

Frank Nemec, MD
John Onyema, MD
Steven Ross
Barbara Ruscigno, RN
Anita Wood

Alternate At-Large Member, Physician
Alternate At-Large Member, Physician
Councilman, Las Vegas Alternate
Alternate At-Large Member, Registered Nurse
Councilwoman, North Las Vegas Alternate

Staff: Scott Weiss; John Middaugh, MD; Angus MacEachern; Glenn Savage, Jennifer Sizemore; Bonnie Sorensen; Maria Azzarelli; Stephanie Bethel; Jerry Boyd; Dennis Campbell; Nicole Chacon; Rory Chetelat; Alice Costello; Joanne Engler; Forrest Hasselbauer; Brian Labus; Eddie Larsen; Christina Madison; Ann Markle; Dante Merriweather; Veronica Morata-Nichols; Patricia O'Rourke-Langston; Gwen Osburn; Mars Patricio; Walter Ross; Patricia Rowley; Jane Shunney; Chris Strickland; Leo Vega; Jorge Viote; Jacci Wilson; Steve Youles; Deb Williams; Valery Klaric and Shelli Clark, recording secretary

ATTENDANCE:

<u>NAME</u>	<u>REPRESENTING</u>
Gilbert Audor	Silver Mattress
Caleb Bell	EPC
Joe Brookhouse	Accent
Terence Capers	CNLV
Benjamin Fominyam	USN Pharmacy Student
Dan Fuller	EPC
L. E. Hawley	NCII
Kristen Mahler	USN Pharmacy Student
Steve Mattocks	Self
J. Allan Simmeny	EPC

Vice Chair Strickland asked if there were any changes to the posted agenda. Dr. Sands noted that the item to be discussed in Closed Session did not come to completion as yet and he asked that the Closed Session be canceled. Vice Chair Strickland confirmed that Closed Session would be withdrawn.

- I. ~~Meeting of the Board of Health as governing body with its attorneys regarding existing/potential litigation —~~ **CLOSED SESSION** pursuant to NRS 241.015.2(b)(2) **Item withdrawn at the request of staff**

II. CONSENT AGENDA

These are matters considered to be routine by the Southern Nevada District Board of Health and may be enacted by one motion. Any item, however, may be discussed separately per Board Member request before action. Any exceptions to the Consent Agenda must be stated prior to approval.

1. **Approve Minutes / Board of Health Meeting:** 11/19/09
2. **Approve Payroll / Overtime for Periods:** 10/31/09 – 11/13/09 & 11/14/09 – 11/27/09
3. **Approval Voluntary Furlough Program Reports for Periods:** 10/31/09 – 11/13/09 & 11/14/09 – 11/27/09

4. **Approve Accounts Payable Registers:** #1205: 11/06/09 – 11/10/09; #1206: 11/11/09 – 11/19/09; #1207: 11/20/09 – 12/03/09
5. **Petition #39-09:** Approval of Amendment Number to Interlocal Agreement with Clark County on Behalf of Department of Social Service: Tuberculosis Test Services CCSS Employees for the Period of February 1, 2010 – January 31, 2011

Vice Chair Strickland asked if there were any discussion on the items brought forward on the Consent Agenda. Seeing none, she called for a motion to approve the Consent Agenda as presented.

A motion was made by Member Mattocks to approve the Consent Agenda as presented; seconded by Member Fairchild and was unanimously approved.

II. **PUBLIC HEARING / ACTION**

1. **Memorandum #33-09:** Application for Approval for Executive Personal Computers, Inc. to Operate a Solid Waste Management Facility – Recycling Center, Located at 6650 Spencer Street, Ste. 120, Las Vegas, NV 89119 (APN 177-02-501-031)

Vice Chair Strickland declared the public hearing open.

Walter Ross, environmental health supervisor/engineer, and Dante Merriweather, environmental health specialist II, spoke relative to this matter. Mr. Ross said that Executive Personal Computers, Inc. has met all requirements to operate a recycling center as specified in Section 4 of the Regulations Governing Temporary Permits to Operate Solid Waste Disposal Sites.

Staff recommends approval based on conditions as outlined in the memorandum and a final inspection. Dan Fuller, president of Executive Personal Computers, Inc. was present to answer questions of the Board.

Vice Chair Strickland asked Mr. Fuller if he understood and is in agreement with the conditions as specified; Mr. Fuller responded affirmatively. She also asked if he planned to work toward the application for a regular permit, and that we was aware of the one-time six-month extension on his temporary permit. Again Mr. Fuller responded affirmatively.

