

# OFFICIAL RECORD OF PROCEEDINGS

**Boulder County Board of Health (BOH) Special Meeting**  
**Boulder County Public Health (BCPH)**  
**Online/Telephonic Meeting**  
**September 2, 2021**

**BOH Members:** President Gregg Thomas; Board Members Brooke Harrison, Morgan McMillan, Landrey Fagan, M.D.; and Lindy Hinman.

**BCPH Staff:** Public Health Director Camille Rodriguez; Deputy Director Lexi Nolen; Boulder County Medical Officer Chris Urbina, M.D., Communicable Disease & Emergency Management Division Manager Indra Gujral; Environmental Health Division Manager Joe Malinowski; Family Health Division Manager Daphne McCabe; Community Health Division Manager Heather Crate; Epidemiologist Michael Wu; Consumer Protection Coordinator Lane Drager; Communications and Marketing Manager Angela Simental; and Administrative Assistant Rita Mangeyn.

**Boulder County Staff:** Deputy County Attorney Trina Ruhland and Senior Assistant County Attorney Kate Haywood.

**Guests:** University of Colorado, Boulder, Executive Vice Chancellor and Chief Operating Officer Patrick O'Rourke; City of Longmont City Manager Harold Dominguez; and Boulder Community Hospital Physician Dr. Amie Meditz.

## **Members of the Public:**

- 1) Gregory Shader, 3716 Fowler Lane, Longmont, CO 80503 – Against the mask mandate
- 2) Janette Taylor, 33 Ute Way, Nederland, CO 80466 - For the mask mandate
- 3) Kristopher Larsen, 400 Coulson St, Nederland, CO 80466 - For the mask mandate
- 4) Dr. Kevin Dryden, 5240 Centennial Trail, Boulder, CO 80303 - For the mask mandate
- 5) David Weingarden, 2716 Silver Place, Superior, COLORADO 80027 - Against the mask mandate (as presented)
- 6) Cheryl Liguori, 1468 Alpine Avenue, Boulder, CO 80304- Against the mask mandate (as presented)
- 7) Susan Marr, 325 W 4th Avenue Drive, Broomfield, CO 80020- Against the mask mandate
- 8) Laura Graber, 1826 19th Street, Boulder, CO 80302 - Against the mask mandate

## **Meeting Called to Order.**

President Thomas called the meeting to order at 5:02 p.m. and asked all participants to identify themselves for the record (see above). He declared that a quorum was present, that notice of the meeting was posted on the Board of Health website, and that call-in information was included to allow for public participation. Due to COVID-19, President Thomas said the meeting was being conducted virtually.

## **ITEM 1. Special Public Comment Process for September 2, 2021 Special Meeting.**

***Board Member Harrison made a motion, which was seconded by Board Member McMillan, to approve Special Public Comment Process for September 2, 2021 Special Meeting. With all Board Members voting in favor of the motion, President Thomas declared the motion approved.***

**ITEM 2. Request for Authorization for Executive Director to Issue Public Health Order 2021-08 Requiring Facial Coverings in Public Indoor Spaces During Periods of Substantial or High Transmission of COVID-19.**

This item included BCPH staff and agency partner presentations to provide the board with situational awareness on the current data, longer-term strategy and trends, and perspectives on how this order will align with the overall strategy.

Deputy Director Dr. Lexi Nolen began by welcoming the board's newest member, Lindy Hinman and then introducing BCPH's new epidemiologist Michael Wu to present the current COVID-19 data.

- Last seven days, Boulder County has been showing a case incidence at 136.42 per 100,000 persons which according to the Centers for Disease Control (CDC) and Prevention indicates "high transmission".
  - As compared to the same time last year, this year shows higher seven-day average number of new cases which puts the county in a more vulnerable position given potential fall surges.
  - The age groups are also trending up.
  - The average number of actual cases is 58 cases per day over the last seven days.
  - There is limited epidemiological capacity (e.g. ability to conduct full case investigations for new cases). When the capacity is limited, cases are prioritized for early childhood education and the K-12 groups, priority populations, and cases with high potential for outbreaks.
  - Delta variant is the dominant variant which is two to three times more contagious than other variants.
  - Seven-day testing positivity has increased from 4% to 4.2% but is still under the 5% metric.
  - Testing per day has increased from 1100 to 1600.
  - Hospitalizations among the North Central Region counties show an overall increase and Boulder County currently has 53 including 11 children; staffing shortages continue to be an issue.
  - Deaths are still occurring with the majority originating from long-term care facilities (LTCFs).
- Board Members McMillan and Harrison asked about the data breakdown among breakthrough infections to understand why breakthroughs are occurring. Is it due to the ineffectiveness of the vaccine or that not enough people are vaccinated? Dr Gujral stated that the state dashboard will soon have this data available and it will be shared with the board, and she will have some information to present in the upcoming agenda item on COVID-19 updates.

