



## MINUTES

### **SOUTHERN NEVADA DISTRICT BOARD OF HEALTH CHIEF HEALTH OFFICER SUCCESSION COMMITTEE MEETING**

330 S Valley View Blvd  
Las Vegas, Nevada 89106  
Administrative Conference Room #1

**Tuesday, February 26, 2013 – 1:00 P.M.**

Chair Tim Jones called the meeting of the Chief Health Officer Succession Committee to order at 1:02 p.m. Annette L. Bradley, Esq., Legal Counsel, confirmed the meeting had been noticed in accordance with Nevada's Open Meeting Law and that a quorum was present.

#### **Committee Members Present:**

Tim Jones	Chair, At-Large Member, Regulated Business / Industry
Bob Beers	Councilmember, City of Las Vegas
Susan Crowley	At-Large Member, Environmental Specialist
Frank Nemecek, MD (Via phone)	At-Large Member, Physician
Mary Beth Scow	Commissioner, Clark County
Anita Wood	Councilmember, City of North Las Vegas

#### **Committee Members Not Present:**

Rod Woodbury	Councilmember, City of Boulder City
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#### **Other Board Members Present:**

Kathleen Peterson	At-Large Member, Environmental Specialist
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#### **Legal Counsel:**

Annette L. Bradley, Esq.

#### **Staff:**

Bob Gunnoe	Human Resources Administrator
Kelly Brinkhus	Human Resources Supervisor
Jakki Wells	Recording Secretary

#### **Public Attendance:**

Norine Clark	SNHD
Cara Evangelista	SEIU/SNHD
Pamela Derby (Via phone)	CPS Executive Recruiter

## **II. PUBLIC COMMENT**

Public comment is a period devoted to comments by the general public on items listed on the Agenda. All comments are limited to five (5) minutes. Chair Jones asked if anyone wished to address the committee pertaining to items listed on the Agenda.

Norine Clark, Chief Steward, SNHD, acknowledged that the employees are happy with the changes that have occurred since Dr. Middaugh became Interim Chief Health Officer; however, they are concerned that morale and cohesiveness may falter if the right replacement is not selected. Norine stated that she wanted the committee to know that Dr. Coleman has been assisting Dr. Middaugh and there is faith and support in Dr. Coleman should he choose to apply for the position of Chief Health Officer.

Seeing no one else, the Chair closed this Public Comment portion of the meeting

## **III. ADOPTION OF THE FEBRUARY 26, 2013 AGENDA (for possible action)**

Chair Jones called for a motion to adopt the agenda for the February 26, 2013 meeting as presented.

*A motion was made by Member Scow to adopt the February 26, 2013 Southern Nevada District Board of Health Chief Health Officer Succession Committee meeting agenda; seconded by Member Crowley and carried unanimously.*

## **IV. REPORT / DISCUSSION / ACTION**

### **A. Approve CHO Succession Committee Meeting Minutes – November 1, 2012 (for possible action)**

*A motion was made by Member Scow to adopt the November 1, 2012 Southern Nevada District Board of Health Chief Health Officer Succession Committee meeting minutes; seconded by Member Crowley and carried unanimously.*

### **B. Review CHO Recruitment activities to date and discuss further recruitment options (for possible action)**

Chair Jones stated that the CPS report outlining the current state of affairs has been received and reviewed. Bob Gunnoe introduced Pam Derby, Executive Recruiter for CPS, who was attending the meeting via phone to explain some of the comments in regard to the CHO recruitment to date.