Vice Chair Strickland asked if anyone else wished to testify on this item. Seeing none, she closed the public hearing.

A motion was made by Member Hardy to approve the application with the conditions as outlined; seconded by Member Fairchild and carried unanimously.

2. **Memorandum #26-09:** ~~Adoption of the Proposed Regulations Governing the Management of Waste Tires~~ ***Continued to the January 28, 2010 Board of Health meeting***

Vice Chair Strickland noted for the record that this item has been continued to the January 28, 2010 Board of Health meeting.

III. REPORT / DISCUSSION / ACTION

1. Petition #27-09: Approval of Proposal for the VAX Replacement Solution from Decade

Dr. Sands introduced Eddie Larsen, information technology manager and Joe Brookhouse, consultant from Accent to present this item. This project has been in development for over two years.

Mr. Larsen reported the current VAX system has been used by environmental health since 1989. Additional functions were added over the years, but the core system remains the same. There are numerous risks involved in keeping this current system, including significant cost and effort to maintain and repair the system – the Board granted a critical labor shortage to allow a retired employee to provide contractual labor to maintain the system. It is very labor intensive to retrieve data from the current system. Staff cannot rely on the system in response to upcoming legislative changes and there are increasing risks to the system as well, which will increase as the district continues to grow. The district has tried to replace the VAX previously with no success. Accent Business Services was retained as an outside consultant to assist with the RFP process.

Mr. Brookhouse provided a brief overview of the RFP and contracting process. Accent performed a needs analysis in the environmental health division in February 2008, which included representation from both finance and IT. The RFP was published locally and nationally, which allowed for local businesses to submit proposals. Sixteen vendors were contacted, four of which responded. Each response was evaluated by a team composed of environmental health, finance and IT staff. Two scoring mechanisms were used to evaluate the proposals: 1) detailed requirements and functionality; and 2) responses to essay-style questions where more in-depth information was collected. The team also considered the cost of the solution – as each vendor submitted their cost projection differently, the team reflected the cost information back to each vendor to ensure an “apple-to-apple” cost perspective. One proposal was rejected at this stage.

The three remaining vendors provided on-site presentations over a period of two and a half days. Each vendor received a line-item script from which to work to present a “day in the life” process to understand how their product would meet the needs of the environmental health division. Following these presentations one additional vendor was deemed unviable and eliminated from consideration.

The last component of the evaluation was site visits to view working demonstrations by both Decade and Garrison. Decade was clearly the most viable solution and contract negotiations commenced immediately.

Decade requires that their employees be local to the area where the company is based for quality control purposes – they are based in Redlands, California. This will ensure that no outside contractors are brought in to work on the project – only Decade employees will be on site to complete the project. Member Weekly asked that the Board receive copies of all applications when RFPs are solicited.

The VAX replacement project is projected to be a \$1.3 million capital project, which includes \$400,000 of expenditures in FY10 and the remaining \$920,000 will fall to the FY11 budget. There is an additional capital expenditure of approximately \$540,000 for hardware and peripherals (laptops for 110 field staff). There is an annual maintenance agreement in the amount of \$289,589. The software industry is migrating to a “Software as a Service” (SAS) medium whereby the purchaser receives complete versioning upgrades and enhanced support.

Environmental health's budget will fund the annual maintenance agreement; the district will fund the capital expenditure. Scott Weiss, director of administration, noted that monies are available for this project. Due to the increased risk to the district, from a financial perspective it is prudent to move forward at this time. Environmental health provides vital services to the community.

Member Weekly noted that the current system is very old and in need of modernization and asked if any local companies responded to the RFP. Mr. Brookhouse noted that environmental health software is very unique and indigenous to particular needs. The vendors that responded to the RFP are considered the best available and very few vendors could meet the particular needs of the health district. There were no local vendors that responded to the RFP.

Mr. Brookhouse provided information on the three vendors eliminated from consideration:

- Healthspace – the software platform was built on a Lotus database, which is not flexible and not viable for long-term technology needs. As the district is already experiencing problems with technology and long-term needs, this company's product was not a good fit.
- CSDC – this company is based in Toronto and seemed to be very capable, flexible and technologically advanced; however there seemed to be a great deal of risk with this much flexibility. Staff would require in-depth knowledge of SQL coding in order to add more programs, which added to the project risk. This was also the most expensive option.
- Garrison – this was the least expensive option; however the company is very young and staff was unhappy with some responses as well as a threat to contest the RFP. The software was not single-code based, which means each program was a new application lacking a common database, which could create additional technological issues in the future. The success rate of implementation was not positive.

