



Meeting Notes

WORK GROUP MEETING

Relating to Passage of HB 3100 and HB 2310

Public Health Modernization

Local public health authority, subcontracting of services, relinquishment

July 31, 2017 1:00 pm – 3:00 pm

Portland State Office Building (PSOB), Room 918

Attendees by webinar: Jay Bozievich (Commissioner Lane County), Carrie Brogiotti (Union County Center for Human Development), Muriel DeLavernge-Brown (Crook County Public Health), Charlie Fautin (Benton County Public Health)

Attendees in person: Ken Dukek (Curry Community Health), Shannon O’Fallon (Oregon Department of Justice), Rebecca Pawlak (Oregon Association of Hospitals and Health Systems).

Oregon Health Authority staff: Cara Biddlecom, Danna Drum, Kim La Croix.

Observers in person: Holly Heiberg (Oregon Health Authority).

Observers on the phone: Josh Ballach (AllCare) Pam Hutchinson (Marion County), Mark Stout and Christin Depner (Douglas County Public Health Network), and Kristin Downey (Providence Health Plan), Sherrie Ford (Public Health Foundation of Columbia County).

Welcome and Overview of Rulemaking Process

- The meeting was convened by Danna Drum at 1:00 p.m. with a welcome, information about call-in, meeting recording and logistics.
- The last meeting was reviewed. The overall rule-making process and purpose of the work group meeting was shared, specifically, to address rulemaking for the passage of HB 2310 (2017) and HB 3100 (2015) and implement the Future if Public Health Task Force recommendations on a new framework for public health.
- The role of the work group was reiterated. This group is a work group not the formal Rules Advisory Committee (RAC).

Review Agenda and Meeting Plan

- Danna Drum reviewed the agenda for the current meeting, indicating that today’s work group meeting will cover areas that still need resolution and areas that were not covered at the meeting on July 12.

Overview of related statutes, concepts for administrative rules and concepts for contractual requirements. See the meeting materials for more information:

<http://www.oregon.gov/oha/ph/About/TaskForce/Pages/index.aspx>

- The majority of the meeting time was spent considering the updated [matrix](#) handout showing issues to be addressed from 7/12/17 and OHA Comments/response to those issues as well as what's in statute and what OHA anticipates will be in rule and in contract.

Local Public Health Authority/Delegation

- OHA looked at the question of whether delegation should include funding. DOJ has confirmed that when a duty is delegated (e.g. ICAA enforcement), the LPHA can revoke the duty at any time. The delegation occurs in contract and occurs at the request of the County.

Subcontracting of public health services

Communicable Disease (CD) Reporting

- CD reporting was an area to be resolved from the July 12 meeting. The current practice in counties in which subcontractor is doing the work, is that the subcontractor receives the report. OHA is continuing to look at how best to address CD reporting and will have a proposal for a resolution at the RAC that is the least disruptive and abides with the law.
 - There does not appear to be a difference between governance and governmental function.
 - Some LPHAs share the local public health administrator role with the County, which would meet the governance/government function requirement for CD reporting.
 - OHA wants to ensure that duties of the LPHA are clear. The gray area relates to the Health Administrator accepting the report.

Subcontracting-OHA review of subcontracts

- There are provisions in the financial assistance agreement (FAA) that the LPHA must give OHA a copy of the subcontract upon request as well as assurances that funding will go to providing public health services.
 - Any changes to the FAA will be worked through the existing DHS/OHA Contracting work group that includes representatives from County Counsels with a feedback mechanism for all county governments. For example, there needs to be a distinction between what's in the LPHA and what's contracted.
- The FAA also has some requirements for the subcontractor's terms. OHA proposes that it will review these requirements and if there are changes that should be made, they will be vetted through the DHS/OHA Contracting work group as noted above.
 - The more specificity in the subcontract the better (e.g. including each funded program element).

- In addition, OHA proposes adding to the FAA a requirement that the LPHA notify OHA in writing at least 75 days prior to the intended effective date of a new subcontract and that OHA may request that a subcontract be submitted to OHA for review at least 30 days prior to the proposed effective date of the subcontract).
 - o This would enable OHA to review a subcontract and inform the LPHA if there are provisions in the subcontract that would be in violation of the FAA between OHA and the county.
 - o Work group members stated that it was reasonable and acceptable given the steps in the approval process.
- OHA proposed to add in the FAA a requirement that when there is a substantial change in public health services, a communication plan for the transition/change must be developed by the LPHA in partnership with OHA and any subcontractor, if applicable, at least 60 days prior to the effective transition date.
 - o Question regarding what “substantial” means.
 - A definition for substantial would be helpful. It was recommended to define “substantial” as 10% of financial assistance amount or if effects more than one program element.
 - Some programs, such as TB, are unlikely to rise to the 10% threshold. However, they are important for the public and the provider community. Recommendation to include a communications plan for activities that involve a public or community partnership.
 - o The LPHA is the accountable party to ensure the implementation of the communications plan.
- The goal of the plan is to inform the public and community partners about the change, which are two different audiences.
 - o It may be possible to specify in contract which program element needs a communication plan.

Transfer of local public health authority

- At the last work group meeting, there was a clarification request to clarify if it is possible to transfer all LPHA duties, not a subset of duties, and if the list of 10 minimum activities is the required list of what health departments must do.
 - o OHA will continue to look at the statutory minimum activities a LPHA must perform (if there is insufficient funding) and how these activities fit with the foundational programs and capabilities described in the Public Health Modernization Manual (PHMM).
 - o LPHAs are required to implement what they have a contract for.
 - o OHA cannot say how many subcontractors an LPHA can subcontract with or that public health services must stay with the same subcontractor.
- Question regarding how subcontracting impacts regionalization?

- OHA understands that subcontracting of services does not impact regionalization. However, OHA will explore if rules should address intergovernmental agreements.
- OHA feels that it is not necessary to review Memoranda of Understanding (MOUs).

Transfer/Relinquishment:

- If a LPHA transfers duties, OHA is not obligated to provide or to contract for the provision of public health programs and public health activities within the local public health authority's jurisdiction.
 - It was recommended to include softer language as the language in statute is harsh.
 - OHA is exploring if there are specific protocols/best practices they should adopt internally around transferring duties that are not in rule.
- Written notification to Public Health Director within two business days of ordinance adoption.
- Contract provisions, statutory requirements, etc. remain in effect until date of transfer. OHA may authorize termination of contract or agreement at an earlier date or the contract/agreement may be terminated in accordance with termination provisions of the contract/agreement.
- If transfer ordinance is revoked, OHA and LPHA will work on transition plan to transfer duties back to LPHA.

Next Meeting Agenda:

- Due to completion of the work group's tasks, the 8/14 meeting is cancelled. The Rules Advisory Committee (RAC) will convene on 8/16 from 1:00-3:00 in room 918.
- After the last of the RAC meetings, there will be official proposed rules, which are then open to public comment. There will also be public hearings in Portland, Medford and Pendleton.
- Final rules will most appropriately serve the intent and purpose of the statute, as determined by OHA, while taking in to account feedback and advice. Rules will be in effect January 1, 2018.

Meeting adjourned at 2:00 p.m.