

INTERIM JOINT COMMITTEE ON HEALTH, WELFARE, AND FAMILY SERVICES

Minutes of the 2nd Meeting of the 2020 Interim

July 29, 2020

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Health, Welfare, and Family Services was held on Wednesday, July 29, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Ralph Alvarado, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ralph Alvarado, Co-Chair; Representative Kimberly Poore Moser, Co-Chair; Senators Julie Raque Adams, Tom Buford, Danny Carroll, David P. Givens, Denise Harper Angel, Alice Forgy Kerr, Morgan McGarvey, Stephen Meredith, and Max Wise; Representatives Danny Bentley, Tina Bojanowski, Adam Bowling, George Brown Jr, Tom Burch, Daniel Elliott, Deanna Frazier, Robert Goforth, Scott Lewis, Mary Lou Marzian, Josie Raymond, Steve Riley, Steve Sheldon, Cherlynn Stevenson, Nancy Tate, Russell Webber, and Lisa Willner.

Guests: Tricia Okeson, Deputy Commissioner, Captain Doug Thoroughman, Acting State Epidemiologist, Department for Public Health, Cabinet for Health and Family Services; Morgan Ransdell, General Counsel of Board and Commissioner, Board of Nursing, Cabinet for Health and Family Services; Sarah Vanover, Division Director, Division of Child Care, Laura Begin, Regulation Coordinator, and Elizabeth Caywood, Deputy Commissioner, Department for Community Based Services, Cabinet for Health and Family Services.

LRC Staff: DeeAnn Wenk, Chris Joffrion, Dana Simmons, Becky Lancaster, Hillary McGoodwin, and Shyan Stivers.

Approval of Minutes

A motion to approve the minutes of the June 25, 2020 meeting was made by Representative Burch, seconded by Senator Wise, and approved by voice vote.

Update on 2020 Regular Session House Bill 129 and Implementation

Tricia Okeson, Deputy Commissioner, Department for Public Health (DPH), Cabinet for Health and Family Services, stated that the goals for the Public Health Transformation are to: relieve the fiscal instability of the current system; introduce a

streamlined and focused model which includes clearly defined public health priorities and legislative mandates; prevent duplication of effort and reduce waste internally and externally; and to support data-driven decisions to best promote community health outcomes. There are five focus areas with statutory and regulatory services. The Kentucky Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), Kentucky Health Access Nurturing Development Services (HANDS), harm reduction, and substance use disorder (SUD) programs are services provided by DPH. Other programs that may be implemented are decided on by the local public health departments' priorities. She discussed enacted legislation regarding the public health transformation structure. Despite the magnitude of the COVID-19 response effort, DPH has emphasized the importance of continued work toward public health transformation.

DPH and local health departments will continue to identify areas to address in order to improve efficiencies and effectiveness such as the local health department merit system. Deputy Commissioner Okeson stated that COVID-19 has interrupted progress in many ways such as the local health departments are primarily focused on emergency response. She stated that the Public Health Transformation is a change in culture and may take some time to complete. DPH is expecting to have negotiations with the federal government regarding continued funding. Data systems will require improved integration to support data driven decision making. Continued involvement and education of various participants such as boards of health, county, state and federal government will be needed for the public health transformation.

In response to questions and comments from Representative Moser, Deputy Commissioner Okeson stated that the 2020 budget legislation needed a different structure to match the public health transformation but that was not able to happen. She not aware of any programs that were not funded and the pension contributions allowed the health departments to continue with all the services that were required.

In response to questions and comments from Representative Tate, Deputy Commissioner Okeson stated that she was not a part of any discussions on services that were considered essential and non-essential services during the COVID-19 pandemic.

In response to questions and comments from Senator Meredith, Deputy Commissioner Okeson stated that the contact tracing is going well. Contract tracing is continuing and DPH has developed a technology solution that is being implemented across the state. DPH is hiring additional staff to do the contact tracing work. The local health departments are increasing staff. DPH is making contact with people that need to be isolated or quarantined. The local health departments have access to the vendor contracts and can determine how many staff members need to be hired through the vendors.