Ms. Derby stated that the examples of responses to outreach were verbatim. CPS has vigorously recruited for the CHO recruitment. The brochure was very well received, there was good feedback, and the recruitment was advertised widely to ten agencies and sent to over 1,000 public health officials across the country. During the recruitment, it was ascertained that the CHO requires a medical license in Nevada, however, it was also determined that the application process in Nevada is arduous. Also, there is no interim period specified within the classification specification to gain licensure in Nevada. Ms. Derby's research with NAACHO found that two-thirds of the health administrators

around the country are not required to be MDs. There is actually quite a bit of interest in the recruitment from people who are heading up health districts, however most were not medical doctors. There is a very qualified candidate from New York who is currently leading a district almost the same size of SNHD (without the amount of tourism), but unfortunately is not licensed to practice in Nevada. CPS is against a brick wall trying to determine how best to get someone to fill the requirement and asked if the sub-committee would be willing to bring in someone with less public health experience, such as a MD from a hospital or something of that nature. Ms. Derby stated that CPS is looking to the Board and District for direction as to what the next steps may be, as they are rather limited due to statutes.

Member Beers suggested that the next step is to hire the last person standing as the legislature has done the job for us.

Member Crowley inquired as to the rationale of the requirement for CHO to be a licensed medical doctor and was informed by Member Scow that it was in compliance with NRS.

Chair Jones asked if the Assistant CHO needed licensure in Nevada upon hire or if this person could function as Assistant CHO while in the process of becoming licensed in Nevada. Annette Bradley, Legal Counsel, advised that the statute was silent in regard to the Assistant CHO however the presumption is that this person would become CHO. Since the CHO is required to be licensed in Nevada, by inference, the Assistant CHO should be licensed in Nevada. Ms. Bradley added that if the Assistant CHO is to stand in the shoes of the CHO and is not a licensed medical doctor, there could be a "catch 22" situation. Ms. Bradley suggested there could be a position considered, other than Assistant CHO, while pending licensure with specific language allowing 6-8 months to obtain licensure in Nevada.

Member Beers asked Ms. Bradley if it were her opinion that the Assistant CHO must comply with the CHO requirements although it is not required by law. Ms. Bradley stated yes, in an abundance of caution that is her position.

Member Beers asked what the consequences would be if the Assistant CHO was not a licensed physician. Ms. Bradley stated that in the event we did not have a CHO at the helm, the Assistant CHO could not stand in those shoes without licensure.

Member Crowley asked if only an unlicensed Assistant CHO was available, what functions would not be fulfilled. Member Beers stated that licensure is merely a legislative requirement that was added on ten years ago to ensure that a certain person became the CHO.

Member Crowley asked if, for some reason, the CHO was vacant, could an unlicensed Assistant CHO be able to fill the job functionally in an "acting" capacity. Ms. Bradley advised that there are certain programs within the District that operate under the CHO and if the CHO is not licensed in Nevada, they cannot serve that function.

Chair Jones asked what some of those functions are, other than for example, writing prescriptions for flu shots.

Member Wood asked what kind of timeframe was involved in getting licensure from out of state to Nevada. Ms. Bradley advised that it takes approximately three months after all of the information is received by the Board of Medical Examiners.

Member Beers stated that there may be a problem as essentially there would now be a change in criteria for one of the two remaining candidates as one is already licensed in Nevada. Also, many candidates have been dissuaded because they were not licensed in Nevada or did not apply because of the MD requirement. Member Beers asked if there could be employment issues if accommodations are made for one candidate.

Chair Jones stated that if the route of Assistant CHO is going to be pursued, CPS would need to contact likely candidates to advise them of the change and determine if they wanted to reconsider applying. Ms. Derby stated that during her conversations with NAACHO and others around the country, she found that there were individuals who were in states that also required the MD licensure, who had a contract CHO that is an MD. In these instances the entity used their Administrator or similar title as the Assistant. Ms. Bradley asked if these individuals had a professional services agreement as a physician to serve the title as Medical Director over their various programs that covered protocols and prescriptions. Ms. Derby confirmed, adding that she is not sure if Nevada law requires that the CHO be an actual employee of the District, but basically, the other entities were getting around it by contracting with a MD to cover the medical things and they have someone on staff who is more equipped to deal with day-to-day operations but not be a MD.

