



Kanawha-Charleston Board of Health

Meeting Minutes

May 17, 2012

Members – Present

Ms. Brenda Isaac
Mr. Robert Reishman
Ms. Shannon Snodgrass
Mr. James Strawn
Dr. Arthur Rubin

Members-Excused

Mr. Stephen Weber

Presenting Guests

Dr. Rahul Gupta
Ms. Lolita Kirk
Ms. Kathy Worley

Also Attending

Ms. Krista Farley
Ms. Susan Jordan
Ms. Anita Ray

1. Call to Order – President

Ms. Isaac called the meeting to order at 4:00 p.m. She stated the purpose of the meeting was to discuss the Kanawha-Charleston Health Department's (KCHD) membership in the West Virginia Association of Local Health Departments (ALHD); however, Ms. Isaac stated that the Board needed to address a legal issue before they proceeded. Ms. Isaac requested a motion to go into Executive Session. A motion was made by Mr. Strawn and seconded by Dr. Rubin. The Board voted unanimously to go into Executive Session.

The Board returned from Executive Session at 4:20 p.m. A motion was made by Dr. Rubin to return to the regular session and seconded by Ms. Snodgrass. The Board voted unanimously to return to regular session.

2. Discussion of Kanawha-Charleston Health Department's membership in the West Virginia Association of Local Health Departments.

Ms. Isaac asked Dr. Gupta to proceed with his information on the membership in the West Virginia Association of Local Health Departments.

Dr. Gupta stated that he wished to clarify an item for the record. At the May 3rd meeting of the West Virginia Association of Local Health Departments, it was discussed by some Association members that Kanawha-Charleston HD 'called the media' about KCHD's concerns over the federal grants and with Local Health Incorporated. Dr. Gupta stated Kanawha-Charleston sends out public notifications of all Board of Health meetings. The notifications and agendas are sent to the Mayor of the City of Charleston, the Kanawha County Commission, the Director of the Division of Local Health, local media outlets, and are posted on the Department's web site. He further clarified that as a public health department, it is our responsibility to ensure the public is informed and encouraged to be

active in their health department. He stated that the Board meetings are conducted in accordance with the Open Governmental Meetings Act, the Kanawha-Charleston Board of Health's By-Laws and are often well attended by local media. Added, Dr. Gupta, KCHD does not have editorial influence over press reports.

Dr. Gupta stated that since the April Board of Health meeting the Health Department's management team has become increasingly concerned over the activities of Local Health, Incorporated (LHI) and are here to discuss whether our membership in the Association/LHI, with its current direction, benefits the agency and the citizens of our county at this time.

Dr. Gupta requested that Ms. Kirk update the Board of Health on her activities as a member of the ALHD Executive Council and the Board of LHI.

Ms. Kirk stated that since she had discussed with KCBOH the activities and votes that she had participated in as a LHI Board member prior to the April 23rd Board of Health meeting, she would provide an update on the activities since then. Ms. Kirk informed the Board that the LHI board had held two meetings since April 23rd. During the one meeting, no votes were taken on the grants and there was only a general discussion. The LHI Board did however have a number of questions regarding the April 23rd Kanawha-Charleston Board of Health Meeting to which she responded. Ms. Kirk added the Board of LHI did meet on the morning of May 4, 2012 and voted on the Immunization Billable Initiative grant budget. She stated that she was not notified of this meeting until after the fact. Later, Ms. Kirk added that she received an e-mail from Ms. Shelly Duncan, Executive Director of ALHD, a copy of which is in your packets with the grant budget, and was requested to vote on the budget and to delete the document. This e-mail to Ms. Kirk was delivered to her wv.gov e-mail address and she (Kirk) considers those e-mails the property of the Health Department. Ms. Kirk informed the Board of Health that she would not serve on a board (LHI) where meetings were held without all Board members being notified. A memo of the detailed facts is also enclosed in the packets.

On May 7, 2012, Ms. Kirk stated she received an e-mail (copy in Board packets) from Ms. Duncan reminding her to vote on the budget. In her e-mail, Ms. Duncan stated that non-responses will be considered affirmation. Ms. Isaac asked if she was forced to vote on the budget and Ms. Kirk stated again that to abstain from voting meant a yes vote and after reviewing the budget, she then voted no.

Ms. Kirk added that based on this and other materials, as administrator of KCHD, she strongly recommended that she be allowed to resign her position as a Member at Large with the West Virginia Association of Local Health Departments, which would also remove her from the Board of Local Health Incorporated. Ms. Kirk added that she supports the Health Department's resignation from the Association.