Infectious Disease Update

Captain Doug Thoroughman, Acting State Epidemiologist, Department for Public Health, Cabinet for Health and Family Services, gave an overview of how the COVID-19 began. He stated that COVID-19 was caused by 2019 Novel Coronavirus (SARS-CoV2) and was similar to SARS and MERS. He gave an overview of the virus' incubation period and symptoms. As of July 23, 2020, Kentucky had 25,147 cases of COVID-19 and the United States had approximately 3,952,273 cases of COVID-19. He shared specific data regarding the testing, hospitalization, and death rates related to COVID-19 testing. He shared a chart that displayed the percentages of the Kentucky population, COVID-19 cases, and COVID-19 deaths in each age group.

Mr. Thoroughman gave information on Human Immunodeficiency Virus (HIV) regarding the transmission and treatment. HIV is a reportable disease in Kentucky. He stated that 11,239 total HIV infections have been diagnosed and reported since the start of the HIV epidemic in 1982. In 2018, the Kentucky diagnosis rate was 8.1 per 100,000 population compared to an annual estimated national HIV diagnosis rate of 11.4 per 100,000 population. He shared specific data regarding the testing, hospitalization, and death rates related to HIV testing from January 2017 to June 2020. He stated that there are 73 operating syringe services programs (SSPs) in 62 counties in Kentucky. CHFS' goal is to have a 75 percent reduction in new HIV infections by 2025 and a 90 percent reduction by 2030.

Mr. Thoroughman provided background information on the influenza virus. He stated that flu season is typically October to the following May. There were 58,587 positive tests reported from October 2016 to May 2020. He shared specific data regarding influenza hospitalization and death rates. He discussed a graph that displayed the effects of social distancing on the spread of influenza. He provided background information on the Hepatitis A virus (HAV). He reviewed data regarding the HAV testing, hospitalizations and death rates from January 2017 to June 2020. He presented a graph of Kentucky showing the rates of HAV cases per county from August 2017 to December 2019. He gave a summary of the Hepatitis C virus (HCV). He summarized data regarding the HCV testing, hospitalizations, and death rates from January 2017 to June 2020.

Mr. Thoroughman provided a step by step summary of how the cause of death information is collected and processed. He shared two examples of completed death certificates. He shared a graph that listed the Kentucky drug overdose mortality monthly surveillance estimates from April 2019 to March 2020. There was an incline in fatal overdoses in the most recent months. He presented a graph of the number of suicides among Kentucky residents for each month between April 2019 and March 2020. He presented a graph from DCBS that displayed the number of intakes with allegations of child abuse and/or neglect from January to June in both 2019 and 2020. The number of allegations are significantly lower in 2020 beginning in March due to people the social distancing and the closing of schools during the COVID-19 pandemic.

In response to questions and comments from Senator Alvarado, Mr. Thoroughman stated that if someone commits suicide then suicide is reported as the cause of death on the death certificate. He stated that there are long-term care (LTC) facilities in Kentucky that have only had a few cases of COVID-19, those patients have healed, and no further cases of the virus were detected. He stated that two-thirds of all LTC facilities in Kentucky have had at least one case of COVID-19 in the facility.

In response to questions and comments from Representative Bojanowski, Mr. Thoroughman stated that there is direct evidence from epidemiologic investigations regarding COVID-19 asymptomatic transmission. He stated that there are not problems accessing national COVID-19 data but there is confusion about the data. CHFS data is still going to the Centers for Disease Control and Prevention (CDC) despite all claims that the United States Department for Health and Human Services (HHS) is taking the data, and the CDC is not seeing the data. The information that HHS is receiving directly is hospitalization data for ventilator use, intensive care unit (ICU) beds, and hospital beds. CHFS is canvassing all the known laboratories in Kentucky that are testing for COVID-19 to have the most complete data possible.

In response to questions and comments from Senator Givens, Mr. Thoroughman stated that COVID-19 will be an ongoing topic of conversation a year from now. He stated that if a vaccine becomes available and is effective anxiety and case levels may lower dramatically. CHFS is trying to manage the risk of COVID-19 transmission by recommending that people follow the precautions like wearing a mask in public, social distancing, and not gathering in large groups for a period time. The goal is to keep the rate of transmission low enough that the hospitals are not overwhelmed. Kentucky has a lower incident rate and mortality rate compared to most states.

