MEHA president assesses impact of unprecedented past year and 2022 challenges
By Sarah Robbin, RS, MEHA president

Wow! What another tough year for public health! I know most of you were overwhelmed again in 2021, during our ongoing pandemic. In recognition of your professional efforts and personal sacrifices, I want to sincerely thank each and every one of you for gallant and heroic work to provide excellent environmental health services. If we do our jobs right, no one ever seems to know.

Thank you!

As we enter 2022, I encourage everyone to resume in-person inspections, if you haven’t already taken this step. Take any precaution you deem necessary to get back into facilities. It’s okay to take your time in the facilities. Do an in-depth inspection.

You may notice there are more violations than normal. This is what most inspectors are seeing as they return to the field. It demonstrates the importance of having a second set of eyes in a facility. You are the resource that helps facilities and people stay in compliance and protect our natural environment.

Speaking of resources, professional networks are more important now than at any time in the past. I always see new things on inspections and field visits. I am happy to share my experiences and mistakes with others.

I am looking forward to the MEHA conference, April 12-14th 2022 in Helena, especially for the networking opportunities. Please reach out and let me know what you want to see from your organization this coming year.

My sincere wish is health, happiness and good times in 2022.

Hang in there!

Tough times don’t last forever.

Editor’s note: Sarah Robbin is the retail food lead sanitarian for the Montana Department of Health and Human Services, Food and Consumer Safety Section in Helena, Montana.
Public health rollbacks means MEHA more important now
By Jeff Havens, RS, REHS, EHS, MEHA president-elect, past president

Editor’s note: Opinions on facts are of Mr. Havens and not necessarily those of MEHA.

Legislative leadership stormed into the state Capitol building last January and Republicans ended their fiery incursion in late April, terminating important environmental and public health protections in the process. Previous public health protections were set ablaze by outraged elected officials responding to irrational COVID-19-pandemic fears and perceived unwarranted personal liberty and commerce restrictions. The misguided efforts also included silencing voter voices on nuclear fission radioactive waste, combined with “study” of such nuclear reactors, and removal of proactive protections for alleged “Local” foods.

From my perspective, it seemed more than 100 years of public and environmental health advances were attempting to be shattered, smashed and suppressed within four months in much obedience to out-of-state overlords, such as Americans for Prosperity.

They seem to have succeeded in the short term. In the long run, the challenge for us is to remain united and strong in MEHA, cultivate our new three-member public health team under the Confluence Public Health Alliance, and stay undeterred in our mission of protecting consumers, citizens, visitors and the environment.

Lose the “Local” food ruse

We were defeated in opposing a newly combined raw milk and food “freedom” incursion in Senate Bill 199 this session, after beating them back numerous times in previous sessions. Gregory J. Hertz (R, Polson), who introduced several food “freedom” bills under differing names during past legislative sessions, dubiously triumphed in his bid to rollback consumer protections. Now, Hertz and his bill backers own all the needless suffering and possible deaths that result from this home-food law. We’ve already documented one raw milk outbreak directly to this new law. The raw milk outbreak report is available under an open records request.

Bill drafters sowed their own seeds of defeat by commingling the formerly separate food bills of raw milk and food “freedom” into the new, unitary and deceptively titled “Montana Local Food Choice Act” (MLFCA, MCA 50-49-201 et seq.).

In short, there is nothing local about nonlocal food ingredients.

MLFCA must be held true to its advertised title of being “Local,” and to its actual intent, which was to avoid interstate commerce and federal jurisdictional authority. I argue below MLFCA is also very likely unconstitutional for failure to separate subjects.

Bill writers understood this local concept for food products when they prohibited sales outside the state in MCA 50-49-203 (2)(c). Specifically, the law reads transactions “must occur only in this state and may not involve interstate commerce.” They appeared to understand that product sales outside Montana meant interstate commerce and subjection to federal food regulations.

The problem is bill drafters forgot or perhaps were not aware that final food product is only one-half the interstate commerce equation. The first half of the equation is the origin of the ingredient(s) that comprise the final product, not just whether it is sold outside a specific state. An intrastate food ingredient is one that is only grown, harvested, packed, and possibly processed within a state.