Member Weekly expressed the importance of diversifying work in Nevada, particularly Clark County, because more and more contracts and dollars are going to other states where technology and the knowledge base is greater. Vice Chair Strickland noted we are doing our due diligence when we solicit local companies for various needs and recognized that no local companies came forward in response to the RFP.

It is anticipated that the project will take up to eighteen months to complete; however it could be completed within a year's time. This is a phased project and each program will be tested along the way to ensure the solution will function as promised. Mr. Larsen reported that daily backups on the VAX are completed; all data has been copied to a SQL database in order to help the process along and shorten the lifespan of the project.

Member Empey commended staff for moving forward with this proposal; he asked if staff was in agreement with this new direction. Mr. Larsen said that environmental health staff was instrumental in the entire process, including selection of the vendor. Staff dictated their needs and how a new solution could benefit the division.

Glenn Savage, director of environmental health reported that all field offices and programs were able to provide input. Due to the large number and sophistication of each program, additional hurdles came into play. The health district has many more programs than other environmental health programs across the nation. The current VAX system is overloaded. The system has rebooted itself several times recently and staff was concerned that there would be loss of functionality. Financial staff were also involved as all monies collected are routed through finance to verify accuracy.

Staff went to San Bernardino County Department of Health to see the program in action. Their program's process is much smaller and not as extensive as SNHD's programs; however staff continued to believe Decade was the best solution. Decade will provide new technology whereby staff can take laptops into the field and print inspection reports on site, creating more efficiencies. We will also be able to post restaurant inspections online in real time, as requested by former Board member Steve Kirk. We are also considering a way to allow for permit holders to view their status and compliance issues online. There is a potential to use some of the data for other programs as well, such as Epidemiology and food-borne illness investigations. If the data can be exported into other formats, different programs can analyze the data for their needs.

Member Empey sought to ensure that we would not find ourselves in the same situation with Decade as occurred with PHFE and paying out large dollars in settlement fees. Mr. Weiss said that Accent was at the table through the entire process to ensure that a similar issue did not surface a second time.

Mr. Brookhouse noted he did not have information specific to PHFE, however he said that many software contracts are very similar. We need to have checks and balances in place throughout the development and implementation process to ensure timeliness and quality of said deliverables. Accent helped develop a contract to avoid the issues recently experienced with PHFE. The Statement of Work, which was provided to the Board, is quite extensive and the intent of the document is to divide the work into tracks, including deliverables and acceptance criteria. Staff will receive information for review and has the ability to accept the work and then pay for it, or can reject it and give instructions for modification. It also takes into consideration communication changes and modifications to the scope of work. Data migration is also included in the statement of work. Significant dollars totaling 30% of the service fees will be retained until the final acceptance of the entire project. The health district and Decade will partner in this project; however Accent will be available for questions and clarification if needed.

Member Fairchild noted her appreciation for the interpretation of the agreement and dispute resolution. She thanked staff for their efforts.

This solution has been in process for ten months because staff wanted to ensure that all pieces were in place and that each deliverable was clear. The dispute resolution needed to be well-defined and clear with limited risk to the health district.

Mr. Brookhouse stated that Decade was selected for this project due to their flexibility of the product and the ability to maintenance it in-house whereby additional programs can be added and modifications can be made. Both the data structure and architecture are extremely flexible. Each program in environmental health is quite unique and we do not want to build specific software for each program – Decade allows for changes and additions to the program very quickly while keeping the parent system intact. The district should not have to purchase anything in addition to this solution. The maintenance agreement includes any enhancements to functionality as well.

A motion was made by Member Fairchild to approve the proposal for the VAX replacement solution as presented; seconded by Member Mattocks and was unanimously approved.

2. Petition #37-09: Approval of Revision of Fee Schedule for TB Program

Patricia O'Rourke-Langston, public health nurse manager, and Bonnie Sorenson, director of clinics & nursing services presented this item. This petition is to request an addition to the fee

schedule to recover costs for Global Positioning Systems (GPS) devices used as a measure of last resort with non-compliant TB patients. The health district currently has two units for this purpose. There are very few patients who are totally non-compliant; most patients are motivated to accept treatment to become well following education of the disease and treatment. This is another way to encourage individuals to be compliant with their treatment, particularly if they are able to avoid paying fees. The manager/supervisor will be responsible for discussing the device with the patient to allow the nurse/patient relationship to continue to thrive. This same device can be used on non-compliant multi-drug resistant patients.

