

GOVERNOR'S LEAD POISONING PREVENTION COMMISSION

Maryland Department of the Environment
1800 Washington Boulevard
Baltimore MD 21230

MDE AERIS Conference Room
May 4, 2017

APPROVED Minutes

Members in Attendance

Anna L. Davis, Mary Beth Haller (via phone), Susan Kleinhammer, Patricia McLaine, Cliff Mitchell, Barbara Moore, Paula Montgomery, Leonidas Newton (via phone), Manjula Paul, Sen. Nathaniel Oaks, John Scott, Adam Skolnik

Members not in Attendance

Nancy Egan, Christina Peusch

Guests in Attendance

Heather Barthel (MDE), Camille Burke (BCHD), Chris Corzine (OAG), Gwen Dubois (CPSR), David Fielder (LSBC), Sheneka Frasier-Kyer (DHCD), Syeetah Hampton-El (GHHI), Lisa Horne (DHMH), Kathy Howard (RMI/MMHA), Dawn Joy (AMA), Kirsten Held (MDE), Tommy Tompsett (MMHA), Chris White (Arc Environmental), Tim Whitehouse (CPSR), Ron Winholt (AOBA)

Welcome and Introductions

Pat McLaine called the meeting to order at 9:35 AM with welcome and introductions.

Approval of Minutes

A motion was made by Adam Skolnik, seconded by Susan Kleinhammer to accept the April minutes as amended. All present Commissioners were in favor.

Old Business

Lead Legislation Recap - Anna Davis led the discussion of lead legislation during the 2017 Legislative Session. HB7 did not receive a vote in Senate Committee and died at the end of session. HB66, HB133, and HB270 all passed and the bills will be signed today. The Maryland Lead Poisoning Recovery Act did not receive a vote in the house. The Landlord Tenant Protection Act received an unfavorable report in Senate Committee.

Lead in Drinking Water – Heather Barthel, MDE Water Management Administration, provided an update on the school drinking water bill (HB270). The law takes effect June 1, 2017. No money was budgeted although the bill had a \$0.5million fiscal note. Although two pins were approved for staff to manage this program, 2 more people are retiring so there will be no net gain in positions. The deadline for testing 3,000 Maryland schools is July 1, 2018 (1,1447 public schools and 1,397 non-public schools). The priority for testing is schools built before 1988 when the plumbing code changed, pre-schools and elementary K-5, and schools that have not yet been tested. MDE plans to have regulations drafted and submitted for review by October

2017, to AELR by November, with final publication planned for June 2018. A workgroup was identified in the bill.

Lead Commission Minutes
May 4, 2017
Page 2

Camille Burke stated that Baltimore City Public Schools have been doing testing voluntarily; will MDE be doing testing now? Heather Barthel said that MDE would not be doing testing but would oversee testing. Best practices will be sent to all schools in August. Many schools are already taking voluntary measures. Duwonda Sterret from Baltimore City worked on the bill during session. The bill had support from Baltimore City and Baltimore County. Allegany County tested schools recently. Pat McLaine recommended that Mary Beth Haller, Lead Commissioner who already has considerable expertise and experience with the issue of lead testing and remediation in public schools, be considered for appointment to this workgroup. Mary Beth Haller stated that Baltimore City Public Schools have 8 schools using filtration systems for drinking fountains, the remainder all use bottled water. Baltimore City has done more than 10,000 tests on drinking water in schools. Heather Barthel noted that an exception to testing may cover Baltimore City based on testing that has already been done. Mary Beth Haller noted that until 2011, plumbing parts could have up to 8% lead, so an entire new system could fail based on a few parts with high lead levels.

Letter to Mayor Pugh - The letter to Mayor Pugh regarding the on-line permitting application was sent on April 28, 2017.

EPA letter – May 15th is the deadline for EPA comments. Pat McLaine will submit the Commission's letter on the RRP rule to EPA this week.

Letter to Congressional Delegation - Pat McLaine suggested that the Commission consider signing on to the GHHI letter. After discussion, a motion was made by Adam Skolnik, seconded by Anna Davis to sign on to the GHHI letter and to send a letter ourselves to the Maryland delegation using this letter with a few revisions if possible. Two commissioners abstained, all other commissions were in favor, and the motion passed. Pat McLaine will sign on to the letter on behalf of the Commission and contact GHHI regarding use of their letter as template for individual letters to be sent by the Commission.