Writing a bill for a single-ingredient product like meat or milk to avoid interstate commerce is relatively easy. Writing a bill for a multiple-ingredient product like canned soup to avoid interstate commerce is also relatively easy. However, the only way that is possible is if the multiple-ingredient product only contains intrastate ingredients. Commingling the old milk and food “freedom” bills set up a fatal flaw in the new law, based on the drafters’ intent to avoid interstate commerce and federal jurisdictional authority. The subjects of intrastate commerce and interstate commerce are important distinctions for two primary reasons:

1) The Montana Constitution requires bills “contain only one subject” or “the act not so expressed is void” (V, V, 11, 3). I argue MLFCA contains two entirely separate subjects both based in commerce. In other words, MLFCA failed to separate the subjects of intrastate commerce and interstate commerce resulting in failure to avoid federal jurisdictional authority, and truth to its purported title. Therefore, the MLFCA is likely unconstitutional because it fails to separate subjects while simultaneously appearing fraudulent in its alleged title of “Local.”

2) For the riskiest food products manufactured under MLFCA, the processor must apply to FDA for an emergency permit (21 CFR 108.5), if the product contains one or more interstate ingredients. This is fact. Federal food canning regulations have been enacted for consumer protection, based primarily on series of 1973 outbreaks and recalls. The regulations provide consumers with a critical shield from botulinum toxins, beyond a producer’s mere good intention, which is all MLFCA offers.

Specifically, the canning regulations are for low-acid and acidified products in 21 CFR 108.25 and 108.35, respectively. They basically state that if a commercial food product in a hermetically sealed container has one or more interstate ingredients, and there is an absence of a state regulation equivalent to the federal regulation, the operator must apply to FDA for an emergency permit for commercial production of the product. MLFCA recklessly and foolishly prohibits the application of any food safety standards, under both MCA 50-49-203 (1)(d) and MCA 50-31-201 (4), creating an absence of an equivalent state regulation. The only exception from this federal regulation is to change it at the federal level, or only include intrastate ingredients in such commercial foods packaged in low-oxygen environments. Therefore, the processor needs a FDA emergency permit for MLFCA canned foods, if one or more interstate ingredients are in the product.

The agency I work for is reconsidering my intrastate ingredient MLFCA argument, which is based on federally adjudicated court cases dating to 1961 and current FDA ingredients policy.

Last spring, I successfully argued that home-produced edibles, manufactured under MLFCA, are not without limitation. Dietary supplements, alcohol products and drugs are still regulated as those commercial commodities by local health authorities, despite any assertions to the contrary by Hertz, Americans for Prosperity or any of their followers.
Commentary continued

Nuclear fission, ionizing radiation and its waste fate as possible state weapons

Last spring’s silencing of voter voices regarding whether nuclear fission reactors and their highly radioactive waste can be located within our communities became law of the land. Sponsor of the bill that dumped voter voices on this important environmental health issue was Derek Skees (R, Kalispell) who, not only disparaged the former 1978 law that required voter input on fission reactors, also ridiculed Montana’s Constitution by alleging it was a “socialist rag.”

In an apparent coordinated effort on the same nuclear fission topic, Terry Gauthier (R, Helena) sponsored a separate but related bill that directed the state to study “small advanced nuclear reactors.”

Contrary to their myopic moves, the Union of Concerned Scientists (UCS) reported March 18, 2021 that “newly built reactors must be demonstrably safer and more secure .... Unfortunately, most ‘advanced’ nuclear reactors are anything but.”

Fission advocates argued that ionizing waste, which will remain a human threat for more than 1,000 years, can be safely “recycled.”

This assertion is countered by UCS on page 19 of their report. Specifically, they wrote: “According to the GE-Hitachi [General Electric] website, the PRISM (Power Reactor Innovative Small Module) fast reactor and its associated reprocessing facility would ‘recycle all the uranium and transuranics … contained within used nuclear fuel’ (GEH 2021). ...