The minimum cost to place the bracelet on a patient is \$139.50 per month. When bracelets are not being used on a patient there is a \$.45 per day charge for the unit, or \$13 per month. It is highly unlikely the health district will recover the costs for the device; however as Member Christensen noted the cost is made up by the public health benefits and containing the infection. He noted that additional monies will be saved over the years by alleviating spread of the disease.

This particular device is not covered by medical insurance and would be paid completely out of pocket. Treatment is not withheld for someone who cannot pay – the health district provides treatment regardless of ability to pay. The proposed fee for the device is based on the fee from the vendor.

Stephen Smith, board legal counsel noted that a court order is obtained to isolate a non-compliant patient and place a device. Bonnie Sorenson noted that the Las Vegas Metropolitan Police Department (Metro) charges fees for individuals wearing the bracelet during home-monitoring programs – these individuals have broken the law and are wearing the GPS device by court order. Metro is able to recover some of their costs by charging the wearer fees; a sliding fee-scale system is in place to try and recover some of these expenses, but there is a short-fall in the house arrest program for recovering expenses related to the GPS device. If an individual has a vested interest in something, such as providing payment, it means more to that person and can go a long way in ensuring compliance and treatment.

Texas and Oklahoma each have similar programs in place; however it is handled through the police departments not the local health authority. This community has elected to move forward using the GPS device and Metro has indicated that thus far the program is quite successful. Clark County Detention Center has mentored staff in the use of GPS devices and guided staff in developing a program for SNHD. This is considered an innovative approach to public health and other states are contacting our staff for information on how we've implemented this program. Public health agencies are seeking ways to monitor non-compliant patients with very limited resources.

Vice Chair Strickland stated that with no precedent in case law from other jurisdictions for health authorities to employ this type of device on non-compliant patients, we may face legal challenges later on. Her concern is imposing a civil fine and having someone bear a cost for wearing the device. Ms. Sorenson noted that most states utilize the jail system to hold non-compliant TB patients; however this has also been legally challenged. When the health of an entire community is threatened by one person, more drastic measures are warranted.

There are always non-compliant patients, as the level of compliance varies (taking medications as prescribed, refraining from alcohol use, coming in for appointments, etc.). A patient would have to have an extremely poor level of compliance to be required to wear a GPS device. Currently we have different patients at various levels of restriction, some of which are court-ordered. Two patients are wearing the GPS device, one of whom is confined to his/her home.

There are approximately 100 TB patients seen in Clark County annually with a 95% compliance rate, which exceeds the Healthy People 2010 benchmark goals.

Staff works together to determine the level of risk a non-compliant patient is to the public and how restrictive the conditions should be for this patient. Different levels of alerts can be configured for the GPS devices for each patient, and the alerts are sent to Ms. Bennis as determined by the alert level. Reports can be generated to track the patient's whereabouts throughout the day if the person is not coming to pre-scheduled appointments. Under the court order there is a sliding scale of activities by which the health district and a law enforcement agency are authorized to transport a patient to an isolation facility (hospital or home).

Member Hardy suggested a memorandum of understanding between Metro and SNHD be developed as an advantage of case law. We need to keep the court-oriented case law on our side and look for ways to continue partnering by written agreement. Member Hardy said he would sponsor a bill for legislative language changes regarding tuberculosis – he noted that a state law may be necessary in the future for this particular circumstance.

Ms. Sorenson said a CDC attorney is hosting a conference in February to review TB laws across the nation – the Nevada Attorney General has been invited to participate in this conference.

A motion was made by Member Fairchild to approve the revision to the TB Program fee schedule as presented; seconded by Member Hardy and was unanimously approved.

3. Receive Report on Proposed Changes to Rewards for Citizen Witnesses of Illegal Dumping Cases; Direction to Staff

Scott Weiss, director of administration, said that Tom Wharden of the Howard Hughes Corporation came forward last month seeking increase in rewards, with a direct match from Howard Hughes Corporation. The Board expressed concern about paying rewards to citizen witnesses only after payment in full was received for assessed fines. Mr. Weiss noted that NRS 444.640 specifies that the \$100 paid to citizen witnesses must be paid when payment in full of the penalty is received. Staff will continue discussion with Mr. Wharden to determine if Howard Hughes Corporation could pay their portion to a citizen witness sooner and the district portion would follow upon collection of all fines. Mr. Weiss said that there are several options to discuss and this information will be brought back to the Board after these discussions have taken place.