Ms. Kirk and Dr. Gupta provided the Board with an overview of the Immunization Billable Initiative and its purpose. The Board had an opportunity to review the detailed budget from Ms. Duncan. Dr. Gupta stated that he believes that Ms. Katie Worley, clinical office manager at KCHD, has as much knowledge as anyone else, if not more, in the public health medical billing field in West Virginia and values her opinion highly. Dr. Gupta asked Ms. Worley to express her thoughts on the grant budget and the training that was being

proposed and if the described training would be beneficial to KCHD. Ms. Worley stated that she was appointed to serve on the committee that was discussing activities for the grant. She added that the group had met once by conference call on December 14th and the subsequent meetings of the committee in January and February were cancelled. She added that she had not received any additional information on the committee since. Ms. Worley added that much of the training that is proposed in the grant budget would not be useful to KCHD. She also added the Office Managers Association (OMA) brings all the payers together at their annual meetings in October and by having a membership in the OMA, which costs approximately \$150 a year, the LHD's would have access to those payers and their information. Dr. Gupta asked if Ms. Worley was ever consulted or asked to assist in any manner in developing this budget by anyone. She replied no. Dr. Gupta further asked that since the budget proposal was not going to assist KCHD or the County's citizens in any way, would we benefit from having this funding for our constituents directly and how. Ms. Worley added that she felt that the monies would benefit KCHD in other areas of enhancing our services to citizens such as meeting the EMR (electronic medical records) requirements, etc., which if not met, by 2015, KCHD will face financial penalties from Medicare.

The Immunization Billable grant budget submitted by LHI was for \$449,312. Dr. Gupta discussed with the Board the different items in the budget: a survey for \$81,000, a registered nurse \$8,000, training classes \$77,000, and \$155,000 in mileage, etc. It was reiterated that the budget included money for contractors, salaries, fees and other items that will not benefit the citizens of Kanawha County. If the money is not provided to local health departments to improve what they need, then there are side effects such as fees going up and new fees being added to citizens. This would affect the most, our vulnerable citizens of the county including minorities, elderly and disabled, and this is not fair. He added that it is very likely that these monies will not be available in the future.

Ms. Snodgrass asked if Local Health Inc. was a private organization and Dr. Gupta replied that it is a non-profit. Ms. Snodgrass stated that she had been on the Board of Health for fifteen years and that this was the first time that she had heard of such a private organization distributing federal grant funds instead of the State (WVDHHR). Mr. Reishman asked if this procedure was previously established? Dr. Gupta replied that LHI, to his knowledge, had only acted as a fiscal intermediary and that he was not sure that LHI has the authority to manage the grant. The Board's discussion was disrupted when, Ms. Ann Goldberg, attorney for Bureau for Public Health, loudly stated, that's not true, that's simply not true. Ms. Goldberg stated LHI had managed the funding study grant around 2005 and approximately \$40,000 of federal funds was given to LHI which were then distributed to LHDs. Dr. Gupta stated he wasn't aware and wasn't sure that LHDs had been awarded federal funds for the funding study. Ms. Goldberg stated that Dr. Gupta had the opportunity to address the issues at the Partnership meetings.

Ms. Snodgrass asked since KCHD withdrew the grant application, if we could receive the funding directly from the State? She asked why the State couldn't distribute the funding directly to the local health departments and because we withdrew, how would KCHD get access to the funds for our citizens? Dr. Gupta stated KCHD had directly applied to the State and was rejected. He cited the rejection letter from Dr. Marian Swinker, Commissioner, Bureau for Public Health. Dr. Gupta stated he would like to know what the citizens of Kanawha County have done to not be able to receive this money. He went on to

say that basically we are being asked to pay to play and that shouldn't happen. Ms. Isaac stated in other words if we don't do what they are asking, we don't receive funding. Ms. Snodgrass then stated that the citizens were her primary concerns. Dr. Gupta stated that these are federal funds and that the feds may not be aware of how they are being driven to LHI.

Mr. Reishman then asked why the monies couldn't be held until a decision came down from the Ethics Committee. Ms. Goldberg replied they (WVDHHR) didn't have an ethics problem. Mr. Reishman stated there was a lot to discuss and such an action (if found unethical/illegal later) could cause problems with tracking, documentation and federal audits. Ms. Goldberg asked if KCHD had filed an ethics complaint or requested an opinion. Dr. Gupta responded KCHD had requested an opinion.

Dr. Gupta responded to Ms. Goldberg by providing clarification that he had contacted Dr. Swinker by phone on April 18th and requested a face to face meeting. Dr. Swinker informed him that she would talk to a few people and get back with him. Dr. Gupta stated that he has not heard back from Dr. Swinker. Ms. Goldberg stated that she had sent Dr. Gupta an e-mail offering to provide a legal opinion to answer his questions. Dr. Gupta replied that if he needed a legal opinion on ethics, he would request one from the Department's attorney and did not feel comfortable replying to a public employee who was soliciting a request for a legal opinion on the activities of a private, non-profit corporation.