New Business

Baltimore City HUD Grant Program Quarterly Update – Sheneka Fraiser-Kyer provided a report for the Department of Housing and Community Development, Division of Green Healthy and Sustainable Homes, Lead Hazard Reduction Program for the quarter ending March 2017. During this period, 33 units received hazard evaluations, 31 units were identified with hazards, 23 units were completed and cleared, 23 units were in progress at the end of the quarter, and 17 units were under contract. Three post-remediation trainings were held, training a total of 97 people. The program completed 37 events (health fairs and outreach events) with a total attendance of 539. Health Department staff completed home visits to 48 children with BLLs 5-9µg/dL. The program expects to start healthy homes interventions during the summer 2018 based on a systematic evaluation of 29 hazards in the home. Less than \$300K is available and this effort will complement the lead interventions. The program will address lead hazards first, then the other 29 hazards, with a goal to address a total of 115 units. Sheneka Fraiser-Kyer stated that some of the houses were very deteriorated and have many repair needs. She indicated that Baltimore City had a safety inspection for rental properties with 4 or more units.

David Fielder noted that Baltimore County also applied for Healthy Homes supplemental funding (\$200K) and plans to focus on asthma issues. Adam Skolnik stated that safety problems in the City aren't that hard to address; licensed inspectors are paid to conduct a life safety inspection at the

Lead Commission Minutes

May 4, 2017

Page 3

cost of \$100-200 each. Large owners already go through these inspectors and this does not cost the City a dime. Baltimore City works with SDAT to identify rentals, then issues notices and fines, if necessary, which can end up with a lien on the property.

MDE Annual Enforcement and Compliance Report – Paula Montgomery reviewed a written report provided to the Commission for fiscal year ending 6/30/2016. A total of five staff provide oversight, three do field investigations. One staff serves as the compliance specialist, reviewing accreditations. Penalty and Notice represents notice of noncompliance, any action before a case is moved to the Attorney General. Supplemental Environmental Projects (SEPS) are properties where the owner agrees to go above and beyond the regulation (limited lead free or lead free units). With regards to penalties (total \$1,825,753), the majority are associated with property owners who have failed to register. The Rental Registry program sent out thousands of letters and did a lot of work focusing on registration. Paula Montgomery noted that the minimum standard of full risk reduction was good for one tenancy and must be updated with every change in tenancy. Owners must meet a higher standard if a child has an EBL. Asked why penalties are low, Paula Montgomery stated that MDE had probably collected \$1.5 million for registration issues alone. MDE is focusing on Department priorities – poisoned children – and not finding a lot of non-compliance when kids are poisoned. She suggested that the only way that MDE could increase penalties is if they had more staff. Paula Montgomery said that MDE's ultimate goal is prevention of lead poisoning, not collecting penalties. Poisoned child cases are more difficult to follow-up. In addition, MDE is following up on 5-9s in Baltimore City. John Scott stated that insurance companies had a similar issue: when there is an injured child, there is never just one location. Chris Corzine stated that the problem has shifted from large property owners with money to many mom and pop operations that don't have money and can't pay penalties. The amount proposed could be ten times more than the amount recovered. Pat McLaine suggested that perhaps we can learn more from the review of case management records in terms of where to focus prevention efforts. Barb Moore stated that Mount Washington just saw a family with an EBL child looking for safe housing who had visited four homes that were registered but all four had major lead problems. Paula Montgomery noted that another issue was inspectors who are passing properties and antiquated data bases at MDE. MDE is starting to look at inspectors who have been identified with problems. MDE can deny application for accreditation based on past performance and the burden of proof is on the inspector. The burden of proof is on MDE to suspend or revoke the accreditation of an inspector.

Patterns of Lead Risks in Baltimore – Tim Whitehouse and Gwen Dubois, Chesapeake Physicians for Social Responsibility (PSR), discussed their work to evaluate patterns of lead risk in Maryland. PSR has been long concerned about lead exposures due to incineration and thinking about lead levels in fall out zones from these facilities. They looked a little more broadly at available data, mapping data for percent of tests greater than 5µg/dL by census tract, for Baltimore City, Prince Georges County and Montgomery County. They looked at the 10 census tracts in Baltimore City with the highest proportion of results over 5µg/dL, for the period 2010-2015; the percent decrease over time for these 10 census tracts was less than the change

for all census tracts in Baltimore City. PSR supports the policy goal of intervening at BLLs of 5µ/dL. John Scott asked if PSR had reached any conclusions about why; Tim Whitehouse replied no, they had just mapped the data. Cliff Mitchell asked if PSR had used 2000 or 2010 census tracts; Tim Whitehouse said they would check on that. Cliff Mitchell said that DHMH