4. Receive Report on Nevada Clean Indoor Air Act Regulations (NCIAA); Direction to Staff

Glenn Savage, director of environmental health and Nicole Chacon, health educator were invited to answer questions of the Board. Dr. Sands referenced a status report provided to Board members (**attachment #1**) as a follow up from the October Board of Health meeting.

All provisions of the Nevada Clean Indoor Air Act are still in place as passed by law in 2006, with the exception of the criminal provisions which were challenged in court in December 2006. There are no prohibitions on local government entities being able to promulgate stricter regulations or ordinances. In working with the state and other local health authorities to develop state-wide regulations, staff is hopeful that some of the questions about enforcement and meanings of certain terms can be better clarified, as well as minimizing opportunities for potential challenges. Development of state-wide regulations will also provide a framework by which local government could fashion stronger regulations for their respective entities, which

would be enforced by local government. Staff would then provide technical assistance to local government to ensure consistency across jurisdictions as well as to lessen confusion by the public.

Mr. Savage noted that some provisions were added to the food establishment regulations concerning NCIAA. All establishments would be required to be compliant with NCIAA, as well as all applicable federal, state and local laws in the event regulations are drafted at the state or local level. For those facilities that wish to have separate smoking and non-smoking areas, there will be separate plan review process – staff will work with building departments at all jurisdictions to ensure all concerns are addressed. Food facilities not in compliance with NCIAA can be assessed a fine for being in violation of the Act, such as not posting signage or removal of ashtrays. There will be at least one more workshop to address concerns by industry before the regulations come to the Board for adoption. Development of the public nuisance regulations could also include language specific to NCIAA and businesses not regulated by the health district, such as engineering firms.

The American Cancer Society recently filed suit against the Las Vegas Convention and Visitors Authority (LVCVA) regarding the constitutionality of an exemption for tobacco trade shows and the allowance of smoking at LVCVA and other certain convention centers as part of the events. SNHD, as well as the other local health authorities, the Nevada State Health Division and the State Attorney General were also named in this suit.

The Closed Session was going to address a legal case resultant of an injunction against the health district to enforce NCIAA in a certain situation. This discussion will occur later, to obtain the Board's perspective on legal strategy on how to move forward with this issue.

Ms. Chacon noted that staff works with Tobacco Control Programs in other jurisdictions and states and share information on how they've successfully implemented regulations and ordinances in reference to clean indoor air. She offered assistance to those jurisdictions seeking additional information. Staff would alert the other jurisdictions if another were seeking to develop regulations or ordinances to ensure consistency across the board.

5. Discuss Attorney General's Direction Regarding Solid Waste Hearing Officer Agenda; Direction to Staff

Mr. Smith referenced the item in the Board members' packet, which included a letter from the Attorney General's office. The hearing officer process is now in compliance with two decisions issued by the Nevada Supreme Court and directions from the Attorney General. The hearing officer process is not subject to Open Meeting Law and posting of materials. Copies of the new agenda format, entitled a "docket" were also provided to the Board showing compliance with NRS 444.629(3). The following language has been added to the agenda for the public's notice and information:

Hearing Officer Process is not subject to the Open Meeting Law. The Hearing Officer Process is in accord with Nevada Revised Statutes (NRS) 444.629(3). The Hearing Officer has the authority to determine violations and levy administrative penalties. The parties are afforded 1) an opportunity for a hearing to contest for alleged violation(s), 2) the opportunity to be represented by counsel, 3) the right to call witnesses, to examine and cross examine witnesses, 4) to submit evidence to the hearing officer, and 5) the right to receive a written decision from the hearing officer following the hearing, which then may be 6) appealed to a higher authority, that is by a petition for judicial review within 30

days of service to the order to District Court under NRS 233B.130(2) and 233B.131 through 233B.150 inclusive. Failure to appear will render the decision final. Further, failure to appear to contest the violation may result in a finding of a violation and the imposition of a penalty.

The docket is posted at the main public health center, as well as online. The interested parties and witnesses for the district are also notified of the Notice of Violation (NOV). The person accused is notified of his/her right to provide witnesses by the NOV and the docket. NOV's are sent to the violator's last known address by both regular and certified mail.

