



**BOARD OF DIRECTORS  
MEETING  
February 11, 2011**

**Health District Office Building  
120 Bristlecone Drive, Fort Collins**

**MINUTES**

**BOARD MEMBERS PRESENT:** Celeste Holder Kling, President  
Bernard J. Birnbaum, MD, Vice President  
Timothy S. O’Neill, Secretary  
Steven J. Thorson, MD, Treasurer  
Joe D. Hendrickson, Liaison to PVHS Board

**STAFF PRESENT:** Carol Plock, Executive Director, HD  
Carrie Cortiglio, Policy Analyst  
Lorraine Haywood, Finance Director  
John Newman, Medical Services Director  
Nancy Stirling, Assistant to Executive Director, HD  
Lin Wilder, Community Impact/Health Promotion Director

**CALL TO ORDER; APPROVAL OF AGENDA**

President Celeste Kling called the meeting to order at 7:11 a.m. A discussion of the Colorado Health Care Cooperative legislation was added to agenda.

**MOTION: To approve the agenda as amended.**  
*Motion/Seconded/Carried Unanimously*

**DISCUSSION & ACTION**

**Legislation**

Medical Marijuana:

Currently, there are two medical marijuana policy issues being considered – HB1043 at the state level and another by the City of Fort Collins City Council.

State House Bill 1043 makes changes to the medical marijuana law that was passed last year. When Ms. Cortiglio attended the bill’s hearing before the House Judiciary Committee yesterday afternoon, however, she learned that the bill had been completely stricken and new language was in the process of being written. Therefore, the bill analysis that was presented to the board in the meeting packet is no longer accurate.

While staff is waiting to obtain the revised language to the bill, they were interested in learning from the Board any concerns they had with the initial bill should these concerns appear in the revised bill language. The Board indicated their interest in ensuring that the Board of Medical

Examiners retains oversight over physicians, as well as the ability to appropriately discipline them, including revoking licenses if appropriate. Once the revised language is obtained, staff will forward it to the Board members for their review. Staff will also review the new language to see how it compares with Board's opinions and present an updated analysis.

Dr. Thorson complimented staff on the well-written analyses – saying that “what we do is phenomenal.” Mr. Hendrickson added that “taking it topic by topic” in the analysis was very helpful.

City of Fort Collins Ordinance:

Last spring, the Fort Collins City Council passed a medical marijuana ordinance that included many restrictions for where dispensaries could locate within the city limits. Since that time, the City has not been accepting any applications for new licenses and has put off a decision concerning whether to “grandfather-in” existing dispensaries while staffers reviewed state rules and evaluated all who had been operating businesses and submitted applications. At its upcoming February 22 meeting, City Council will hear and possibly take action on City staff's proposal concerning the 21 dispensary businesses that are currently not compliant with the ordinance (out of a total of 23 existing operations). From conversations with City staff working on this issue, it looks like they will be proposing that current operations be grandfathered in, but that a cap be placed on the number of dispensaries that can operate within city limits at any one time, at 23.

Another issue which Ms. Cortiglio discussed with City staff had to do with “edible products.” Currently, the ordinance states that there cannot be onsite consumption of edible products; however, there is no limit as to how much edible products can be purchased (like there is with regular marijuana product and number of plants). This gap in regulation could allow an interesting scenario where a person could purchase their allowed 2 oz. of marijuana, have a limited number of plants at home, AND purchase as much edible product as they want. Since they are “edible products”, one option would be that they would be controlled as all other edibles, which would be overseen by the County Health Department, but there are complications that likely make the health departments unable to perform that function.

The Board noted that their concerns are those that relate directly to health. The two particular health concerns raised include 1) the location of dispensaries, because there is a documented impact on health when youth use marijuana, and 2) the health issues related to both the amount of edible products that any one consumer can purchase and the fact that they are not covered by the same regulations as food, and thus could result in food-borne illnesses.

After some discussion, in which the Board noted their belief that the community would be best served if City Council were to stick with the location restrictions contained in its ordinance, the following motion was offered and seconded:

**MOTION: To recommend to the City of Fort Collins City Council that none of the dispensaries not currently in compliance with the city ordinance be allowed to be permanently grandfathered, but that they all be given a set amount of time by which they must be in compliance with location standards.**

*Motion/Seconded/Carried Unanimously*

Concerning the issue of edible products, the Board acknowledged the complexity in coming up with a reliable way to regulate them. By consensus, they asked staff to convey to City Council that they are concerned about the health implications of 1) edibles containing marijuana being produced in unregulated kitchens, and 2) allowing the purchase of unlimited edibles. They also want City Council to know that they are in support of capping the number of dispensaries that can operate within the limits of the City.

*Health Insurance Exchange: Draft Board Comments to Policymakers*

At the last Board meeting, the Board directed staff to draft a “position statement” on their behalf outlining recommendations concerning the development of Colorado Health Insurance Exchanges. Staff presented a draft position statement for the Board’s review that includes the Board’s comments from their previous discussion as well as recommendations from the original proposal submitted by staff to the Blue Ribbon 208 Commission. Key issues addressed in the position statement include: what type of agency should be developed to oversee the exchange (quasi-governmental), governance (size of board, representation and collective expertise needed, the appointment process, terms, and compensation), and authority. (See draft position statement for full details.)