Lead Commission Minutes

May 4, 2017

Page 4

will be putting up Childhood Lead Registry data by census tract looking at the percent of children screened. Tim Whitehouse stated that PSR did not impose any suppression rules and no census tract had results for as few as one or two children, but some had results for only five children. Tommy Tompsett said that Maryland laws have only focused on housing but we are now starting to look at water and soil; where does PSR see this going? Tim Whitehouse replied that PSR's policy position was to lower the blood lead level to 5µg/dL. Federal standards change all the time. EPA's standard for water testing is lower (90%), not 97.5%, adding that PSR came at this from an air perspective. Asked about effort to overlay zip codes on census tract maps, Tim Whitehouse replied that this was very difficult to do and would require a lot of work. In addition, zip codes change more frequently. An overlay could be done by neighborhoods. Camille Burke asked if there was a push to reach out to MDs with this information. PSR is focused on two issues: bringing out information to prevent nuclear war and mitigating climate change. PSR has gotten involved in lead but it won't be their mission.

Rent Court has seen some really bad policy related to lead. The Baltimore Sun has had a number of recent articles, one on April 26, 2017. There have been few protections for tenants, many for landlords. A 2015 Abell Foundation report had similar findings. Tenants were interviewed; 41% of tenants who were brought to rent court reported peeling, chipping paint; only 20% of landlords were compliant. The majority of tenants were African American women with children. Rent Court sees about 150,000 cases/year. Landlords could be required to have lead certificate up to date before they present at court. Syeetah Hampton-El stated that a summer workgroup addressed the lead certificate issue and there was agreement about this but other parts of the bill do not have agreement. Although the group worked hard, legislators ran out of time to resolve the issues during this session. There is more to do. Some judges do not understand the issue – an educational problem. The landlord is required to put lead compliance on the form, but if an item is missing, the court may overlook it. If the tenant is represented, their lawyer will bring this up. If the tenant is not represented, the issue will not be brought up. There is certainly an issue of lack of legal representation for tenants and for small mom and pop owners as well as judges who don't check the forms sufficiently. Gwen Dubois noted that as a physician, she would not be able to provide proper care if she were required to see a person every ten minutes, noting this is bad policy. This is also lead policy. Homelessness has terrible health consequences. Baltimore leads the country in evictions. Adam Skolnik noted that Abell Foundation did not evaluate if houses were lead free (this information was not available on-line) and noted that the reports contained a lot of bad data. Gwen Dubois stated that it was bad policy that the lead certificate was not part of the decision. Syeetah Hampton-El said that the Court has agreed to have the clerk highlight if a lead certificate is missing or possibly wrong. Some judges have dismissed cases because numbers were missing and the agent did not check the box at all. A majority of judges are aware of the issue and are working to address this. They are tracking evictions and holding workshops for mom and pop landlords, but these landlords are not showing up. The Court is aware of the lead certificate issue and working to make changes. The question was raised: what can MDE do? Can MDE identify lead information on the back end?

Adam Skolnik stated that lead is not an issue for the landlord's group; they are good with this. They had drafted an amendment to only focus on lead, where there is agreement about the issues.

Lead Commission Minutes
May 4, 2017
Page 5

Future Meeting Dates

The next Lead Commission Meeting is scheduled for Thursday, June 1, 2017 at MDE in the AERIS Conference Room – Front Lobby, 9:30 – 11:30 AM.

Agency Updates

In the interest of time, report was provided only by one agency.

Maryland Department of Health and Mental Hygiene – Cliff Mitchell reported that DHMH and GHHI will roll-out two videos focused on blood lead testing, one for providers and one for parents. Screening is 4-5 PM tomorrow, May 5th at GHHI. Video links will be sent to providers and families and links will be available on websites.

Public Comment

Barbara Moore stated that an insurance company had recently denied an in-patient stay for two children with blood lead levels of 50µg/dL+. This is unprecedented. Mount Washington has negotiated a seven-day stay so the children could begin their 19-day course of treatment. The insurance company claims this is a “social” problem, not a “medical” problem and that treatment can be handled in the person's home. Barbara Moore reported that discussions were heated and that a concern has been raised about malpractice if providers are not meeting the standard of care for treatment. Many local agencies are involved with this case.

Adjournment

A motion was made by John Scott to adjourn the meeting, seconded by Paula Montgomery. The motion was approved unanimously and the meeting was adjourned at 11:35 AM.