Prior to the hearing, the solid waste management authority is in contact with the alleged violators to discuss possible settlement and resolution, as well as their position regarding the violation. The violation can they be amended or withdrawn, based on information gathered at that time. Subpoenas are issued for district witnesses on occasion; the alleged violators can request a subpoena be issued if necessary for witness on their side as well. Vice Chair Strickland asked that something be added to the docket language to include the ability to subpoena witnesses.

IV. PUBLIC COMMENT

Public Comment is a period devoted to comments by the general public, if any, and discussion of those comments, about matters relevant to the Board's jurisdiction will be held. No action may be taken upon a matter raised under this item of this Agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to NRS 241.020.

Vice Chair Strickland asked if anyone wished to address the Board. Seeing none, she closed the Public Comment portion of the meeting.

V. HEALTH OFFICER & STAFF REPORTS

Safe Injections Practices Campaign

Dr. Sands participated in a workshop for the Safe Injection Practices Coalition regarding the Best Practices with Patient Notification. He presented on our experience with patient notification in the hepatitis C outbreak and lessons learned. Other communities with similar situations also shared their experience. There was also a follow-up meeting with the Nevada project and New York project for the rollout of the Safe Injection Practices Campaign. Nevada received funding through the Centers for Disease Control (CDC) to pilot and evaluate a safe injection practices campaign as an education project for providers and the public. SNHD is partnering with UNLV and the Nevada State Health Division. This meeting was an opportunity to build relationships and learn from each other's experiences and coordinate development of surveys, focus groups and questions to ask both providers and patients in terms of response to materials and the resonance of messaging. Surveys and focus groups should begin early next year, and results will be available by June 2010.

FY11 Budget Planning Update – Scott Weiss, Director of Administration

Scott Weiss reported that NRS requires the tentative budget be brought to the Board for approval by April 1st. Based on preliminary conversations with the County, property tax valuations are significantly lower, resulting in reduced funding for FY11. As part of the budget planning process, each division was asked to develop budgets with a 6% reduction to all general funds revenues – this has been communicated openly with SEIU and the Joint Labor/Management Committee. An SNHD-ALL email was sent to staff this morning, following conversation with Dolores Bodie of SEIU, regarding budget plans and that SEIU and management are working in concert to minimize impact

on staffing and to work together jointly throughout the process. Labor and management currently have a very open dialogue and will continue to meet as budget plans are submitted. Directors are required to submit their respective budgets for review by February 1st. Briefings with Board members will occur in March prior to the Board meeting as to how to bring the budget forward in a fiscally responsible manner.

Vice Chair Strickland noted she received an email from Chair Giunchigliani requesting an agenda item for the January Board of Health meeting to create a sub-committee to look at budget issues.

The current collective bargaining agreement expires June 30, 2011. Member Hardy asked if labor and management are looking at changing the current agreement. Mr. Weiss said that finance and human resources are working to calculate the different benefit expenses to find alternatives to impacting staffing levels.

Novel H1N1 Influenza Update: John Middaugh, MD – Director of Community Health

Dr. Middaugh reported that both nationally and in Nevada we are experiencing the fifth straight week of decreased hospitalizations and reported cases through the pediatric surveillance system related to H1N1. The country is going back to baseline figures of respiratory illness.

Dr. Middaugh commended staff for their dedication and hard work related to all activities in conjunction with H1N1 vaccinations. Staff is resilient in their efforts to vaccinate the community. Staff has vaccinated in excess of 83,000 people and is now in the midst of a new strategic plan. To date all plans were driven by the limited amount of vaccine and the dedicated focus on the priority groups at risk for most severe disease. Vaccine is now plentiful – both providers and pharmacies have abundant supply for anyone seeking vaccination. Tomorrow anyone in the state will be able to receive vaccine who wishes to receive it. However, there continues to be a lack of demand for vaccine from the public. Only 150,000 people in Southern Nevada have been vaccinated in the last ten weeks. It is a daunting task to vaccinate large numbers of people and many lessons have been learned.

There is no way to know if H1N1 will surge again. Seasonal flu typically peaks in February and March, which still could happen this year. H1N1 will be the dominant viral influenza strain for the next five to ten years. It is important to continue education and outreach efforts for the H1N1 vaccine and this will be our new media focus, which could help prevent a large outbreak next fall. If the strain does not mutate, immunity from the vaccine will last for many years to come.