“And until shortly before it shut down in 2018, the company Transatomic Power claimed, erroneously, that waste from conventional nuclear reactors could be used as the fuel for its MSR [molten salt–fueled reactors]. The reality is much more complicated. First, these statements greatly exaggerate the actual capabilities of these reactors to achieve these goals. Second, for any reactor concept it is critical to understand that ‘burning’ spent fuel first entails reprocessing to separate out and re-use plutonium and other weapon-usuable materials. Reprocessing makes these materials more accessible for use in nuclear weapons by states or terrorists....”

I hate to think that reprocessed recycled material from such reactors could be diverted into manufacturing small nuclear weapons to be leveraged or utilized by domestic states or domestic terrorists during the next possible coup attempt on our nation. This alarming possibility is only amplified when one considers the Jan. 13, 2022 federal seditious conspiracy indictment of Oath Keepers founder and leader Elmer Stewart Rhodes III, who is a disbarred Montana attorney and had former listed residences in Kalispell, Big Arm and Trego.

Page three of the Rhodes indictment reads the Oath Keepers is “a large but loosely organized collection of individuals, some of whom are associated with militias. Some members of the Oath Keepers believe that the federal government has been coopted by a cabal of elites actively trying to strip American citizens of their rights.”

We have a lot safer and better options for fossil-fuel energy replacement jobs than the real hazards and risks associated with small nuclear fission reactors dotting our landscape in eastern Montana or elsewhere. Let’s try more wind and solar, first.

New “governing body” usurps health officers and health boards

Another unnecessary hit to environmental and public health was enactment of House Bill 121, which hyper-politicizes environmental and public health decisions during emergencies and disasters.

The local health board and alleged religious freedom Act removed local public health officials’ order authority and transferred it to a “governing body” of local elected officials, by adding another layer of bureaucracy; so much for making government smaller.

In other words, during emergencies and disasters, the new law removes environmental and public health decisions from local health officers working under health boards comprised of some elected officials to a new “governing body” of even more local elected officials.

For example, if a county health officer working under the approval of a health board issued a restriction on a business, the new “governing body” could negate the order, if they believed business economic interests, personal freedom or any operation of a “place of worship” took precedent over public health during the emergency or disaster.

Public health is now public enemy politics for some

House Bill 230 also became law and gives the Legislature additional oversight over the state executive branch during a state of emergency. The bill indicates that when the Legislature is not in session a poll may be conducted to determine whether a special session is needed, or record a vote on a specific proposal. Similar to House Bill 121, religious organizations are exempt from emergency restrictions.

A third big public health bill (House Bill 257) also became law, which prohibits regulations that curtail a “customer” or “business” from engaging in unrestricted commerce, despite potentially spreading a highly communicable and deadly viral disease. The new law eliminated local health boards from issuing orders, and local governments from enacting ordinances, that restrict “access” to commercial goods and services. This means a local health official has no authority to issue an order to require customers to wear a mask in a business, or for a business to limit the number of people allowed in a structure below what fire code already restricts.
Commentary conclusion

The head scratcher for me is I have yet to observe any politician introducing legislation clamoring to repeal fire code restrictions on the number of people allowed in a building, but they do take issue with the number of people allowed into a structure in an attempt to control spread of a highly communicable and deadly virus.

Why the inconsistency in reason?
The answer is obvious. The COVID-19 pandemic was politicized since its first day in the United States. The aforementioned inconsistency is the logical conclusion of such public health politicization.

Let’s hope the fevered campaign against science, public health and reason breaks soon before further erosion of democracy itself.

Ants and the common good

What has been made apparent since the first day of the pandemic was the previously successful balancing act we achieved between individual freedom and public interest, and when one took precedent over the other in cases of public health conflict. However, that balance has been toppled to the detriment of public health for no other reason than the politics of perceived personal freedom infringement and unaccountable commerce.

Ants, with their tiny brains that respond to chemical substances, suffer from no such politics. Each individual ant instinctively reacts for the common good of the colony to ensure its health and survival as a whole community. Humans have yet to evolve to this level of sophistication.

