

DRAFT MINUTES OF THE PUBLIC HEALTH COUNCIL

Meeting of April 23, 2020

MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH

**PUBLIC HEALTH COUNCIL
MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH
250 Washington Street, Boston MA**

Docket: *REMOTE MEETING*** Thursday, April 23, 2020 – 11:00AM**

Note: The April Public Health Council meeting will be held remotely as a moderated conference call due to the COVID-19 State of Emergency declared by Governor Charles D. Baker on March 10, 2020 and consistent with the Governor's March 12, 2020 Order modifying the state's Open Meeting Law and March 31, 2020 Order extending the prohibition of gatherings of 10 or more individuals until May 4, 2020.

Members of the public may listen to the meeting proceedings by using the dial in information below:

Dial in Telephone Number: 888-390-5007
Participant Passcode: 6754607

1. ROUTINE ITEMS

- a. Introductions
- b. Updates from Commissioner Monica Bharel, MD, MPH.
- c. Record of the Public Health Council Meeting held March 11, 2020. **(Vote)**

2. DETERMINATION OF NEED

- a. Request by Belmont Manor Nursing Home, Inc., for substantial capital expenditure. **(Vote)**

3. PRESENTATION

- a. Overview of the Crisis Standards of Care Advisory Committee's Guideline Development

The Commissioner and the Public Health Council are defined by law as constituting the Department of Public Health. The Council has one regular meeting per month. These meetings are open to public attendance except when the Council meets in Executive Session. The Council's meetings are not hearings, nor do members of the public have a right to speak or address the Council. The docket will indicate whether or not floor discussions are anticipated. For purposes of fairness since the regular meeting is not a hearing and is not advertised as such, presentations from the floor may require delaying a decision until a subsequent meeting.

Public Health Council

Attendance and Summary of Votes:

Presented below is a summary of the meeting, including time-keeping, attendance and votes cast.

Date of Meeting: April 23, 2020

Start Time: 11:07 AM **Ending Time:** 12:40 PM

Board Member	Attended	First Order: Approval of March 11, 2020 Meeting Minutes (Vote)	Amendment to Belmont Manor Nursing Home, Inc. condition related to timeline for consulting with the Office of Health Equity.	Second Order: Request by Belmont Manor Nursing Home, Inc., for substantial capital expenditure, as amended. (Vote)
Commissioner Monica Bharel	Yes	Yes	Yes	Yes
Edward Bernstein	Yes	Yes	Yes	Yes
Lisette Blondet	Yes	Yes	Yes	Yes
Derek Brindisi	Yes	Yes	Yes	Yes
Kathleen Carey	Yes	Abstain	Yes	Yes
Sec. Elizabeth Chen	Absent	Absent	Absent	Absent
Harold Cox	Yes	Yes	Yes	Yes
John Cunningham	Yes	Yes	Not Present for Vote	Yes
Michele David	Yes	Abstain	Yes	Yes
Michael Kneeland	Yes	Yes	Yes	Yes
Keith Hovan	Yes	Yes	Yes	Yes
Joanna Lambert	Yes	Yes	Yes	Yes

Board Member	Attended	First Order: Approval of March 11, 2020 Meeting Minutes (Vote)	Amendment to Belmont Manor Nursing Home, Inc. condition related to timeline for consulting with the Office of Health Equity.	Second Order: Request by Belmont Manor Nursing Home, Inc., for substantial capital expenditure, as amended. (Vote)
Lucilia Prates-Ramos	Yes	Yes	Abstain	Abstain
Sec.Francisco Ureña	Yes	Yes	Yes	Yes
Summary	13 Members Present, 1 Absent	11 Members Approved, 2 Abstained, 1 Absent	11 Members Approved, 1 Abstained, 2 Absent	12 Members Approved, 1 Abstained, 1 Absent

PROCEEDINGS

A regular meeting of the Massachusetts Department of Public Health's Public Health Council (M.G.L. c. 17, §§ 1, 3) was held on Thursday, April 23, 2020 at the Massachusetts Department of Public Health, 250 Washington Street, Henry I. Bowditch Public Health Council Room, 2nd Floor, Boston, Massachusetts 02108.

Members present were: Edward Bernstein, MD; Monica Bharel, MD, MPH; Lissette Blondet; Derek Brindisi; Kathleen Carey, PhD; Harold Cox; John Cunningham, PhD; Michele David, MD; Michael Kneeland, MD; Keith Hovan; Joanna Lambert; Lucilia Prates-Ramos, and Secretary Francisco Ureña.

Absent members were: Secretary Elizabeth Chen, PhD, MPH, MBA.