Dr. Thorson expressed reservation about the second paragraph under “Appointed to Represent,” because of the possible interpretation that even health care providers would be precluded from serving on the board (which was not the intent of the paragraph). The statement currently reads:

“A specific conflict of interest clause needs to be created, precluding any person from serving on the board who currently receives a significant portion of their income from any industry that might be impacted by the decisions being made by the Board (e.g. health care plans, brokers, etc.)”

He offered the following motion:

**MOTION: To remove the paragraph in question entirely.**  
***Motion-S.Thorson/Seconded***

Board/Staff Discussion: After brief consideration, there was agreement among staff and Board members that the beginning piece of the paragraph was important and should remain in the document.

Dr. Thorson amended the above motion as follows:

**AMENDED MOTION: To keep only the sentence as follows: “A specific conflict of interest clause needs to be created.”**  
***Amended Motion-S.Thorson/Seconded***

As the discussion progressed on whether to remove the rest of the language, the concern was that not having the remaining portion of the paragraph could result in too much health insurance industry representation. Since the goal of the exchange is to make decisions that are best for the people of Colorado rather than the industry, that could make change difficult to accomplish when necessary.

Board and staff considered revising the statement to as follows:

“A specific conflict of interest clause needs to be created, which would preclude any person from serving on the board who currently receives a significant portion of their income from the health insurance industry.”

**AMENDED MOTION:**     **To have the second paragraph under “Appointed to Represent” read as noted above.**  
*Motion-B.Birnbaum/Seconded*

Mr. O’Neill noted that, in his experience, it is sometimes very useful to have someone from within an industry serve on a board, so that the board always takes into account the effect their decisions make on that industry. Ms. Cortiglio noted that there would likely be strong advocacy from the health insurance industry for their inclusion, and that perhaps if the Board were to take a strong position, it would leave legislators room for compromise.

Dr. Birnbaum amended his previous motion as follows:

**AMENDED MOTION:**     **To have the second paragraph under “Appointed to Represent” be: “A specific conflict of interest clause needs to be created, which would preclude any person from serving on the board who is currently employed by the health insurance industry.”**  
*Motion/Seconded/Passed (Yes-4; Opposed-1 T.O’Neill)*

**MOTION:**     **To approve the Colorado Health Insurance Exchanges Position Statement document as amended.**  
*Motion/Seconded/Passed (Yes-4; Opposed-1 T.O’Neill)*

Mr. O’Neill noted that he was fine with the statement except for the conflict of interest paragraph.

Staff will convey the position statement to appropriate policymakers.

*House Bill 1069: Physical Activity Requirements in Schools*

This bill would require schools to provide students opportunities for activity. It does not specify types of activity. The bill is being viewed as a first step towards further discussion of physical activity in schools. Since it is likely that this bill will move forward prior to the Board’s next meeting, if needed, information will be drafted for the Board President’s review for her to take a position on behalf of the Board.

*House Bill 1025: Repeal of Hospital Provider Fee*

This bill would repeal the hospital provider fee, which would mean loss to the state of hundreds of millions of dollars. The loss would come from the federal match which requires states to keep a maintenance of effort to receive the match. Commitment to the hospital provider fee remains from all major players, including the Colorado Hospital Association.

**Colorado Health Care Cooperative**

Dr. Birnbaum brought up a bill scheduled to be introduced by Irene Aguilar regarding a process to develop a Colorado Health Care Cooperative. The Cooperative would be quasi-governmental in structure, run by a not-for-profit entity, and with board members appointed by the Governor

and legislators. It appears that its intent would be that all Coloradoans would receive their health insurance through the Cooperative, though exactly how it would work is not clear at this time. It would require a vote of the people, and if approved, would start in 2014. Since the bill has not yet been introduced, Dr. Birnbaum wondered whether the Board would want to take a stand approving of the concept of an entity whose role it would be to assure that everyone received health insurance coverage.

It was suggested that this issue be postponed for discussion at a future meeting to allow staff an opportunity to review the bill and possibly draft an analysis for the Board's review. Staff should also include a review of the federal legislation that would allow states to do this individual experimentation.

**STAFF REPORTS (postponed from last meeting)**

Due to shortage of time left for this meeting, staff reports were postponed to the next meeting.

**ANNOUNCEMENTS**

- March 1, 5:30 pm – Board of Directors Regular Meeting

**ADJOURN**

**MOTION: To adjourn the meeting.**  
*Moved/Seconded/Carried Unanimously*

The meeting was adjourned at 8:55 a.m.

Respectfully submitted:

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Nancy L. Stirling, Assistant Secretary

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Celeste Holder Kling, President

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Bernard J. Birnbaum, MD, Vice President

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Timothy S. O'Neill, Secretary

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Steven J. Thorson, MD, Treasurer

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Joe D. Hendrickson, PVHS Board Liaison