Member Crowley asked what the statute consisted of in regard to licensure. Bob quoted N.R.S. 439.368 as:

“Appointment, qualifications, powers and compensation of district health officer; clinical program requiring medical assessment must be supervised by physician

1. The district board of health shall appoint a district health officer for the health district who shall have full authority as a county health officer in the health district.
2. The district health officer must:
  - a. Be licensed to practice medicine or osteopathic medicine in this State; and
  - b. Have at least the following additional education and experience:
    - (1) A master's degree in public health, health care administration, public administration, business administration or a related field; and
    - (2) Ten years of management experience in an administrative position in a local, state or national public health department, program, organization or agency.

3. The district health officer is entitled to receive a salary fixed by the district board of health and serves at the pleasure of the board.
4. Any clinical program of a district board of health which requires medical assessment must be carried out under the direction of a physician.”

Bob stated that he does see anything the statute that would preclude someone from working on a contract basis, but he does not believe they could serve as the medical assessment of record over the programs.

Chair Jones asked Ms. Derby if she went back to communicate with some of the physician contacts and advised them that they would have an allotted time to be licensed in Nevada or be Assistant Health Officer until such time, did she believe any of them would have new interest. Ms. Derby thinks that it is possible that they may be able to attract more individuals in that way, although CPS did not specify necessarily that they needed to be medical doctors. However, it would change the focus and they could go after the states that already require MD licensure and advertise that they would have six months to get licensed in Nevada. Ms. Derby added that there are many districts, approximately two-thirds according to Ms. Derby, across the country that do not require a MD, so many of the potential applicants do not have this certification.

Chair Jones stated that the requirement of the CHO possessing a MD is beyond the scope of this sub-committee and ultimately, it will be a District Board of Health decision to pursue change through the legislature.

Member Beers proposed that the sub-committee’s recommendation should go to the Board before embarking on another round of soliciting candidates in order to let them know that the sub-committee is edging them out on a limb. The limb may be very strong, capable of supporting the entire Board, but nevertheless, it probably ought to go for Board discussion and conceptual approval.

Member Crowley asked if the sub-committee was talking about two people; someone that could manage medical end of things and/or someone that could function as the administrative lead. Ms. Bradley cautioned that while the statute does not state that the Assistant CHO has to have licensure in Nevada, because the CHO is required to hold a Nevada license, the expectation is that if the CHO could not, for whatever reason, perform their duties, the Assistant CHO would stand in their stead.

Member Scow stated that all of the entities have County Managers, although she does not know if they are required by statute to have a certain education, but they all have Assistant Managers that they choose, not like a bylaw where the vice or assistant steps into the position. Ms. Bradley stated that the language of the NRS gives the parameters of this position and the only way to change the parameters is through the legislature. If the title is Assistant CHO the presumption is if the CHO is gone, then the Assistant CHO will fill their place. Chair Jones asked if would be a method to get an interpretation from the legislative council bureau or the Ethics Committee. Ms. Bradley advised that

interpretation could be gained from legislative council bureau, but because we are in the midst of the legislative session, it will not happen until at least the end of the year. Member Beers added that this issue was not particularly meaningful as if there is a legal dispute, there is only one side of a legal opinion that is important, and that is the judges.

Chairman Jones stated the risk of what the sub-committee is looking at from someone who wanted to be a CHO candidate but was not chosen, then want to pursue as Assistant CHO, does not seem like a big risk, but still a risk. Member Beers stated that he was not sure if it was a risk at all.

Member Woods stated that if the timeframe to gain licensure was three to six months, as long as Dr. Middaugh remained on board until such time, there would not be a problem.

Member Beers asked if the sub-committee was allowed to find out the name of the one viable candidate that is licensed in Nevada. Bob Gunnoe stated that the only viable candidate in the process to date is Tom Coleman, the current Director of Community Health Services. Dr. Coleman also serves as Acting CHO from a medical perspective whenever Dr. Middaugh is not on site.