The district will provide outreach to Headstart and day cares with strike teams. Clark County School District is open to providing vaccination during the instructional day with the use of strike teams as well. Dr. Noah Kohn and the Clinics in Schools project is showing a 70-80% response rate with vaccination provided at the high risk schools. There has also been a good response from Headstart programs; however response from day care facilities has been very low. Regardless we need to continue our focus on getting vaccine to the community.

It is estimated that approximately 75,000 people have been vaccinated in other parts of Nevada. Estimates are showing that 25-30% of the population has been infected with mild cases of H1N1 and have recovered without complications or medical intervention. Outreach has been targeted to high-risk sub-groups. Those states that opened vaccine to wider groups at an earlier date had no impact on the course of the outbreak.

Unless the virus mutates, the vaccine will continue to be effective and no booster will be needed. Education is necessary for the public and providers on the stability of the virus and vaccine protection. This is a different focus than seasonal flu which mutates each year and a new shot is

required as a booster for immunity. H1N1 vaccine will be effective unless the virus begins to mutate. H1N1 vaccine should also be part of the seasonal flu shot next year.

Member Hardy noted that some vaccine in his office has an expiration date of April and August 2010, which is less than the two-year shelf life. Dr. Middaugh noted he will follow up on the expiration dates and shelf life of H1N1 vaccine. Currently 99% of identified isolates are H1N1 and there are a few showing Influenza B or other seasonal strains – these strains could appear in the late-winter or early-spring.

Clinics will be held through the end of December at the main facility – there will be a clinic on Saturday as well. Clinics will also be held Monday – Wednesday for the next two weeks. The high school clinics are not having the response we anticipated. Exit surveys show that the public is more comfortable coming to the main facility for vaccination. Clients are being offered vaccine at all clinics when they come in for other services.

Member Fairchild extended her appreciation to Dr. Sands and staff for providing H1N1 vaccine, as well as for the new clinic in Mesquite. She noted this clinic means a great deal to the community. She said that both Dr. Sands and Richard Kraske, public health nurse supervisor for the clinic, attended the recent City Council meeting to discuss H1N1 and the clinic.

VI. INFORMATIONAL ITEMS

DULY NOTED

A. Chief Health Officer and Administration:

1. Monthly Activity Report, Mid-November 2009 – Mid-December 2009
 - a. Letter of Acknowledgement regarding the Childhood Lead Poisoning Prevention Program (CLPPP)
 - b. Note of Appreciation from Toastmasters International
 - c. Correspondence from Staff and Clients Concerning the H1N1 Vaccination Response Efforts
2. Financial Data: Revenue and Expenditure Report for General Fund, Capital Reserve Fund and Public Health Laboratory Fund for the Month of November 2009
 - a. Grant and Agreement Tracking Report, as of December 7, 2009
3. Public Information Monthly Report, Mid-November 2009 – Mid-December 2009
 - a. Letter of Appreciation from the Las Vegas Chamber of Commerce to Jennifer Sizemore, public information manager
 - b. Letter of Appreciation from Three Square to Rosanna Silva-Minnich, community outreach and information specialist

B. Community Health:

1. Monthly Activity Report, November 2009
 - a. Tobacco Control Program 11/19/09 1st Place Public Health Clean Air Award
 - b. CDC Health Advisory: Pneumococcal Vaccination – Recommended to Help Prevent Secondary Infections
 - c. Southern Nevada Influenza Surveillance Report #3
 - d. Southern Nevada Influenza Surveillance Report #4
 - e. Southern Nevada Influenza Surveillance Report #5
 - f. Southern Nevada Influenza Surveillance Report #6
 - g. November 2009 Disease Statistics
 - h. Letters of Commendation to Nancy Gerken, RN from the Las Vegas Convention & Visitors Authority

C. Environmental Health:

1. Monthly Activity Report, November 2009
 - a. Letter of Acknowledgement regarding the Childhood Lead Poisoning Prevention Program (CLPPP)
 - b. AMCA Newsletter, Winter 09, Vol 35, Issue 4 – regarding Mosquito Abatement Program
 - c. Letter from Custom Furniture Rental, Inc. to Glenn Savage, director of environmental health

D. Clinics and Nursing:

1. Monthly Activity Report, November 2009
 - a. In-service calendar
 - b. Letters of Appreciation
 - c. Statement of No Deficiencies from the Nevada State Health Division Bureau of Health Care Quality & Compliance in Reference to CLIA Survey for SNPHL

VII. ADJOURNMENT

There being no further business to come before the Board, Vice Chair Strickland adjourned the meeting at 10:10 a.m. and wished everyone happy holidays.

