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CATTARAUGUS COUNTY BOARD OF HEALTH

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MINUTES

December 7, 2011

The 801st meeting of the Cattaraugus County Board of Health was held at JD's Smokin Grill n Bar, 4269 Route 16, Hinsdale, New York on December 7, 2011.

The following members were present:

Andrew Klaczynski, MD

Joseph Bohan MD

Giles Hamlin, MD

Joseph Eade

Sondra Fox, RN

James Lapey

James Snyder

Also present were:

Kevin D. Watkins, MD, MPH, Public Health Director

Kathleen Ellis, Administrative Officer

Karen Manners, Secretary to Public Health Director

Thomas Brady, County Attorney

Paula Stockman, County Legislator

Donna Vickman, County Legislator

Gilbert Witte, MD, Medical Director

Eric Wohlers, Director of Environmental Health

Susan Andrews, Director of Patient Services

David Porter, Hearing Officer

Elizabeth L. Lewis-Michl, Ph.D., Chief

Community Exposure Research Section

New York State Department of Health

Rick Miller, Olean Times Herald

The meeting was called to order by Dr. Klaczynski. The roll was called and a quorum declared.

Mr. Eade made a motion to approve the minutes for the November 9, 2011 Board of Health meeting. It was seconded by Mrs. Fox and unanimously approved.

Dr. Watkins introduced Ms. Elizabeth L. Lewis-Michl from the New York State Department of Health (NYSDOH) to the Board. She gave a report to the Board on the health outcomes review that

was conducted by the NYSDOH in response to concerns about potential environmental exposures and the health of residents near the former Van Der Horst corporation plants in Olean. The study was done using existing hospitalization records from the Statewide Planning and Research Cooperative System (SPARCS) comparing health outcomes among residents of a specific area to rates of those same outcomes in residents of a comparison area. A cancer incidence study in 1990 showed no statistically significant elevations of cancer in the study area and no elevations of any type of cancer were found in the current study (see attached reports).

Ms. Lewis-Michl stated that they looked at socio-economic factors of other comparison areas and noticed that the hospitalization data revealed that people without health insurance, who do not have a primary care physician, are more likely to end up in the hospital. There seems to be a relationship with lower income areas and higher hospitalization rates. There also could be regional differences in how physicians hospitalize patients or even how the diagnoses are coded because they are often coded for reimbursement purposes. She believes the study was very worthwhile but tough to draw any conclusions because of the small numbers that were involved.

Mr. Miller, Olean Times Herald, asked if a study was done on residents and diseases within the proximity to the plants. He said that he interviewed people that lived fairly close to them 20 years ago and they had pretty severe health problems. Ms. Lewis-Michl stated that they could do that but that was not part of the study. Dr. Watkins thanked Ms. Lewis-Michl for coming to the meeting and presenting their findings to the Board.

Director's Report: Dr. Watkins reported that the Health Department 2012 fiscal budget was adopted by the County Legislators on November 22, 2011. All of the current Health Department programs will remain for next year, however, we were required to reduce expenses for the Laboratory and Environmental Health programs which resulted in reduction of personnel. Three positions were abolished in the Laboratory; a Sr. Medical Technologist, a Phlebotomist and a Sr. Account Clerk Typist. In Environmental Health, a Sanitarian and two seasonal Health Program Aides in the Mosquito Program were abolished.

For about the last 10 years or so, there has been a moratorium placed upon the development of new Certified Home Care agencies. Certified Home Care agencies can bill Medicare *and* Medicaid for services. The County Health Department has the only certified Home Care Agency in the County. All of the other agencies operating in the County are licensed agencies, meaning they can ONLY bill Medicaid. Medicare offers much higher reimbursement than Medicaid.

Currently, under the moratorium, the certification process is heavily focused upon a certificate of need for a particular community (in Cattaraugus County we only *need* one certified agency to provide services and currently that certificate or medallion has been given to the Health Department). With the lifting of the moratorium, competition will be introduced into the Home Care arena. I believe at least two currently licensed agencies will seek certification very soon. This competition will not be based on need.

At this time it is too early to estimate financial and programmatic impact.

In response to this proposed regulation, Dr. Watkins has contacted Kathy Young's office to see if they can help slow down this process and the State Associations are also lobbying against this emergency regulation.

Dr. Watkins also reported that we were notified that the five month old baby with Pertussis (Whooping Cough) that was reported to the Board at the last three meetings died on November 22, 2011. Pertussis continues to increase in New York State. As of 4/20/11, preliminary data for 2011 shows there were 175 Pertussis cases in New York State and final 2010 data indicated that there were 721 cases of Pertussis within New York State. There have been approximately 26 deaths in the United States due to Pertussis and in New York State since April the total has been two, with this recent case, the total increases to three. Most deaths unfortunately occur among unvaccinated children or children too young to be vaccinated. The recommendation for DTaP is at 2, 4 and 6 months of age and then again between 15 and 18 months of age and the final dose is between 4 and 6 years old. Pertussis vaccinations should continue not only for the young, but for women before becoming pregnant and pregnant women not vaccinated previously with Tdap, should receive it in the immediate post partum period before they are discharged from a hospital or birthing center. Tdap is also recommended for all family members and caregivers of the infant.

Dr. Watkins stated that since August 2011 there has been an increase in the number of reported cases of Lyme disease. There have been 13 confirmed cases reported. Individuals that are out in the brush and deep woods need to dress accordingly and be aware of ticks. Adult deer ticks are typically active in New York State from early October through November. One Cattaraugus County resident was diagnosed with Lyme disease at a local hospital in Massachusetts.