Dr. Gupta stated that approximately two years ago, he had encouraged and assisted WVDHHR to submit the competitive Infrastructure grant to CDC. Subsequently, WVDHHR was awarded 1.2 million dollars, which was to expire last September, however additional time was granted along with an additional \$657,000 to make a total of \$1.85 million. This funding is to expire September 30, 2012. Several months ago in 2011, being cognizant of the impending deadline, he approached the Bureau for Public Health and asked if the money could be utilized to improve the infrastructure and quality of services LHDs provide so that we would not be forced to return funding to CDC. At the time WVDHHR declined the request. Finally, in February 2012, it was revealed that only approximately \$40,000 of the \$1.85 million had been spent. Dr. Gupta again encouraged WVDHHR to act and they finally agreed this time. Throughout, KCHD was under the impression that it was just to be passed through LHI, but oversight and federal grant guidance would be provided by WVDHHR/BPH. However, it was only after the grant was awarded did we realize it was not set up in this manner. Dr. Gupta added that his directors and other staff have stated they will not work under the direction of a non-profit corporation. Some have even threatened to resign.

Ms. Isaac stated her main concern was the citizens and effect this could have on even the smaller health departments. She added that Dr. Rosenberg was involved in the creation of the Association and LHI for the purpose of bringing all health departments together and so that the smaller ones would be able to get the help that they need; and that she is not happy about considering withdrawing. Dr. Gupta agreed and stated that he understands this is a phase, a tough phase; and when LHI was developed, it was for a reason. However, it seems that things are headed in the wrong direction and a correction needs to occur. He also stated that the division directors have unanimously endorsed withdrawal.

Dr. Rubin asked Dr. Gupta to discuss the questions that were submitted to the Ethics Commission. Dr. Gupta reviewed some of the questions with the Board. Dr. Gupta informed the Board that KCHD pays annual dues over \$1,000.00 to the Association. He stated that another problem was grant contracts were awarded without being voted on or placed out for bid. He doesn't approve of this.

Ms. Snodgrass asked Ms. Shelly Duncan, contracted Executive Director of ALHD about why she requested that an email sent to public employees be destroyed. Ms. Duncan stated that she had sent Ms. Kirk an e-mail containing confidential information and requested that it not be shared. The e-mail contained the names of contractors that she had worked with to develop the budget. Ms. Snodgrass asked Ms. Duncan about the bid process for contracts. Ms. Duncan stated that they did not bid out contracts. She (Duncan) went on to say that she had worked with the vendors and the Division of Immunization Services (WVDHHR) to develop the items in the contract and budget. Ms. Snodgrass asked if contracts had been awarded without proper bidding? Ms. Duncan replied that they (LHI) are a nonprofit and bids aren't required and there are no plans for a bidding process. Dr. Gupta asked Ms. Duncan if she is stating that she had met with the Division of Immunization Services (DHHR) and the vendors to discuss the awarding of the contracts? Ms. Duncan said she did not say that. She said that she only worked with the Division of Immunization Services on the budget. Dr. Gupta clarified that she had said that she discussed the contracts with the Division of Immunization Services. Ms. Snodgrass asked how the contractors would be chosen and Ms. Duncan stated that Local Health Inc. (LHI) would choose the contractors according to their expertise. Dr. Gupta asked if Ms. Duncan had discussed the grant with the two large contractors directly and Ms. Duncan stated she had. She (Duncan) stated they were the ones that helped develop the amounts for the grant budget. Dr. Gupta again asked who came up with specific dollar figures and details for the contract in the budget that was voted on by the board of LHI in each of the two cases. Ms. Duncan stated the contractors did.

Ms. Goldberg stated that CDC monies had a format for budgets that had to be followed and then presented to CDC and the Bureau for Public Health. Both of these (CDC and BPH) work with the sub recipient grantees (LHI). Dr. Gupta reiterated that the federal grants fall under the State and federal law and it has to be followed.

Ms. Isaac stated that she felt there needed to be a motion made to withdraw from the Association. On a motion made by Mr. Reishman and seconded by Ms. Snodgrass, the Board voted unanimously for the Kanawha-Charleston Health Department to withdraw from the West Virginia Association of Local Health Departments effective immediately.

3. Public Comment

Delegate Meshea Poore stated that she understood the issue and was glad the ethic's opinion had been requested and hoped the matter could be resolved immediately. She stated she feels one of the problems was a lack of communication. She stated the public would suffer and that as a representative of the district that includes the East End and West Side of Charleston, she doesn't want her district to suffer. She added that she hopes this doesn't result in future funding losses and requested that KCHD and the Secretary of WVDHHR meet as soon as possible to resolve the issues.

The Board discussed submitting their concerns to the Secretary of WVDHHR, Dr. Lewis. On a motion made by Dr. Rubin and seconded by Mr. Reishman, the Board voted unanimously to send a letter to Dr. Lewis regarding their concerns with the distribution of federal funds for public health and to provide a copy of the correspondence to Kanawha County's elected representatives. A motion was made by Ms. Snodgrass and seconded by Dr. Rubin to resubmit KCHD's Infrastructure grant proposal to Dr. Lewis. The motion passed unanimously.

Dr. Gupta was asked by the Board about the ruling from the Ethics Commission and Dr. Gupta stated it was due in late June.

4. Adjournment – 5:10 p.m.

A motion to adjourn was made by Dr. Rubin and seconded by Mr. Reishman. The motion passed unanimously.

Respectfully submitted,



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