Also in attendance was Margret Cooke, General Counsel at the Massachusetts Department of Public Health.

Commissioner Bharel called the meeting to order at 11:07AM and made opening remarks before reviewing the agenda.

1. ROUTINE ITEMS

b. Updates from Commissioner Monica Bharel, MD, MPH

Commissioner Bharel stated before the Council reviews and votes on minutes from the March Public Health Council meeting, she wanted to share a few highlights regarding recent public health work taking place at the Department and across the state. The Commissioner then reviewed a presentation with the Council with updates on the COVID-19 response in Massachusetts.

The presentation provided members daily and cumulative counts of confirmed cases and deaths. She then gave an overview of orders issued since the March Public Health Council meeting followed an overview of the state's testing capacity including up to almost 9,000 tests per day across the State Public Health Laboratory and 30 other laboratories.

The Commissioner noted Massachusetts leads the US in per-capita testing and showed daily and cumulative number of tests conducted. Commissioner Bharel then gave an overview of personal protective equipment (PPE) efforts and initiatives, including distribution of more than 4 million pieces of PPE in the state. She also noted to date 858 ventilators had been received and 665 distributed.

The Commissioner then reviewed surge preparation efforts in the state, including over 18,000 beds suitable for COVID patients and beds in alternative locations across the state. She then reviewed the most recent case, hospitalization, and death data by race and ethnicity, as reported in the Department's daily data dashboard, and then described six key initiatives for long-term care facilities including expanded testing, PPE distribution, and an additional \$130 million in state funding.

The Commissioner concluded her update with an overview of the Commonwealth's first-in-the-nation contact tracing initiative, and opened the meeting to questions or comments from Council members.

Dean Harold Cox thanked DPH and all the student volunteers who have been deployed to over 90 local public health departments, and thanks to Antonia Blinn for her efforts on this deployment.

Commissioner Bharel thanked dean Cox for raising that and applauded the students for volunteering to serve without hesitation.

Lisette Blondet recognized all of the Department's and the Commonwealth efforts and expressed gratitude.

Derek Brindisi raised a question related to summer camps given DPH regulation and asked the Department to advise local boards of health (LBOHs) on day camps and other camps going forward.

Commissioner Bharel said the Department is monitoring this closely, and that as we monitor the curve and pandemic closely we will have more information for LBOHs.

Dr. Edward Bernstein thanked the department. He raised regarding health equity that specific information from safety net and disproportionate share hospitals to monitor their supplies, et cetera as they give much needed care would be helpful from an equity perspective.

Commissioner Bharel responded that she took note of Dr. Bernstein's suggestion as we continue to look at how to monitor health equity and the pandemic's impact.

Dr. Bernstein then asked if the Department has looked into specific COVID facilities for those suffering from addiction who are symptomatic or positive.

Commissioner Bharel noted that it's a great point, and that we've pushed out the CDC guidance as well as developed our own guidance related to care for those with addiction including those who are symptomatic or COVID-positive.

Dr. Michele David joined the meeting at 11:26AM.

Dr. Bernstein wanted to understand if we'd looked at specific facilities for COVID-positive patients.

Commissioner Bharel indicated she would like to discuss his proposal more after the meeting to better understand, and then reiterated the Department's commitment to ensuring addiction treatment for all, regardless of COVID status.

Lucilia Prates-Ramos thanked the Commissioner and the Department for all their work.

Dr. David also thanked the Department, especially for all the work in assisted living residences and long-term care facilities.

Commissioner Bharel indicated this remains a strong focus of the Department.

Ms. Blondet wanted to remind DPH of the role of community health workers play related to health equity and noted their involvement with the Partners in Health contact tracing work.

Commissioner Bharel noted their potential role and indicated the Department will continue to look at this as the landscape continues to change and ensure this is raised with Command.

Dr. David raised the issue of information accessibility to all groups, including availability in multiple languages.

Commissioner Bharel noted materials, information, campaigns in multiple languages to help ensure accessibility.

Secretary Ureña thanked the department for their role in transparency of data throughout the pandemic.

Commissioner Bharel thanked him, and noted the important role the Department's Office of Population Health has played in this process as information is important now more than ever to share during the pandemic.

Ms. Prates-Ramos indicated there are many other language groups out there that need to be reached and, speaking for herself, it is challenging as there's a lot of information from many sources and that there are a lot of people in need of information.

Commissioner Bharel thanked Ms. Prates-Ramos for her feedback. She reminded Council members to help drive people to the state COVID website for current information and fact sheets in multiple languages. She noted there is a lot of misinformation and confusion with information changing rapidly, so driving those we interact with to the website will help get accurate information to those who need it.