Specifically, a dead ant exudes oleic acid from its corpse, which is a mildly toxic substance to animals when not confined within a complex lipid. Death liberates oleic acid from its safe confinement. As a result, biological research icon Edward Wilson reported that individual ants will each respond to the presence of oleic acid within the nest by zeroing in on its origin for removal of that source from the colony.

In other words, a group of live ants will find the dead ant, carry it outside the nest, and dump it onto their refuse pile, to control diseases associated with a rotting corpse. The trigger for this communal effort is the presence of oleic acid.

Ants understand this threat through evolving behavior, but this communal behavior is limited.

Live ants experimentally covered with oleic acid are summarily subjected to the same fate as dead ants. They are carried out of the nest by a group of ants, and the covered ant is dumped on the refuse pile. If the covered ant reenters the nest, it will continually be thrown out of the nest until no detectable oleic acid is on its body. Each individual ant instinctively reacts for the common good of the colony.

I would like to believe humans have evolved more than ants, but the last legislative session called that assumption into question.

Editor’s note: Jeff Havens is senior public health sanitarian for the Montana Department of Health and Human Services, Food and Consumer Safety Section in Helena.

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Fall 2021 MEHA board election results

From Rhonda Knudsen, MEHA secretary

Results from the special covid-19 pandemic version of the 2021 MEHA fall election held online Oct. 6, 2021.

Officially, 13 people attended the online fall business meeting. Election ballot invitations were sent to all members and secret voting was open during the business meeting. Ten members in attendance participated in the election and each of the officers each received 10 votes.

**2021 Election Results**

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Graphic courtesy of publicdomainpictures.net
The view of Montana outside Montana

By Jeff Havens, RS, MEHA president-elect, past president

What may be next in the surging public health attack in Montana?

Look to a news article, titled “Anger over mask mandates, other covid rules, spurs states to curb power of public health officials” in the Dec. 25, 2021 edition of the Washington Post.

The article states: “Health officials say the new laws, targeted at coronavirus-fighting strategies, often carry unintended consequences stretching far beyond the pandemic to thwart health departments’ longstanding roles, such as maintaining food safety.

“The Ohio law, Senate Bill 22, slows health department’s ability to shut down a restaurant to protect customers from a foodborne disease outbreak, several health commissioners there said. Officials now can issue an order only after a person who ate there gets a documented diagnosis of such an illness — not simply after health inspectors discover unsanitary conditions.

“Researchers and health officials also predict such laws will get in the way of dealing with future health crises of unforeseen origin. But as the coronavirus pandemic persists, with omicron having arrived as the most transmissible variant so far, the laws’ impact already is clear.

“In May, Montana, which has several new statutes narrowing health officials’ powers, became the first state to prohibit discrimination based on vaccination status. It applies to any vaccine, not just shots to protect against the coronavirus. It means that employers may ask staff members whether they have been immunized against the virus, but they cannot punish or lay off employees who refuse to disclose their vaccination status or to get the shots. It makes an exception for nursing homes — but not for hospitals or clinics.

“When the law took effect May 7, most Montana hospitals were watching the pace of the vaccine rollout and debating whether they needed to make shots essential for their workers. But just east of the Rocky Mountains, Benefis Health System, with two hospitals in Great Falls, had sent a companywide email in April announcing that, unless they had a medical or religious reason, all employees had to receive at least one shot by May 1.

“Community members staged protests. With the law imminent, Benefis backed off its mandate, according to health-care experts in the state. Benefis declined to comment on its decision. For all 62 hospitals in the state, the law creates a bind, according to Rich Rasmussen, president of the Montana Hospital Association.

“The state’s restrictions collide with what the federal government is ordering hospitals to do. The Department of Health and Human Services created a rule that hospitals and other health facilities with patients insured through Medicare or Medicaid must require their employees to have had at least a first coronavirus shot by Dec. 5.

‘Hospitals were moving forward with their compliance’ with the federal rule, Rasmussen said, because they feared jeopardizing $2.1 billion that flows into the state in Medicare and Medicaid payments, and most hospitals felt a federal requirement trumped state law.’