Chairman Jones stated that he had taken the approach, knowing that Dr. Coleman would be a candidate, at first blush he seemed to be a good candidate, but he is not compared against any other candidates. Member Beers stated that Dr. Coleman looked like the best candidate right now.

Chairman Jones stated that he did not know if the issue is for the committee to get to know Dr. Coleman better as a candidate and say that if he is the only choice he is the best one for our community, vs. dragging this into looking for more candidates. It may be that Dr. Coleman is the ultimate choice at the end of the game anyway, or not. But for now that may be the thought process to go forward with.

Member Crowley asked if Dr. Coleman was interested in the position. Member Beers advised that Dr. Coleman had applied. Chair Jones stated that he believed that Dr. Coleman was interested from what short discussions he has had with him prior to Dr. Middaugh being appointed or during the appointment process. Chair Jones does not know a lot about Dr. Coleman, only a little about his background, but has never viewed it in terms as vetting him as a candidate.

Bob Gunnoe asked Ms. Derby if she had any insight on Dr. Coleman as a candidate. Ms. Derby stated that she has not had the opportunity to interview Dr. Coleman yet as we are in the process of deciding how to move forward. Ms. Derby knows that Dr. Coleman is very interested and shared that there is one other additional candidate in Nevada but chose not apply because of the open meeting law. Member Scow asked if the issue was the actual open meeting law in dealing with that in their profession or because of the application process. Ms. Derby stated that the names are kept confidential and the potential applicant had not shared that information with her until he received the follow up email. Member Beers asked if this individual was concerned about his identity being

revealed to his current employer. Ms. Derby stated yes and added that in California a name does not have to be revealed until the candidate is chosen and she believes that it is the same process in Nevada.

Chair Jones asked if it made sense to ask CPS to do a ranking of the two candidates. Member Beers clarified that it would be three candidates if the sub-committee is going to allow temporary residency outside the CHO office until licensure is obtained, so that would be the two applicants and the third candidate that did not want to be revealed.

Chair Jones requested that CPS could to do a ranking comparison, Ms. Derby confirmed that they could. Chair Jones inquired if it would be feasible that the Board could be advised at the next meeting (Thursday, 2/28/13) that this process is in action. Mr. Gunnoe stated that it would not be possible to get a quality analysis from CPS in two days but the information could be gathered for the March meeting.

Chair Jones stated that the dilemma could be reported to the full Board at the 2/28 meeting.

Chair Jones asked for a motion to ask CPS to do a no-name raking on the three potential candidates and bring back to the sub-committee and to advise the full Board of that action at Thursday morning's meeting. Member Beers asked Ms. Derby if this ranking was covered under the existing contract or if it would be a change order. Ms. Derby indicated that it was covered.

*A motion was made by Member Scow to ask CPS to do a no-name raking on the three potential candidates and bring back to the sub-committee and to advise the full Board of that action at Thursday morning's meeting; seconded by Member Beers and carried unanimously.*

***(Ms. Derby left the meeting via phone at 1:30 p.m.)***

Chair Jones stated that he supposed the issue of NRS 439.368 should be addressed somewhere by the BOH ultimately, if it has an issue with what it takes to get an effective CHO. If the Board truly uses the succession process to have an Assistant CHO in the wings, there may not be such an issue the next go round.

Member Crowley stated that to her recollection, this is the first time there has been such a narrow group of candidates to choose from. Member Beers wondered if the economy has chilled government jobs. Chair Jones stated that one candidate indicated that he had not sold his house from his previous job yet. Chair Jones added in his opinion, moving into a government job, particularly in this community is not robust as far as revenues for government operations.

Member Crowley asked if there were benefits or incentives to applicants coming to the District from out of state. Bob Gunnoe stated that in the past six years, there has been some assistance in relocation, but only to a monetary cap and based on actual receipted expenses, however there has been no assistance in real estate issues.