Communicable Disease & Emergency Management Division Manager Dr. Indira Gujral went on to present the vaccine update around third doses, boosters, and breakthroughs.

- 73.1% of the eligible Boulder County population has received a full course of COVID-19 vaccine.
- The FDA (Federal Drug Administration) has fully approved the Pfizer vaccine for ages 16 and older; for those ages 12 through 15, the Pfizer vaccine is still in EUA (emergency use authorization) status.
- The FDA and ACIP (Advisory Committee on Immunization Practices) approved additional/third dose (defined as administration of an additional vaccine dose when the initial immune response following a primary vaccine series is likely to be insufficient) of mRNA vaccines for immunocompromised individuals.
- Awaiting FDA/ACIP guidance on booster doses (defined as initial insufficient immune response to a primary vaccine series is likely to have waned over time) most likely in later September.
- No specific timeline available for the under 12 years of age group; estimates are in fall/winter.
- 72.7% of Boulder County is vaccinated with at least one dose. By age, the 20-24 group has the lowest vaccination rate among the age groups; 65+ has the highest.

- The unvaccinated account for 89,500 or 27.3% of the county population.
- School-aged children 5-19 years of age make up 40% of the total unvaccinated group.
- Among unvaccinated children 12-19 years of age, 40% are children of color.
- Administrating 527 vaccinations per day.
- Vaccination efforts continue with the promotion and offering of first and third doses to immunocompromised individuals; coordinating and planning for booster shots; and supporting local businesses and municipalities who want to mandate vaccinations.
- Breakthrough is defined as the detection of SARS-CoV-2 RNA or antigen in a respiratory specimen collected from a person  $\geq 14$  days after they have completed all recommended doses of a U.S. Food and Drug Administration (FDA)-authorized COVID-19 vaccine. Some breakthroughs are expected as no vaccine is 100% effective at preventing illness.
- Mobility and mortality study in Los Angeles County shows that on July 25, when Delta was predominant, the infection rates were 4.9 times higher for the unvaccinated; the hospitalization rates among unvaccinated were 29.2 times higher than in vaccinated individuals. The vaccinated are less likely to have severe illness and require hospitalization.
- Colorado vaccine breakthrough data show that among the unvaccinated for time period July 25 to August 8, they represent 73.8% of cases; 82.9% of hospitalizations; 75% - 80% of deaths.
- Vaccine breakthrough cases show that 53% of cases are among ages 20-40; and 78% of hospitalizations are among individuals 60 and older.
- Data tell us that community testing is working; infections are increasing due to the Delta variant and social factors such as indoor gatherings, not masking, and lack of social distancing.
- Epidemiological capacity is being exceeded, though case investigations and contact tracing are best practice for controlling community transmission; vaccines are preventing severe outcomes; other mitigation strategies are needed.

Dr. Nolen then spoke about how the Public Health Order 2021-08 (PHO) before the board tonight fits in with the BCPH longer-term strategy. She noted the three goals presented at the previous meeting which are to prevent severe illness and death through increased vaccination rates and case reduction; to not overwhelm the health systems; and to safely return to “normal” activities by using more mitigation strategies to avoid disruption.

- President Thomas asked who conducted the forecast on the peak season data. Dr. Gujral said that it was the Colorado Department of Health and Environment (CDPHE) along with the School of Public Health, Anschutz, with representation from University of Colorado at Boulder and Denver and Colorado State University.

Dr. Nolen stressed that to move from a reactionary process to a longer-term vision requires to first accept that COVID-19 is going to stick around. As such, the vicious cycles need to be broken in order to support virtuous cycles going forward; for employer vaccination policies to become more systemic; and to engage the community partners in the process of finding and implementing solutions. She explained how habits and long-term strategies can be created in a virtuous cycle by finding agreement on shared goals; designing public health orders to support ongoing course correction (e.g. case triggers); embedding power for the community to self-regulate (e.g. supporting vaccination policies, low-cost ventilation, and public access to data); and supporting solutions that meet the community’s self-defined needs.

A layered mitigation strategy is key, and the aim is to use mitigation strategies that are less burdensome such as handwashing/hygiene, indoor masking, indoor ventilation, and contact tracing/investigations.

Dr. Nolen addressed what actions can be taken such as having mask mandates which align with CDC guidance. She also cited numerous studies that speak to the efficacy of indoor masking. Dr. Nolen

reminded the group that other states, cities, counties, and global businesses have reinstated universal mask mandates successfully. She also explained how masking and employer vaccination policies can go hand in hand. Many county private and public entities have already adopted employee vaccination policies.

