years less than other neighborhoods. Cancer is the number 1 cause of death in Louisville Metro and heart disease in the rest of the country. People who are uninsured or underinsured are more likely to be diagnosed with cancer at its more advanced stages. Residents who live in communities with concentrated poverty are more likely to live near polluting industries and polluted land and water. The food we eat can affect our risk of cancer. However, it is incredibly difficult to have a healthy diet when a household is food insecure. Preventing cancer is much more cost-effective than treating it. However, many families cannot afford the preventative measures. Best practices are evidence-based. Health departments can be a tool in the solution to healthcare.

Key components of public health include leadership and workforce, essential infrastructure, flexible and sustainable funding, strategic partnerships, and data, analysis, and metrics. Local health departments are required by statute to provide services such as chronic disease management, health policy, community health improvement plans, enforcement of administrative regulations, mass vaccination, disaster response, STD control, epidemiology, adult and child vaccinations, disease surveillance, performance management, and quality improvement. Approximately \$3,636,870 in annual fees is collected by LHDs for programs such as HANDS, Medicaid preventative services, and environmental services on behalf of the Department for Public Health. LHDs are vital to maintaining the statutorily responsibility of government.

Kentucky has 13 nationally accredited LHDs. In order to become accredited, a LHD has to complete a community health assessment and community health improvement plan. All LHDs participated in the comprehensive public health system survey conducted by the University of Kentucky as part of the 2018 NALSYS 20-year longitudinal study.

In response to questions by Senator Givens, Dr. Moyer stated that we need to find and develop ways to change communities so that healthy choices become the easiest

choice. Ms. Adams stated that some neighborhoods are not conducive to making healthy choices because of insufficient resources. LHDs need the ability to make changes at the county level.

In response to questions by Senator Meredith, Ms. Adams stated that a portion of the fees collected by LHDs are given to the DPH for administrative costs and experts at the DPH. If LHDs provide services on behalf of the DPH, the fees should be retained at the local level to maintain staff who deliver those services.

In response to questions by Senator Alvarado, Dr. Moyer stated the LHDs bring people together to come up with what is best for the community. It would be a great strategy for LHDs and MCOs to work together to form partnerships to help local communities become healthier. Ms. Adams stated that this strategy works better in some areas than others. LHDs need to be involved in system changes. Even though LHDs should work with MCOs, it is often a challenge because LHDs funding has to be used on essential services. Senator Alvarado encouraged the MCOs to reach out to the LHDs to find out the needs of the community.

Senator J. Carroll stated that he put together a group of healthcare professionals that did a study and released a report in 2005 that concluded healthcare costs can be lowered from 10 percent to 25 percent if LHDs are adequately funded to provide services and MCOs work with LHDs to find ways to work together to improve services to the community.

Representative Moser stated that taking a comprehensive approach is the smart way to tackle any changes that need to be made in Kentucky. LHDs are the critical piece of the solution.

## **2019 Legislation**

Representative Addia Wuchner stated that children are 25 percent of the population, but 100 percent of the future. BR 324, AN ACT relating to healthy goals for the school children of the Commonwealth, sponsored by Representative Addia Wuchner creates a new section of KRS Chapter 158 to establish the goal of increasing time for physical activity to 20 minutes per day or 100 minutes per week in all schools with kindergarten through grade 5 by November 1, 2020; requires the Kentucky Department of Education to identify model programs, provide resources and assessment tools, develop a checklist for collecting data for public reporting, encourage physical activity plans in schools containing grades 6 through 8; requires a report to the Interim Joint Committee on Education and the Interim Joint Committee on Health and Welfare and Family Services by December 1, 2019, and annually thereafter on progress toward meeting the goal; and requires sharing aggregate school district and county data with the Cabinet for Health and Family Services. The bill would not require schools hire a physical activity teacher.

BR 325, AN ACT relating to the external child fatality and near fatality review panel, sponsored by Representative Addia Wuchner, amends KRS 620.055 to add four additional new members to the external child fatality and near fatality review panel; requires that the panel additionally report to the Child Welfare Oversight and Advisory Committee; and changes the annual required published report deadline to February 1 from December 1. The 2018 report with recommendations will be released in January 2019 because there were so many cases that needed to be reviewed.

BR 180, A CONCURRENT RESOLUTION calls for the expediting of research regarding the safety and efficacy of the use of marijuana for medical purposes, sponsored by Representative Danny Bentley. Representative Bentley stated that the field of pharmacology is the response to see effective and safe remedies for life-altering condition such as PTSD, chronic pain, nausea and vomiting, and multiple chlorosis and the desire to alleviate pain and suffering and heal the sick. Pharmacists as well as patients with chronic, painful, or life-threatening conditions have always sought remedies when what was available was insufficient. People are often willing to try preparations that in the end are more harmful than good. Evidence-based science has been recognized as the only safe, effective, and responsible way forward. When there is no careful study, there are unintended consequences of new treatments. The National Institute of Health, the Food and Drug Administration in concert with research experts in pharmacology have pioneered thousands of safe, effective remedies to alleviate and eliminate disease, pain, and suffering. These efforts of these agencies are recognized as a hallmark of excellence around the world. Why would Kentucky not heed the advice of these agencies? There have been barriers to establishing, let alone utilizing, any medical benefits of cannabinoids. The barriers established by the federal government need to be adjusted to allow the responsible and swift advancement of research. Opioids and nicotine were marketed as harmless, but scientific evidence showed that each of the drugs killed people.