Member Beers asked Bob Gunnoe to determine and report back to the sub-committee if there is a source of authority for the monetary cap, whether it is regulatory, policy or statutory. Bob Gunnoe advised that he believed it is a case by case decision based on the Board's appetite for incentivizing someone's decision to accept the position.

Chair Jones confirmed with Bob Gunnoe that the CPS report had been distributed only to the sub-committee. Chair Jones asked if distributing it to the full Board would be a benefit. Member Beers stated that he presumed it would be presented on Thursday at the time Chair Jones' gave the report as Chairman of the Succession Committee.

Dr. Nemec commented that in reviewing the last meeting minutes he spoke enthusiastically about the importance of continuing to have a MD or DO as CHO. Given the problems related to this recruitment, he has evolved in his position and thinks that if the Board were to make a recommendation to the legislature that called for a look at other clinical degrees to fill the CHO including MPH, DPH, APN, BSN or other clinical backgrounds, but not necessarily an MD, it would allow the BOH to have more latitude.

Member Scow stated that she has went through two superintendent searches, which she assumes is similar to this one and in regard to incentives, a lot was done in contract negotiation. The Board set parameters/limits and a couple of the Board members established the contract with the attorney. Member Scow suggested that is something that the Board may need to start to think about how to handle in the end.

Member Beers asked if the sub-committee's marching orders from the full Board includes post-recruitment through hiring. Chair Jones stated that his vision is to come up with a number of candidates to present to the Board, not the hiring activities. Member Scow stated that her opinion is that the sub-committee is an advisory committee to the full board. Ms. Bradley added that the Board could decide to expand the scope of the committee to full blown succession planning after the fact.

With no other comments, Chair Jones moved to final comments. Ms. Bradley noted, for the record, that the committee combined items B (Review CHO Recruitment activities to date and discuss further recruitment options **(for possible action)**) and C (Discuss and approve recommendation(s) regarding the CHO recruitment to the Southern Nevada District Board of Health on February 28, 2013; or take other action deemed appropriate **(for possible action)**).

## **V. 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. Chair Jones asked if anyone wished to address the committee. Hearing no one, he closed the Public Comment portion of the meeting.

Norine Clark, Chief Steward, SNHD, stated that she attended the first CHO Succession Committee meeting and was told that the CHO could only be a MD. According to Nevada statute, the CHO must be a licensed in Nevada MD. Norine stated that in regard to the statement that the CHO may only have to sign for flu shots, in case of a natural disaster, or if the CHO is incapacitated, the Assistant CHO must have the ability to take over and run the district as a medical doctor. During the meeting with the commissioners, Dr. Middaugh



stepped up and stated that he would be Interim Chief Health officer and work closely with Dr. Coleman to get the District up and running when it was at its' worst. The employees know what Dr. Coleman is capable of and are confident that he can walk in and fill the shoes of the CHO. Dr. Coleman is in-house and to try to pull someone out of a hat or try to change law is not beneficial when there is a qualified candidate in-house.

Cara Evangelista, VP, SEIU, SNHD, stated that morale at the District had been so bad for so long that the employees are afraid of someone from out of state that is not aware of the history of the District. Change is okay, but the employees are afraid of a repeat of what happened previously. Dr. Coleman was hired by Dr. Middaugh, not the previous administration. Currently at the District, due to Dr. Middaugh's leadership, there are normal manager/employee relationships, nothing like before.

Chair Jones stated for clarification, that Norine's comments were well received and the sub-committee understands the need for a medical doctor and has no interest in going in any other direction.

## **VI. ADJOURNMENT**

*There being no further business to come before the Committee, a motion to adjourn was made by Member Crowley; seconded by Member Wood. Chair Jones adjourned the meeting at 1:47 p.m.*

Respectfully Submitted,

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Timothy Jones, Chair

/jrw