SUBMITTED FOR BOARD APPROVAL

Lawrence Sands, DO, MPH, Chief Health Officer
Executive Secretary

/src

attachments

**Nevada Clean Indoor Air Act
Status Report to the Southern Nevada District Board of Health
December 17, 2009**

What provisions of the original law are currently still in place?

The criminal provisions of the Nevada Clean Indoor Air Act (NCIAA) were enjoined in Clark County by the District Court in December 2006 and then statewide by the Supreme Court in September 2009. During the 2009 legislative session a convention facility/tobacco trade show exemption was passed and went into effect December 2009. All other provisions of the law originally passed by voters are still in place, including civil provisions for violations, the places where smoking is no longer allowed, actions which constitute violations of the law, the repeal of prohibitions on local governments' ability to pass more stringent laws than the state (i.e., preemption), and the enforcement authority of the health district.

What can the health district do to enforce the NCIAA?

In the opinion of the Nevada Supreme Court, "there is no question that the business owner is required to make his or her establishment non-smoking and post signs designating it as such." However, some uncertainty remains as to what affirmative actions, if any, a business owner must take if someone smokes within his or her business. The health district may also enforce the law by citing businesses who do not remove smoking paraphernalia. Based on the Supreme Court decision there is uncertainty about the meaning of this term. However, the proposed state regulations contain a definition which could minimize challenges to enforcing this requirement. The adoption of state and local regulations may also help to minimize any challenges made to the health district's regulatory authority and obligations of the establishment operators to ensure compliance with the Act.

What potential steps can the Southern Nevada District Board of Health take now that preemption has been lifted?

Prior to passage of the NCIAA, local governments could not pass tobacco laws that were more stringent than those of the state. With the removal of these prohibitions, staff believes that since the Board of Health represents all the jurisdictions within Clark County it has the ability to adopt and enforce local tobacco control measures that meet or exceed the minimum applicable standards set forth in statute. Individual city and county governments may also pass ordinances specific to their respective jurisdictions. However, it is also the opinion of the health district that establishments regulated by the Board of Health would be best served by the implementation of a tobacco policy consistent throughout Clark County. This consistency would be achieved by the promulgation of regulations by the Board.

Cities and the counties wishing to implement more stringent tobacco control measures in their communities as a whole should be encouraged to do so and the health district proposes to offer technical assistance and a regulatory template based on successful measures implemented in other jurisdictions. If the county and/or the cities were to implement more stringent tobacco control laws it would also be necessary to clarify the lines of enforcement authority. The current

opinion of the health district is that its authority is limited to the provisions of the applicable state statute and regulations adopted by the Board of Health. Ordinances adopted by the cities or counties would be the responsibility of the entity to enforce.

These potential actions, including the development of local regulations, do not negate the efforts to develop and adopt regulations at the state level in order to have a consistent regulatory base throughout the state.

Can we consider adding provisions to the health district's food regulations?

Staff is in the process of drafting Food Establishment regulations that are currently undergoing public comment. The draft regulations contain a number of provisions related to NCIAA enforcement, including:

- Food establishments will be required, as a condition of their health permit, to be in compliance with NCIAA.
- Food establishments will be required to declare their status as either subject to, or exempt from, the provisions of NCIAA.
- Food establishments will be required to be in compliance with all applicable federal, state, and local laws as a condition of their permit.
- Stand-alone bars and restaurant facilities under the same roof will need to comply with specific structural requirements as a condition of their permit. .

In addition, a new fee was adopted by the Board of Health and took effect July 1, 2009, which provides for collection of a fee for a verified complaint. Funds generated will be used to offset enforcement costs related to compliance with NCIAA.

What is the status of the development of NCIAA regulations at the state and/ or local level?

The basis for state regulations has always been to ensure a consistent foundation for enforcement statewide and with the understanding that local health authorities may then adopt additional provisions specific to enforcement in their particular jurisdiction. The development of statewide regulations began as a collaborative process among the Nevada State Health Division, the Washoe County District Health Department and the Southern Nevada Health District. An early set of draft regulations was presented at a public workshop in May 2008 and strongly opposed by representatives of affected establishments. These regulations were tabled by the state and a new set of regulations, updated after the Supreme Court decision was released in September 2009, have been reviewed by staff. These regulations will be subject to public workshop before being adopted by the State Board of Health

The purpose of these draft regulations is to set minimal enforcing standards and to serve as a foundation for regulatory efforts to be implemented at the local level.