



# Kanawha-Charleston Board of Health

## Meeting Minutes

April 23, 2012

### **Members – Present**

Ms. Brenda Isaac  
Mr. Robert Reishman  
Ms. Shannon Snodgrass – via conference phone  
Mr. James Strawn  
Mr. Stephen Weber

### **Members-Excused**

Dr. Arthur Rubin

### **Presenting Guests**

Dr. Rahul Gupta  
Ms. Lolita Kirk  
Ms. Janet Briscoe  
Ms. Krista Farley

### **Also Attending**

Ms. Susan Jordan  
Ms. Anita Ray  
Ms. Kathy Worley

#### **1. Call to Order – President**

Ms. Isaac called the meeting to order at 12:00 p.m. She stated the purpose of the meeting was to discuss the Kanawha-Charleston Health Department's withdrawal from the West Virginia Local Health Incorporated's (LHI) Infrastructure Mini-Grant process.

#### **2. Update and discussion of Kanawha-Charleston Health Department's withdrawal from West Virginia Local Health Incorporated's Infrastructure Mini-Grant process.**

Dr. Gupta provided the Board with an overview of the grant. He mentioned that the West Virginia Department of Health & Human Resources (WVDHHR)/Bureau for Public Health (BPH) was awarded a grant from the Centers for Disease Control (CDC) for public health infrastructure improvement in West Virginia in the amount of \$1.2 million. Awarded through the prevention and public health fund of the Affordable Care Act, the grant was originally intended to be a five year grant and was to be used for a number of activities including the environmental software system, workforce training and public health accreditation preparation. However, the grant was defunded and an additional supplemental of \$657,000 (total \$1.8657 million) was awarded to WV. The initial \$1.2 million was to expire September 30, 2011 and was allowed by feds to be carried over. All funding must be used by September 30th of this year. For several months now, Dr. Gupta has been encouraging the WVDHHR/BPH to utilize the funding prior to its expiration.

At the February 2012 WDHHR/BPH West Virginia Public Health Partnership meeting it was discussed that some of the grant funds could be directed through Local Health Incorporated (LHI) to provide funding to local health departments for accreditation related activities. LHI would act as the fiscal intermediary as it has in past projects.

LHI, stated Dr. Gupta, is a non-profit corporation operated by a board. The Board of LHI consists of eight members. Six members are of the Executive Council for the West Virginia Association of Local Health Departments (ALHD). These members are elected by the ALHD's membership counties plus two additional members are appointed by ALHD's President. The Board members are all public employees of local health departments.

Dr. Gupta stated the Board would find in their packets a copy of a letter dated February 21, 2012 from Mr. Bill Kerns, President of LHI to Ms. Janet Richards, Deputy Commissioner of BPH. In the letter, Mr. Kerns states LHI's Board had voted to act as a fiscal entity to distribute the grant funds.

The committee that was mentioned in the letter met one time on March 15, 2012. Ms. Janet Briscoe represented KCHD in the conference call. Ms. Isaac asked Ms. Briscoe, if she had voted on the funding matrix. Ms. Briscoe provided an overview of the conference call and the materials, which included a funding matrix. Ms. Briscoe added the committee's feedback was requested, but no vote occurred. From the meeting, Ms. Briscoe stated that all submitted applications would be forwarded to the BPH for consideration and there would be no limits on the funding requests.

Dr. Gupta stated that the grant guidance and applications were distributed to local health departments and it was stated in the guidance that requests for amounts exceeding the grant guidance would be accepted for consideration. KCHD submitted an application in the amount of \$256,055.

On April 6, 2012, KCHD received a 1 ½ page grant contract to sign from LHI for \$44,100. This contract gave LHI the authority to provide oversight, compliance and demand mandatory reporting. The contract also stated that LHI would withhold 20% of total federal funds, payable at the end of the contract period until provision of final invoice with proof of expenditures and final report to LHI. KCHD also received the document outlining each counties application amount and amount awarded.

Dr. Gupta informed the Board that they would find a copy of his April 9, 2012 letter to Mr. Bill Kearns, President of LHI in there packets. The letter requested clarification on the following:

- Was the amount of funding requested, \$400,000.00, decided by WVDHHR or the Board of WVLHI?
- When did the Board of WVLHI, vote to approve the amount of funding that would be accepted?
- Which agency or individual developed the funding matrix that was in the grant guidance distributed to local health departments by Ms. Shelly Duncan, the contracted Executive Director of the West Virginia Association of Local Health Departments in her e-mail dated March 16, 2012?
- Was the funding matrix and grant guidance approved by the Board of WVLHI? If this information was approved by the Board, when was it approved?