Dr. David raised the role non-English speaking media can play.

Commissioner Bharel then thanked the members for their question and feedback and for the role they are all playing in addressing the pandemic.

1. ROUTINE ITEMS

c. Record of the Public Health Council March 11, 2020 Meeting (Vote).

Commissioner Bharel asked if any members have any changes to be included in March 2020 meeting minutes.

Hearing none, Commissioner Bharel then asked for a motion to accept the minutes. Keith Hovan made the motion, which was seconded by Dean Chen. All other present members approved except Dr. David, Ms. Prates-Ramos, and Dr. Carey who abstained.

2. DETERMINATION OF NEED

- a. Request by Belmont Manor Nursing Home, Inc., for substantial capital expenditure.
(Vote)

Commissioner Bharel then invited Margo Michaels, Determination of Need Program Director to present on a request from Belmont Manor Nursing Home for substantial capital expenditure. Ms. Michaels was joined by Rebecca Rodman, Senior Deputy General Counsel. As part of Ms. Michaels presentation, she discussed a condition in the staff report that would require, if approved, the Holder (Belmont Manor Nursing Home) to consult with the Department's Office of Health Equity and implement corrective measures related to interpreter services. Ms. Michaels suggested the Council consider extending the timeframe the Holder would be required to complete this given the COVID-19 state of emergency. She indicated the Council may consider changing the timeframe to three months from the state of emergency being lifted instead of three months from approval, which would require a motion.

Upon conclusion of Ms. Michaels presentation, the Commissioner then opened the meeting to questions from the members, noting there was also a representative of the applicant available to answer questions as well.

Dr. Bernstein asked if the improvements to the facility proposed would mitigate any infection control issues in the facility going forward.

Stewart Karger, Belmont Manor Nursing Home's Administrator, responded that more private rooms would be available after this project, the dining space would be expanded, as well as the dementia special care unit, and he is hopeful this will help address infection going forward.

Ms. Prates-Ramos asked if the plan to renovate takes into account the issues we are seeing now related to the COVID-19 pandemic.

Mr. Karger indicated this will assure more private rooms and additional space for resident quality of life.

Ms. Prates-Ramos asked if the plan should be looked at differently given the unprecedented time and if this could happen again. She asked should the facility be rethinking their plan, particularly given an outbreak there.

Mr. Karger indicated the facility has a very vulnerable population with 98% long term, very debilitated residents in the facility for many years. He believes the addition of private rooms will help but is unsure of other physical plant modifications.

Ms. Rodman noted the application was submitted prior to the emergency and the Program does think this plan is appropriate regarding infection control. She noted that the way facilities respond to COVID-19 in the future may change, but that is beyond this project and will be something looked at by facilities going forward.

Dr. Bernstein noted that the CDC indicated COVID will get worse in the fall and asked how to address this.

Ms. Rodman indicated that we do need to think about this in the future but it is beyond this single facility and is something we will need to look at as a bigger picture question.

Commissioner Bharel then asked Ms. Rodman to address the Council regarding the timing for the Holder to consult with the Department's Office of Health Equity.

Ms. Rodman gave an overview of what the extension would do and indicated a motion would be required.

Dr. Kneeland made a motion to extend the timeframe in which the Holder must consult with the Office of Health Equity from three months after approval of the determination of need to three months after the end of the COVID-19 State of Emergency; Dr. David seconded the motion.

Kneeland recommended the change. David seconded the change. All present Council members approved the proposed amendment to the staff report, except Ms. Prates-Ramos who abstained and Dr. Cunningham, who left the meeting briefly.

Dr. Cunningham returned to the meeting.

The Commissioner then asked if there was a motion to approve the staff report as amended. Mr. Brindisi made the motion, which was seconded by Dr. Kneeland. All present Council members approved the staff report as amended, except for Ms. Prates-Ramos who abstained.

3. PRESENTATION

a. Overview of the Crisis Standards of Care Advisory Committee's Guideline Development

For the next agenda item, Commissioner Bharel gave opening remarks regarding the crisis standards of care COVID-19 guidelines and then introduced Dr. Michael Wagner, Chief Physician Executive for Wellforce and Co-Chair of the Crisis Standards of Care Advisory Committee; Dr. Emily Rubin, Pulmonary Critical Care Medicine Physician and Co-Chair of Massachusetts General Hospital's Optimum Care Committee; and Dr. Robert Truog, Director for the Center of Bioethics at Harvard Medical School, for a presentation on the process the Advisory group used to develop the care standards.