“A standoff has been averted for now, because two federal courts in November temporarily blocked the HHS requirement as part of lawsuits objecting to the federal rule. Meanwhile, a health system, a few doctors’ practices, several patients and the Montana Medical Association have filed their own lawsuit trying to restore the ability of hospitals and other health providers to compel workers to be vaccinated.

Montana’s hospitals argue they must be able to provide safe environments for their workers and patients.

‘If you are providing care to neonates, you want to ensure everyone ... is vaccinated,’ Rasmussen said.

“Many Montana employers hold a different view.

“Nick Checota, a restaurant owner and music promoter who runs KettleHouse Amphitheater, a 4,500-seat outdoor venue on a river bank near Missoula, said his concert policy is to encourage patrons to wear masks and to get vaccinated or tested before attending an event. It is not required. A few bands have canceled because of the lack of vaccine verification, Checota said.

“But he said, ‘If I’d asked my staff [to be vaccinated], half my employees would have quit. ... Individual rights in Montana are very important to people.’”

In other words, one could argue that commercial business interests, public health ignorance, misguided political leadership, “individual liberty” and “personal responsibility” appear to trump nearly all communal and societal efforts to battle novel and previously conquered and controlled public health pathogens.

The problem is we already understand what is yielded when the combination of commercial business interest and personal responsibility are the governors of public health, especially regarding food safety. During and preceding the Gilded Age in the United States more than 100 years ago, this laissez-faire experiment gave us cocaine in an over-the-counter “patent medicine,” marketed under the “Coca-Cola” brand name, bovine “swill” milk laced with chalk or plaster to masquerade its inferior quality, and deceptive “spices” mixed with sand, tree twigs, backyard leaves and even saw dust to name a few examples.

We seem to be heading back to the future.

MEHA Facts
Numbers of licensed and permitted food establishments on Jan. 10, 2022
Retail: 6,891
Wholesale: 679
Cottage: 514

Page 5 of 9
MEHA joins Confluence Public Health Alliance
MEHA became a member of a new public health organization in 2021. MEHA joined forces with the Montana Public Health Association (MPHA) and Association of Montana Public Health Officials (AMPHO) to form the Confluence Public Health Alliance (CPHA). The purpose of the new alliance is to better utilize resources and influence creation and changes to environmental and public health regulations and policies. This comes at the dawn of new era in challenges to environmental and public health.

CPHA is led by founding Executive Director, Lisa Dworak, who began work in January 2022. Dworak reports to a CPHA board, which is comprised of one representative from each of the three member organizations (MEHA, MPHA and AMPHO).

MEHA remains a separate legal entity, but is also now a member of this allied organization. Funding for CPHA comes from each the three member organizations.

Founding CPHA executive director pens introduction

By Lisa Dworak, MPA, MPH, CPHA executive director

Greetings MEHA members!

It is with a deep appreciation for the critical role our environmental health professionals play, that I, alongside the Confluence Public Health Alliance (CPHA) board of directors, wholeheartedly welcome you to our new alliance.

My background is rooted deeply in a passion for shaping the social and structural drivers of health. I developed an equally intense interest in how organizational culture and management supports a responsive and impactful workforce while completing my Master of Public Administration (MPA) and Master of Public Health (MPH) degrees at the University of Montana in Missoula. I spent the past 10 years focusing on healthy built environment and health promotion initiatives at the local level. However, I intimately know the challenges our public and environmental health professionals faced during the past two years working in COVID-19 response for Missoula County and tracking public health budgets and bills during the sixty-seventh state legislative session.

Our MEHA President, Sarah Robbin, said it best, “Tough times don’t last forever.” During those difficult days during the past two years, I relied on recharging in our natural environment, the same environment you all work to protect. Now is an exciting time to reengage with MEHA and our environmental and public health peers. I have a lot to learn about your field and hope to connect with each of you at the conference in April.

Lisa Dworak is founding executive director of the new Confluence Public Health Alliance. MEHA is proud she is onboard and wishes her the best and success (photo courtesy of Lisa Dworak).
Graphic courtesy of Lisa Dworak

A UNIQUELY MONTANA SOLUTION:

- CPHA serves to elevate its three corporate member organizations: AMPHO, MEHA, and MPHA, each maintain their unique identity.
- Through a centralized staff and operations, CPHA seeks to build capacity, strengthen partnerships, and increase influence.
- CPHA Board of Directors is comprised of representation from each corporate member.
  - CPHA is an outcome of the Montana Healthcare Foundation’s public health system study, 2020.
  - Established June 2021.