- Board Member Harrison asked if the vaccination policies are voluntary or if BCPH has required that businesses and organizations institute them. Dr. Nolen said that the private sector has instituted their own policies, but that BCPH will be reaching out to more companies to encourage and support adoption of such policies.
- Board Member Harrison also asked if BCPH is going to require policies or has a set of incentives to encourage companies to have employee vaccination policies. Dr. Nolen said that BCPH is not quite ready to require policies but are supporting these efforts as they evolve.

Consumer Protection Coordinator and Partner Liaison Team Co-Lead Lane Drager presented on his team's efforts. Along with Co-Lead Interim Strategic Initiatives Director Kelli Hintch, the four-person team continue to meet with area businesses, faith communities, public agencies, and community organizations to educate them, provide resources, and tools to be successful as mask mandates takes effect. The Partner Liaison Team's objectives are to provide to partner entities continuing support in the immediate, near, and longer-terms. Their approach aligns regionally so that resources, approaches, and information are shared; a level playing field is supported, and confidence is instilled so that together learning and adjusting can occur. The team provides resources such as isolation and quarantine guidance; affordable mitigation strategies; training; and legal advice to businesses.

Deputy County Attorney Trina Ruhland spoke to the proposed PHO and noted that it is based on the latest CDC guidance for periods of high/substantial transmission. She noted that the county went into high/substantial transmission in August. This PHO requires masking in all indoor public spaces (e.g. retail, offices, restaurants, offices, gyms, etc.) unless exempt (under 2, or cannot medically tolerate) or performing an activity with an exception such as being seated during food service, receiving medical services, swimming, and performing a religious service 12 feet away. All businesses must also display appropriate signage for masking. The PHO incorporates a reminder on isolation and quarantine guidance.

A new portion of the order includes a "Voluntary Fully Vaccinated Facility Program" that offers businesses/entities some flexibility. If businesses/entities choose to implement this program, they must require all of their staff, employees, contractors, guests, customers, and members to be vaccinated and receive BCPH approval. The intent of the order is to continue to keep businesses/entities open and operating safely.

- Board Member McMillan asked if this mask mandate will include private businesses that do not open to the public. Yes, the PHO applies to them as well.
- Board Member Harrison asked if the personal belief exemption is tracked as with CU. BCPH is not yet ready to launch this process.
- Board Member McMillan asked if the Voluntary Fully Vaccinated Facility Program will be staff driven. Yes, with feedback from the community considered as it evolves.
- President Thomas asked who will oversee the Voluntary Fully Vaccinated Facility Program. It will be managed within the four-person Partner Liaison Team, but more staff may be added, if needed.

Ms. Ruhland said the PHO is set to go into effect on September 3 at 5:00 p.m. and shall continue until the Executive Director modifies, amends, extends, or repeals the order. The Voluntary Fully Vaccinated Facility Program will not start accepting applications until the end of September.

- President Thomas said he felt concern that there is not enough time for public awareness of the order going into effect. Ms. Ruhland clarified that the enforcement process is always focused on education and partnership rather than punishment. The penalty portion would not kick in until there is a pattern of willful and active violation after repeated attempts to correct the issue with the business/entity.
- Board Member Hinman asked what is the data lag that necessitates this PHO continuing until transmission moves to a lower range. Ms. Ruhland said that once there is 21 days of sustained status in moderate or low transmission, the PHO will automatically release the masking requirement. As long as the order is in effect, masking can come and go depending on level of transmission. Director Rodriguez added that this is an agile PHO and should reflect the current trends.
- Board Member McMillan asked if the various business sectors are aware of the PHO requirements. Mr. Drager said that the Partner Liaison Team has been meeting with the groups, hosting webinars, and providing education. This is an ongoing conversation to understand the community groups' concerns and issues with the changes.
- Board Member Harrison asked if surrounding counties are considering similar orders. Staff answered that this is generally the case.

Director Rodriguez then invited the community partner representatives to share their perspectives and experiences as they work to fight the pandemic.

Boulder Community Hospital Infectious Disease Physician Dr. Amie Meditz has directly worked with COVID-19 patients throughout the pandemic. She said that it has been challenging treating patients with this unpredictable disease. Dr. Meditz urged for a mask mandate as part of a layered approach that is critical in keeping community members from becoming sick, hospitalized, or dying.

University of Colorado, Boulder (CU) Executive Vice Chancellor and Chief Operating Officer Patrick O'Rourke spoke about the multi-layered mitigation strategy implemented at the university including a vaccination policy and masking requirement in publicly accessible spaces. Students, faculty, and staff were asked to report their vaccine status and close to 96% of students and faculty have already done so. Mr. O'Rourke is confident that as the data are gathered, over 90% of the university community will show as being vaccinated. He also added that due to the mitigation requirements in place, cases have remained low with less than 5% of all cases in the county. Mr. O'Rourke noted that this PHO would be in good alignment with their own efforts.