Dr. Watkins requested the Board's approval for the five Clean Indoor Air Act annual membership association applications. He reminded the Board members that the membership associations do not have to comply with the CIAA if duties are performed by members that do not receive compensation of any kind from the membership association or any other entity for the performance of such duties. Mr. Eade made a motion to approve the membership association applications for the **Olean Knights of Columbus, Olean Christopher Columbus Club, Olean American Legion, Loyal Order of Moose in Olean and Olean Veterans Club**. Mrs. Fox seconded the motion and it was approved. Mr. Lapey abstained.

Dr. Watkins stated that the Board needs to make a recommendation to the County Legislature to extend Mr. Haberer's term as a member of the Board. Dr. Bohan made a motion to extend Mr. Haberer's term for another six years beginning in January 2012. It was seconded by Mr. Eade and unanimously approved.

Dr. Klaczynski appointed Mr. Eade, Mrs. Fox and Mr. Lapey to a nominating committee to recommend nominations for officers in 2012.

Mr. Lapey made a motion to approve the immunization and clinic rates that the Health Department charges for services. Dr. Bohan seconded the motion and it was unanimously approved.

Nursing Division Report: Mrs. Andrews reported that Julie McAndrew, Nurse Practitioner, plans to retire the end of February. She has been with the County for 25 years and has been a Nurse Practitioner for 16 years.

The nurses investigated a Campylobacter/Giardia case in Olean and a couple of influenza cases. The potential mumps case that was mentioned last month was negative. The confirmed Lyme disease cases were located in Olean, Machias, South Dayton, Hinsdale, Great Valley, Perrysburg and Allegany. The flu activity has been low in Cattaraugus County and in New York State. The last flu clinic is being held today for staff at BOCES.

There were two post-exposure rabies treatments in November because of a bat in a sleeping area that was not able to be tested.

The Family Planning numbers were down, probably because of the three holidays in November.

The annual school nurse educational dinner was held on November 16, 2011 in Salamanca with 37 school nurses attending. Discussions were on bullying and reversible contraception for adolescents.

There were no new confirmed lead cases in November. For maternal child health, Medicaid Obstetrical and Maternal Services (MOMS) and lead programs, there are approximately 60 children in our census.

In Home Care we have approximately 341 patients, which is about 32 lower than last year at this time. As Dr. Watkins stated, with all the Medicaid redesign there are so many changes coming and we are not sure yet how that will affect Home Care.

Mr. Lapey made a motion that the Board notifies Julie McAndrew of their appreciation for her 25 years of service upon her retirement. It was seconded by Mrs. Fox and unanimously approved.

Environmental Health Division: Mr. Wohlers reported that they are continuing to work on the amendments to the County Sanitary Code and will forward it to the State Health Department for final approval. Hopefully it can be presented to the Board for approval at the March 2012 meeting. The Penalty Determination Policy has also been updated with input from the Hearing Officer and County Attorney. This will be effective January 1, 2012.

Mr. Wohlers also reported that the Department of Environmental Conservation (DEC) has established a mid-December deadline for public comments on the Revised Draft of their Supplemental Environmental Impact Statement for gas drilling and the high volume hydraulic fracturing process. The State Environmental Health Directors are currently collaborating with the New York State Association of County Health Officials (NYSACHO) to make a presentation to the Governor's Advisory panel as to what local county health department needs are when they lift the moratorium and start issuing Marcellus gas well drilling permits in New York State.

Mr. Porter reported the following enforcement cases for Board action:

DOCKET 11-053

WILDWOOD RECREATION AREA, Memorial Drive, Cattaraugus

Violations: 10NYCRR, Section 6-1.21(c) Respondent failed to submit complete daily records for the operation of the swimming pool for the month of September 2011 to CCHD by the 10th day of the following month. Notice of Hearing offering a \$400 civil compromise was mailed 10/21/11. Previous violations – Docket #'s 06-036, 04-071, 01-083 & 10-049. It was received and signed for

DOCKET 11-053 (continued)

by Dale Rogan on 10/27/11.

Administrative Hearing:

Sanitarian: Chris Covert appeared for CCHD and was sworn.

Respondent: Dale Rogan appeared for Respondent and was sworn.

Enf-1 was read and affirmed to be correct by Ms. Covert and was identified as People's Exhibit #1. A letter dated 7/1/09 to Mr. Rogan was identified as Peo. Ex. #2 regarding a past violation and the information that CCHD no longer routinely calls operators when reports are late. Ms. Covert also supplied a copy of the respondent's permit to operate a swimming pool identified as Peo. Ex. #3 for the period 7/12/11 to 9/15/11. Mr. Rogan, operator of Wildwood Recreation Inc. supplied the paperwork for September 2011 operation of the swimming pool and identified as Respondent's Exhibit #1.

Mr. Rogan gave the following testimony:

- did not submit the paperwork to CCHD for September 2011.
- did operate the pool for 3 days in September and closed the pool early due to weather.
- reason for appearing at the hearing was objecting to the amount of the civil compromise that was offered.

Hearing Officer Finding: Respondents are in violation of 10NYCRR, Section 6-1.21(c) failure to complete daily records for the operation of the swimming pool for the month of September by the 10th day of the following month.

Recommendation: That Respondent pays a \$200 fine to be received by CCHD by 12/31/11 with a \$10.00 per diem fine if not paid by that date.

Mr. Lapey made a motion to accept the Hearing Officer's recommendation; it was seconded by Dr. Bohan and unanimously approved.

Board Ordered: That Respondent pays a \$200 fine to be received by CCHD by 12/31/11 with a \$10.00 per diem fine if not paid by that date.

There being no further business to discuss, Mr. Eade made a motion to adjourn. It was seconded by Dr. Bohan and carried to adjourn.

Respectfully submitted,



Kevin D. Watkins, M.D., M.P.H.
Secretary

KDW/km