In response to questions and comments from Representative Tate, Mr. Thoroughman stated that visitors have been prohibited in LTC facilities to reduce exposure to COVID-19. The workers would be the only people that could bring the virus into the LTC facility however, workers must be there to care for the patients. He stated that because there is asymptomatic transmission, workers can bring it into the buildings. CHFS has a team of people who work on outbreak investigations for LTC facilities. CHFS has worked tirelessly to manage the outbreaks and to teach the workers how to reduce the risk of transmission once the virus is in the facility. CHFS has taken measures to try to ensure that workers are not wearing scrubs or uniforms from home to work and vice versa.

In response to questions and comments from Senator Danny Carroll, Mr. Thoroughman stated that when COVID-19 came about there was not enough testing capacity, so the Food and Drug Administration (FDA) initially required laboratories to be approved by the FDA for a short time. Many laboratories that had never tested for infectious diseases prior to COVID-19 began testing. Initially, there was confusion and issues contacting new laboratories to inform the laboratory how to report and what had to

be reported. He stated that CHFS is conservative in the counts and follows the CDC case definitions when reporting positive tests. There are two reporting mechanisms, the labs are to directly report any positive cases of reportable diseases and the clinicians are also required to report positive cases. Both reports are put together by CHFS so that positive cases are not counted twice. COVID-19 is listed as the cause of death only if COVID-19 contributed to the death. The Governor told CHFS what updated data that he wanted to receive daily. He stated that it is hard to receive clean data on how many people are hospitalized for a given illness, on a ventilator for an illness, or in an ICU bed for that illness. The information is received through the hospital referring mechanism called WEB EOC.

In response to questions and comments from Senator Wise, Mr. Thoroughman stated that it could happen but is not likely for someone who survived COVID-19 to test negative for the COVID-19 antibodies.

In response to questions and comments from Representative Moser, Mr. Thoroughman stated that each new test type created has its own sensitivity and specificity characteristics meaning the degree to which they will truly detect a true positive or negative result. The PCR tests are the most reliable but have a longer turnaround time for results. Some labs are still on a 7 to 14 day turnaround period for test results which is past the isolation period. CHFS is looking at other test types but it is not known when those tests will be approved or recommended.

In response to questions and comments from Representative Sheldon, Mr. Thoroughman stated that CHFS is following recommendations by the CDC and HHS. Texas, Arizona, Florida, and South Carolina had large increases in COVID-19 cases that are beginning to stress the hospital systems in those states. Kentucky wants to avoid overwhelming the healthcare system with COVID-19 patients. Kentucky had six weeks with increasing numbers of positive COVID-19 cases.

In response to questions and comments from Representative Bentley, Mr. Thoroughman stated that CHFS counts all the positive PCR, antigen, antibody tests as cases depending on the other characteristics. He stated that positive antigen and antibody tests account for less than 10 percent of the COVID-19 cases in Kentucky.

Consideration of Referred Administrative Regulations with Amendments

The following referred administrative regulations with amendments were placed on the agenda for consideration: **201 KAR 020:650 Proposed** - licensed certified professional midwives permitted medical tests and formulary and **201 KAR 020:670 Proposed** - licensed certified professional midwives consultation, collaboration, and referral provisions. Morgan Ransdell, General Counsel of Board and Commissioner, Board of Nursing, Cabinet for Health and Family Services, testified in favor of the amendments.

A motion to accept the referred administrative regulations with amendments was made by Senator Alvarado, seconded by Representative Moser, and approved by voice vote.

Administrative Regulations: For Discussion Only

The following administrative regulations were placed on the agenda for discussion only: **201 KAR 002:095 Proposed** - pharmacist interns and **201 KAR 022:170 Proposed** - Physical Therapy Compact Commission. The administrative regulations above have been reviewed by the committee.