- **Purpose**: Strengthen the ability of the public health system to impact policy and create a venue for a formal relationship among local public health agencies and DPHHS
- **Focus**: Leadership Development, Policy and Advocacy
- **Board**: 12 Board of Directors represent XX lead local health officials
- **Affiliate**: National Association of County and City Health Officials
  - Established 2006

- **Mission**: MEHA maintains and improves the standards of performance of professionals in the field of environmental health.
- **Focus**: Professional Education Outreach, Policy and Advocacy
- **Board**: 10 Executive Board members represent the distinct interests of XX members
- **Affiliate**: National Environmental Health Association
  - Annual MPHA/MEHA Conference
  - Established 1971

- **Vision**: MPHA serves as a representative voice promoting inclusive public health practice and policies in Montana
- **Focus**: Workforce, Policy and Advocacy, Strategic Partnerships
- **Board**: 14 Executive Board members represent the distinct interests of XX members
- **Affiliate**: American Public Health Association
  - Public Health Nurse Section
  - Annual MPHA/MEHA Conference
  - Established XX
Climate change awareness high among officials

Study examined climate, health concerns of Montana's public and environmental health professionals

By Dr. Lori Byron, M.D., and Karen Akerlof
Originally published in 2021 by Bio Med Central (BMC Public Health), 21:1778

“Results: Health professionals in Montana, a politically conservative state, demonstrated high levels of awareness that global warming is happening, human-caused, and a threat to human health, well above reported rates of public concern.

“Eighty-eight percent said that global warming is occurring and 69% that it is mostly anthropogenic. Sixty-nine percent said that their own health was already affected by climate, and 86% said they were already seeing at least one climate change-related event in their communities. Seventy-two percent said that their departments should be preparing to deal with climate change’s health effects, but just 30% said that it is currently happening.

“We found no statistically significant differences between Montana environmental health and public health professionals in regression models predicting climate beliefs, risk perception, and prioritization. As in studies of the public, political ideology and the observation of local climate-related changes were the strongest factors.

“Conclusion: Montana environmental and public health officials said that departmental action was needed on climate change, indicating the readiness of rural health professionals to take action. Further studies of health professionals in rural regions are warranted.”

Editor’s notes:
1. To read the complete report, please visit the source at: Climate and health concerns of Montana’s public and environmental health professionals: a cross-sectional study (biomedcentral.com)
2. About the source: “Springer Nature advances discovery by publishing trusted research, supporting the development of new ideas and championing open science. We are committed to playing our part in accelerating solutions to address the world’s urgent challenges.”
3. Report was emailed to MEHA newsletter editor Oct. 5, 2021 by coauthor Byron.

MEHA 2022 draft budget

From Josh Juarez, RS, MEHA treasurer

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Editor’s note: the previous MEHA association fiscal year report was unavailable by time of publication. Also, this budget has not yet been voted on by the MEHA board.
From Rachelle Blackham, MPH, REHS, NEHA region 3 vice president

NEHA 2022 annual education and exhibition conference
June 28 – July 1, 2022
Spokane, Washington (and remote participation option)
Register: NEHA 2022 Annual Educational Conference.
Earn continuing education credits for your professional license while expanding networking contacts and supporting your national organization. For more information, email aec@neha.org, or call telephone number (303) 756-9090.

New and updated NEHA formal policy statements
NEHA policy statements on various topics ranging from food to climate change: NEHA Policy Statements.

Past president passes near Plano

James (Jim) Dingman, RS, REHS, MS died Jan. 12, 2022. Dingman was past president of NEHA, and environmental health manager for the City of Plano, Texas.
Read Dingman’s obituary at: Jim Dingman Obituary.
Per Jim’s request and in lieu of gifts or flowers, donations may be sent to:
NEHA/AAS Scholarship Fund
www.neha.org/donate