In response to a question by Senator Alvarado, Representative Bentley stated that some people consider the whole plant to be medical marijuana. The entire plant consists of over 1,000 compounds and over 70 compounds of THC. For the FDA to approve a drug, the compound has to be separated and isolated to determine which one is effective through Phase II and Phase III studies. The resolution asks the FDA to define medical marijuana.

Senator Adams stated that Representatives St. Onge and Nemes support the resolution, but will also be filing a bill relating to medical marijuana.

Representative Moser stated that the process for deriving medicinal benefits from THC is actually working, and we need to be patient. Asking for more research is the prudent way to approach the issue.

Senator D. Carroll stated that there has not been enough research done on medical marijuana to know what the effects will be for someone. Representative Bentley stated that

the reason research has been held up is because marijuana is a Schedule I drug. The federal government would have to change marijuana from a Schedule I drug to a Schedule II drug. Until this is done, it will discourage professionals from conducting the appropriate research. There are drug interactions with CBD oil, because it is metabolized through the liver. Senator Carroll requested that the co-chairs invite someone from DEA to testify before the committee about changing marijuana from a Schedule I drug to a Schedule II drug. Representative Bentley stated that he could supply members with an article from the DEA about changing marijuana from a Schedule I drug to a Schedule II drug.

Representative Wuchner stated that if the efficacy and urgent need is there for medical marijuana, a request can be made to the FDA to speed up the process of orphan drug status.

### **Medical Marijuana in the Workplace**

Dianne McFarling, MA, CPS, ICPS, Director, RiverValley Regional Prevention Center, stated that prevention enhancement sites are part of the Department for Behavioral Health, Developmental and Intellectual Disabilities, Prevention and Promotion Branch. Prevention enhancement sites are charged to look at the best evidence-based practices for tobacco, alcohol, marijuana, substance abuse exposed infants, faith-based, and suicide and come up with the best strategies to serve all 120 counties. Each prevention specialist is connected to a community mental health center.

Kentucky has been among the top 5 domestic producers of marijuana for the past 5 years even though it has not been legalized in Kentucky. In 2015, approximately \$800 million worth of marijuana was eradicated by the Kentucky State Police. From 1988 to 2015, Kentucky's top ten marijuana producing counties were Leslie, Wayne, Clay, Knox, Owsley, Breathitt, Bell Knott, Perry, and Hardin. In 2010, 330,227 plants were eradicated in Kentucky and 527,574 in 2015. We produce enough cannabis to provide 239 joints for every man, woman, and child in Kentucky every year. Growing marijuana is a high-risk, low-profit business. Kentucky traffickers find it safer and more lucrative to bring back medical marijuana or recreational marijuana from California, Colorado, or Oregon, and sell it in Kentucky. Traffickers can buy 1 pound of medical marijuana in California for \$1,500 and sell it in Kentucky for \$6,000. Although marijuana grown in Colorado was not to leave the state, it has been found in 37 other states.

The number one drug that most Americans use is alcohol, second tobacco, and third marijuana. Tobacco use among youth is still higher in Kentucky than other states. As the perception of the risk marijuana goes down, use increases. Research showed that regular use of marijuana compromises the ability to learn and to remember information by impairing the ability to focus, sustain, and shift attention. Long-term use reduces the ability to organize and integrate complex information. A 2012 study published in the *Proceedings of the National Academy of Sciences* reports that adolescents who started using marijuana

before the age of 18 when their brains were still developing and continued to use into adulthood, experienced as much as an 8-point decline in IQ scores.

The endocannabinoid system helps to keep brain cell activity in balance, not underactive like depression or ADHD or overactive like epilepsy or PTSD. THC has a much stronger, longer effect than anandamide on brain cells. The potency of marijuana has dramatically increased since 1975. Potency is increased by removing CBD, the medicinal component of cannabis. Efforts to legalize and/or decriminalize marijuana are well funded and picking up strength. Cannabinoids may have therapeutic potential, but smoked marijuana has no future as a medicinal product. Marijuana needs to go through the same FDA process to learn its effectiveness.

FDA approval means the effectiveness and risks as a medicine have been scientifically examined and weighed, interactions with other drugs have been considered, impact on pre-existing conditions has been studied, quantity of dose is established through scientific process, frequency and duration of administration are determined through scientific process, and the best route or method of administration has been determined and it has never been by smoking. Marijuana is heavily targeted to our youth. The United States receives \$14 billion in revenues for alcohol, but societal costs and costs to employment are \$185 billion. Tobacco revenues are \$25 billion but the cost of treatment is \$200 billion.

### **Adjournment**

There being no further business, the meeting was adjourned at 11:55 a.m.