City of Longmont (COL) City Manager Harold Dominguez thanked BCPH for the ongoing partnership and commended CU for their work in keeping cases low and their mitigation efforts. COL explored ways to encourage vaccination among its staff. They decided to incentivize employees by offering them eight hours of vacation for getting vaccinated and setting a time limit for this incentive. Employees would otherwise be required to wear masks. Mr. Dominguez noted that as of today, 76% of staff have been vaccinated. The next step for COL is to reinstitute the incentive and potentially require testing on a regular basis. City Manager Dominguez said that he has spoken with various business leader groups and the consensus is that they vastly prefer a mask mandate over reductions in capacity or closings. He added that having options and flexibility with the exemptions offered are very much appreciated by the business community.

City of Boulder (COB) Assistant City Manager Pam Davis's presentation was shared via email and read by Director Rodriguez. It said in part that the COB is eager to support the strategy and vision of BCPH regarding enhanced goal-oriented approaches. COB's desired outcome is for all community members to have the potential to experience successful personal and community level COVID-19 recovery, with a

strong health equity lens. To that end, containment of community spread and increasing vaccination rates are being conducted through various measures. These efforts include supporting an ongoing community testing site at Stazio Ball Fields; wastewater monitoring of the virus and sharing the data with BCPH; conducting Sunday vaccine clinics at the Boulder Public Library's main branch for the unsheltered, people of color, and downtown workers; sharing responsibility for ongoing public information and engagement; consulting with the business community; and taking mitigation steps to protect their own workforce with masking and vaccine policies.

Town of Nederland Mayor Kristopher Larsen also spoke in favor of the indoor masking order. He mentioned that it would empower local businesses to have authority when push back against masking arises. He noted that some businesses have tried to institute their own requirements, but it proved challenging with out of town customers. Mayor Larsen cited the vaccination rate as being less than 50% in Nederland, so it is critical to have a masking order to protect employees, customers, and town residents. Mayor Larsen appreciates the flexibility of the PHO and the layered mitigation approach.

*Public Comments:*

Members of the public spoke and wrote in for and against the PHO.

*Board Discussion:*

- Board Member McMillan asked to clarify about being allowed to lower masks when eating and drinking while sitting, but what about standing as was brought up earlier in the public comment. Ms. Ruhland said that the PHO can broaden the language as other jurisdictions have done and add "seated" and "actively eating/drinking".
- Board Member Harrison wondered if 30 days is long enough for the eating exemption if there is a vaccination policy already in place.
- President Thomas expressed concern about other venues having vaccine policies and being difficult to enforce.
- The board agreed to add the language of "seated in a food establishment or actively eating/drinking."
- Board Member McMillan said that in a bar, one is accepting certain level of risk.
- Board Member Harrison is not comfortable shuttering whole sectors of businesses.

Ms. Rodriguez proposed adding to the PHO a self-certification vaccination process for 30-45 days to help bridge the gap before full application submittal and ensure continuous business operation. Enforcement will still proceed, if needed.

- Board Member Hinman liked the community partnership idea to solve issues.
- Board Member Harrison asked about next steps if case rates do not fall with these mitigation approaches. BCPH will be watching the data closely and revisiting the situation with the board.

Ms. Rodriguez does not see vaccine passports as a negative consequence as trend toward a change in behavior for the longer-term strategy. BCPH is exploring setting up family-centered clinics for the 5-11-year-old range. Many more strategies are happening that were not mentioned earlier. There is no plan to close down businesses. Director Rodriguez is optimistic about mask mandates working.

Dr. Urbina added that masking is part of a layered mitigation approach and monitoring the data is key. More strategies will be explored as time goes on.

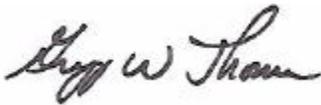
- Board Member Fagan said that it needs to be a comprehensive approach.

Dr. Gujral stressed that mask mandates and vaccinations will alleviate the dire consequences seen when these mitigation efforts are not in place. The community must buy into this so that COVID-19 transmission can be contained.

President Thomas summarized that the board agrees on the language change of seated in a food establishment or actively eating/drinking and self-certification of vaccination policies for businesses. All board members were comfortable moving forward with the PHO given the data, testimony, and experiences seen and heard.

***Board Member McMillan made a motion, which was seconded by Board Member Fagan, to Authorize Executive Director to Issue Public Health Order 2021-08 Requiring Facial Coverings in Public Indoor Spaces During Periods of Substantial or High Transmission of COVID-19 with changes to the language and additional authorization for the Executive Director to modify the order going forward, as needed. With all Board Members voting in favor of the motion, President Thomas declared the motion approved.***

**ITEM 3. Adjournment.**



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Gregg Thomas, President  
Boulder County Board of Health



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Camille Rodriguez  
BCPH Executive Director