He clearly stated to Mr. Kearns that these issues must be clarified, in writing, in order for us to consider KCHD's continuation in the grant process. He also mentioned his concerns of a KCHD employee functioning as a board member of the LHI under the circumstances.

Dr. Gupta mentioned that as of today, no response to the letter has been received. Dr. Gupta stated after reviewing minutes of LHI's Board meetings during February and March, it was clear that no vote was taken on these questions prior to the award of contracts to various local health departments. Mr. Strawn asked how Dr. Gupta was able to review the minutes if he had not received anything back from Mr. Kearns. Dr. Gupta stated that Ms. Lolita Kirk is a LHI Board Member and had provided him with copies of the minutes. Ms. Kirk was asked if she voted on the grant. She replied that she attended a February 14, 2012 LHI Board meeting and voted yes for LHI's Board to act as the fiscal intermediary. Ms. Kirk added this was the only vote she cast regarding the Grant and abstained from others.

Dr. Gupta stated nineteen of the forty nine local health departments applied for the grant funding. He mentioned that all were awarded some funding without a clear grant review and award process. When asked how distribution between board members and non-members occurred, he mentioned that close to half of the funding would be going to six of the eight local health departments who have employees on the Board of LHI. In addition to this was the concern over the amount being applied for by LHI for administering the Grant. Dr. Gupta noted that LHI has acted as a fiscal intermediary during the past 17 years, but have not to his knowledge administered a grant in this manner including providing oversight and monitoring for the very agencies the board members represent. Mr. Weber mentioned that it seems this would be a good case study for the WV Ethics Commission.

In the absence of a response, on April 19, 2012, Dr. Gupta wrote another letter to Mr. Kearns and reiterated his concerns regarding the role of LHI in the grant process and the possibility of a conflict of interest. Dr. Gupta also stated his concerns over little or no oversight or guidance from the DHHR on this federal grant and withdrew KCHD's public health infrastructure grant application (copy provided to Board of Health). Coincidentally on the same day, KCHD received a revised budget increasing the grant amount from \$44,100 to \$66,300 (copy provided). It was asked whether a private business (LHI) while being operated by public employees potentially involved the use of any health department resources to conduct this business and Dr. Gupta mentioned yes. Ms. Kirk was asked if she voted on this funding. She replied the LHI Board did meet via conference call on April 19<sup>th</sup>, but she abstained from the voting, citing conflict of interest concerns.

All Board of Health members cited concerns over the conduct of LHI in administration of this grant. Mr. Weber expressed that we should seek an ethics opinion. Dr. Gupta mentioned perhaps a legal opinion would be a first step. After discussing whether to seek a legal opinion and/or an Ethics Commission opinion, the motion to seek an Ethics Commission opinion was made by Mr. Reishman and seconded by Mr. Strawn. The motion passed unanimously.

Dr. Gupta discussed LHI's contract with the KCHD. The Board of Health was provided a copy of a typical sub-recipient grant from DHHR. The standard DHHR sub-recipient grant is usually 30 plus pages long and has specific guidelines pertaining to the requirements from

CDC and WVDHHR. The Board of Health compared the DHHR grant document with the 1 ½ page grant contract from LHI.

On a motion made by Mr. Reishman and seconded by Mr. Strawn the Board voted, unanimously to approve KCHD's withdrawal from LHI's Infrastructure Grant process and to apply directly to the Bureau of Public Health with the same grant application.

The question of whether or not the Health Department should remain a member of the Association of Local Departments was discussed. It was noted that LHI articles/bylaws dictate that all ALHD members are automatic members of the LHI. Dr. Gupta requested that the Board refrain from withdrawing from the membership at this time. The Board instructed Dr. Gupta that if it would become necessary for a vote to withdraw KCHD's membership, the Board would arrange to hold another special meeting.

### 3. **New Business**

Ms. Farley requested a Board vote on the Health Department's proposal to The Greater Kanawha Valley Foundation for renovations to two exam rooms. The proposal would allow the creation of an examination room for pediatric patients and another room would become ADA compliant. The motion to submit the proposal was made by Mr. Reishman and was seconded by Mr. Weber. The Board voted unanimously.

Ms. Isaac briefly discussed with Board the WV Department of Education's policy change that would require local health departments to be responsible for all school required immunization records. Ms. Isaac added that she and Dr. Gupta will be meeting with representatives of the West Virginia Department of Education and the State Immunization Program to discuss the issues around placing the burden of entering the immunization records on local health departments.

### 10. **Adjournment –**

After no further business, a motion was made by Mr. Weber and seconded by Mr. Reishman to adjourn. The Board voted and the motion passed unanimously. The meeting was adjourned at 1:00 p.m.

Respectfully submitted,



Rahul Gupta, MD, MPH, FACP  
Health Officer/Executive Director