Consideration of Referred Administrative Regulations

The following referred administrative regulations were placed on the agenda for consideration: **201 KAR 002:175 Proposed** - Emergency prescription refills of up to a seventy-two (72) hour supply or greater than a seventy-two (72) hour supply; **201 KAR 002:230 Proposed** - special limited pharmacy permit - central Fill; **201 KAR 008:550 Proposed** - anesthesia and sedation; **201 KAR 008:590 Proposed** - teledentistry; **201 KAR 020:057 Proposed** - scope and standards of practice of advanced practice registered nurses; **201 KAR 020:162 Proposed** - disciplinary proceedings; **201 KAR 020:230 Proposed** - renewal of licenses; **201 KAR 020:370 Proposed** - applications for licensure; **201 KAR 020:410 Proposed** - expungement of records; **201 KAR 020:600 Proposed** - standards for training programs for licensed certified professional midwives; **201 KAR 020:610 Proposed** - approval process for training programs for licensed certified professional midwives; **201 KAR 020:620 Proposed** - licensing requirements for licensed certified professional midwives; **201 KAR 020:630 Proposed** - disciplinary actions for licensed certified professional midwives; **201 KAR 020:640 Proposed** - requirements for informed consent for licensed certified professional midwives; **201 KAR 020:660 Proposed** - licensed certified professional midwives duty to report; **201 KAR 020:680 Proposed** - licensed certified professional midwives client records; **201 KAR 020:690 Proposed** - licensed certified professional midwives transfer guidelines; **202 KAR 007:555 Proposed** - ground agencies; **895 KAR 001:002 Proposed & Emergency** - repeal of 895 KAR 1:001, 895 KAR 1:010, 895 KAR 1:015, 895 KAR 1:020, 895 KAR 1:025, 895 KAR 1:030, 895 KAR 1:035, 895 KAR 1:040, 895 KAR 1:045, 895 KAR 1:050, and 895 KAR 1:055; **900 KAR 006:075 Proposed & Emergency** - certificate of need nonsubstantive review; **902 KAR 002:065 Proposed** - Immunization requirements for long-term care facilities; **902 KAR 020:036 Proposed** - operation and services for personal care homes; **920 KAR 001:070 Proposed** - deaf and hard of hearing services; **921 KAR 002:015 Proposed & Emergency** - supplemental programs for persons who are aged, blind, or have a disability; **922 KAR 002:090 Proposed** - child-care center licensure; and **922 KAR 002:100 Proposed** - certification of family child-care homes. Questions and comments were made by Senator Alvarado and Senator Danny Carroll. Laura Begin, Regulation Coordinator, Department for Community Based Services, Cabinet for Health and Family Services, responded to questions regarding the administrative regulations.

The following referred administrative regulation was placed on the agenda for consideration: **201 KAR 009:270 Proposed** - Professional standards for prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone. Comments and concerns regarding the regulation were made by Senator Alvarado and Representative Moser. A motion to defer this administrative regulation was made by Senator Alvarado and seconded by Representative Moser, and accepted. The administrative regulation **201 KAR 009:270 Proposed** was deferred.

Administrative Regulations

The following administrative regulation was placed on the agenda for review: **922 KAR 002:400 Emergency** - enhanced requirements for certified and licensed child care as result of a declared state of emergency. Questions and comments regarding the regulation were made by Senator Alvarado and Senator Danny Carroll. Sarah Vanover, Division Director, Division of Child Care, Laura Begin, Regulation Coordinator, and Elizabeth Caywood, Deputy Commissioner, Department for Community Based Services, Cabinet for Health and Family Services, testified in regards the administrative regulations. A motion to find the administrative regulation **922 KAR 002:400 Emergency** deficient was made by Senator Danny Carroll and seconded by Senator Meredith. After a roll call vote of 17 yes votes, 8 no votes, and 0 pass votes, **922 KAR 002:400 Emergency** administrative regulation was declared deficient.

The following administrative regulation was placed on the agenda for review: **902 KAR 002:190 Emergency** - covering the face in response to declared national or state public health emergency. Questions and comments were made by Senator Alvarado. Eric Friedlander, Secretary, Cabinet for Health and Family Services, testified in regards to **902 KAR 002:190 Emergency** administrative regulation. Wesley Duke, General Counsel, and Kelli Rodman, Executive Director, Office of Legislative and Regulatory Affairs, Cabinet for Health and Family Services, were present to testify if required. The administrative regulation **902 KAR 002:190 Emergency** was reviewed.

Adjournment

There being no further business, the meeting was adjourned at 3:08 PM.