Dr. Wagner presented on the Advisory Group's process in developing the standards, as well as recent revisions released on 4/20/2020.

Dr. Truog then gave remarks on his work to develop the standards and indicated the development of these standards and all of the planning work around COVID-19 is help ensure the standards do not need to be implemented, but in the event they are necessary that there is a framework in place. He noted the standards and the focus on long term survivability initially released disadvantaged certain groups. He added that that standards with no aspect of survivability would push all patients into the highest, most critical category making this first come first serve, giving some patients better access including those with means and those who were sick earlier on in the pandemic.

Dr. Rubin also provided remarks on the standards of care, reiterating the hope is these will not be used but that the development of a framework with multiple ethical principles is to avoid provision of care on first-come-first-serve basis. She described key features of the standards

including involving a diverse team of the institution's clinical staff and a multi-disciplinary oversight group, including ethicists and diversity officers, to oversee the process. She also added if needed to implement there is thought given to ensuring equitable distribution of resources across the commonwealth with a requirement institutional level reporting on their implementation.

Commissioner Bharel thanked Drs. Wagner, Truog, and Rubin for their work on the standards and for presenting to the Council. She then opened the meeting to questions from Council members.

Dr. David noted that those with better access to care will have better access to ICU care, and those who lack access will continue to lack access. She asked if we will be monitoring to see how the standards are applied related to health equity concerns, race, ethnicity.

Dr. Rubin indicated that the application of the standards will be closely monitored including as related to health equity.

Dr. Truog indicated that it is true those who have no access to care are not helped by guidelines. However, those who do manage to get to the hospital are often sicker and in need of care and these standards will help ensure those patients have access to resources and care.

Dr. David indicated these standards won't benefit marginalized groups and that presents a challenge.

Dr. Truog indicated that the standards do not solve the issue of access to care for those who do not have access to care, but that those who do come to the hospital often come sicker so this framework would help create a fair way to access beds by ensuring there are resources left. Dr. David followed up that historically marginalized groups tend to be sicker and tend to have shorter near-term mortality so questioned how these standards will be equitable.

Dr. Truog noted that this is a critical issue and acknowledged the standards do not fully address or eliminate issues related to disparities or disability, but by having a framework with predictors it help prevent first come first serve. He added it is important to note that those are issues that existed before the pandemic and will after the pandemic, and need to be remedied. He concluded by indicating the standards attempt to mitigate these issues, and in some instances will provide more access to care.

Dr. Bernstein asked why a lottery couldn't be used at the front desk instead of when there is a tie.

Dr. Rubin indicated a lottery is one way to treat everyone equally without regard to patient status or duration of benefit. She indicated there is still a level of first-come-first-serve because anyone without a near-term survival limitation will still essentially present on first-come first serve, so the issue of utilizing a tie breaker would be rarely used. She added that using a pure lottery does not take into account a number of other ethical considerations such as patient level factors and survivability, and the approach in the standards take into account several ethical principles.

Dr. Bernstein noted the imprecision of these measures in determining patient survivability and acknowledged this is not a perfect system, and shows a need for upstream measures. He asked if these tests protect people of color because social determinants of health and chronic conditions that affect them..

Dr. Wagner noted feedback from the disability community on use of these tests who noted the inability to grade certain individuals due to their underlying disability, which was taken into account in the revision. He notes that the standards have been a lightning rod for the underlying issues in our healthcare system and has created a very important dialogue to take action on going forward.

Commissioner Bharel added that this is a cornerstone of our public health work and that the pandemic is shining a light on this and as we return to our new normal we cannot return to our old normal.

Dr. David wanted to be mindful of unconscious bias and how that will impact those who receive care and treatment.

Commissioner Bharel indicated that any hospital to institute these guidelines must notify DPH so we are able to advise and provide resources to these hospitals related to these issues and for review of the decision making process at the state level.

Dr. Rubin indicated these are all things the advisory group is concerned with and have worked to address, as well as within their own institutions, and how to prevent and protect against that kind of bias related to these standards.

Commissioner Bharel thanked the group for their efforts and thanked Members for their very thoughtful questions and feedback.

Dr. Wagner then assured the Council these are all issues the group spent significant time working through and that the goal is that these standards need not be deployed with an eye on equity and disparities going forward.

With no further agenda items, the Commissioner reminded the Council that the next meeting would take place remotely on Wednesday, May 20, 2020 at 9AM.

She then asked for a motion to adjourn. Dr. David made the motion, which Secretary Ureña seconded. All present members approved.

The meeting adjourned at 12:40PM.