



Public Health
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Established 1923

CATTARAUGUS COUNTY BOARD OF HEALTH

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Andrew Klaczynski, MD, President

Joseph Bohan, MD, Vice-President

Giles Hamlin, MD

Joseph Eade

Sondra Fox, RN

Richard Haberer

James Lapey

Georgina Paul, FNP

James Snyder

MINUTES

December 5, 2012

The 811th meeting of the Cattaraugus County Board of Health was held at St. Bonaventure Clubhouse Restaurant, Route 417, Allegany, New York on December 5, 2012.

The following members were present:

Andrew Klaczynski, MD

Richard Haberer

Joseph Bohan, MD

James Lapey

Giles Hamlin, MD

Georgina Paul, FNP

Joseph Eade

Sondra Fox, RN

Also present were:

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

Kathleen Ellis, Administrative Officer

Thomas Brady, County Attorney

Karen Manners, Secretary to Public Health Director

Eric Wohlers, Environmental Health Director

Raymond Jordan, Sr. Sanitarian

Susan Andrews, Director of Patient Services

Paula Stockman, County Legislator

Donna Vickman, County Legislator

Linda Edstrom, County Legislator

Howard Van Rensselaer, County Legislator

Susan Labuhn, County Legislator

David Porter, Hearing Officer

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 of the November 7, 2012 Board of Health meeting. It was seconded by Mrs. Fox and unanimously approved.

Director's Report: Dr. Watkins reported that the four facilities that were granted a Clean Indoor Air Act (CIAA) waiver at the last meeting passed the inspections that were conducted by the Health Department.

The Health Department 2013 budget totaling \$11,499,546 was approved by the County Legislature last Wednesday. At the previous Board of Health meeting there was discussion about submitting a letter to the legislators in support of reinstating the two seasonal program aide positions in the Environmental Health division for mosquito surveillance, but due to unforeseen circumstances that action was placed on hold.

The influenza activity has increased in the United States since the end of November. Nationwide there have been no deaths associated with influenza, but there was an early and very large outbreak in some southern states such as Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Oklahoma, Louisiana and Arkansas. New York State has seen a widespread outbreak but nothing compared to these other states. CDC studies have confirmed that the type of influenza activity is very comparable to the components in the 2012-2013 vaccine, which are Influenza A (H3N2), Influenza B and one or two cases of Influenza A (H1N1).

Symptoms that include fever (100° F), aching muscles (especially back, arms, and legs), chills, sweats, dry cough, nasal congestion, headaches, fatigue and weakness are common signs of influenza. Patients treated with antiviral medicines (Tamiflu or Renlenza) should be treated as early as possible; these individuals often have a complicated or progressive illnesses such as diabetes, chronic heart disease or asthma. There are approximately 36,000 deaths associated with influenza each year, so we continue to stress the importance of getting a flu vaccination to prevent the severe complications associated with the illness. We will continue to conduct surveillance of emergency rooms for cases of individuals with flu-like symptoms.

Dr. Watkins stated that there have been three cases of Legionnaires Disease reported in Cattaraugus County. This illness is caused by a bacteria called Legionella, which got its name from an outbreak in 1976 at an American Legion convention. Each year, between 8,000 and 18,000 people are hospitalized with Legionnaires Disease. In upstate New York, fewer than 100 cases of Legionnaires are reported annually. The symptoms are similar to flu like symptoms, except fevers are normally (104° F) or higher, cough can be productive and can contain blood, complaints of chest pain and shortness of breath are also reported, and the symptoms begins within 2-14 days after being exposed to the bacteria. Normally this disease can be contracted by an individual who breathe in a mist or vapor (small droplets of water in the air) that has been contaminated with the bacteria. One example might be from breathing in the steam from a whirlpool spa that has not been properly cleaned and disinfected. The bacteria grow best in warm water like that found in hot tubs, cooling towers, large plumbing systems or parts of the air conditioning systems like that in a hospital. The bacteria is found naturally in water and moist soil, especially at an evacuation site, creeks and ponds. It is not passed from person to person. It is a treatable disease and is treated with macrolides (i.e. erythromycin) and fluoroquinolones (i.e. levaquin).

Dr. Watkins read the definition of a membership association - associated with the CIAA, which is different than the CIAA Waivers. A "membership association" in which all the duties are performed by members who do not receive compensation of any kind from the membership association or any other entity for the performance of their membership association duties are exempt from all smoking restrictions contained in the CIAA. Compensation includes pay, tips, free membership, life insurance, drinks, meals, lodging or any other item that would be considered compensation for performance of their duties. Any membership association that meets the criteria that has been

described is not subject to any of the provisions of the CIAA which means they can allow smoking where they serve food, alcoholic beverages, operate bingo games or other fund raising activities. The Health Department has received four membership association applications for approval from **Christopher Columbus Club (Olean), Olean American Legion, Loyal Order of Moose (Olean) and the Olean Veterans Club**. We have not received an application from Knights of Columbus (Olean). As long as these establishments meet the criteria for a membership association, they are exempt from the CIAA.

Nursing Division Report: Mrs. Andrews reported that the individuals with Legionnaires Disease are all males ages 41-60 and there were no common contacts for sources of the disease.

The communicable disease conference call with the State this morning indicated that there is a 150% increase in flu cases from last week.

There was one rabies post-exposure treatment last week for the month of December but the individual did not live in Cattaraugus County.

The Physician's Assistant started as part time but now has agreed to work full time. The Home Health Aide that was hired has decided that she did not want to work for the Health Department, so we will continue to look for candidates for that position. Two full time Registered Nurses have been hired and will start next Monday, December 10, 2012. Also, beginning 2013, we would like to have nurses work two-12 hour shifts Monday-Friday and one Saturday and Sunday.

The Family Planning grant application is in process.

Environmental Health Division: Mr. Wohlers reported that the New York State Department of Environmental Conservation announced that they are going to extend the public comment period on the gas drilling regulations for at least 30 more days. The State is requiring that experts complete a health assessment, which will put everything on hold until it is completed.

Mr. Wohlers also reported that the State is going to initiate an investigation of a former industrial site in the Village of Cattaraugus which is a suspected source of ethylene chloride contamination in one of the village's drinking water supplies.

The Village of Randolph received their hardship determination letter from the NYS Revolving Drinking Water Fund which makes them eligible for a zero interest loan. Mr. Wohlers will be working with the Village Board to help them through the process to accept the grant funds.

Also, the privately owned Crystal Water Company in West Valley received their hardship determination letter which makes them eligible for a zero interest loan. The system is 100 years old and needs to be reconstructed, but they can't take action to accept the loan until they receive approval from the NYS Service Commission to increase their rates to their customers in order to pay back the loan money. The rate increase has to take place six months before they can close on the loan.

Mr. Wohlers has been invited to attend a meeting at the Cattaraugus County Campus of Jamestown Community College on Monday, 12/10/12, concerning the next phase of the Northwest Corridor

Revitalization Plan being funded by the NYS Department of State's Brownfield Opportunity Areas (BOA) Program. The City of Olean was recently awarded grant funding to complete Step II which will provide a plan for redevelopment of this Northwest Quadrant area.

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

DOCKET 12-051

WILLIAM HOLLAMBY, 1722 & 1726 Butler Avenue, Olean

Violations: CCSC, Section 11.7 Respondent failed to fully comply with all conditions of a stipulation offer signed in settlement of a Notice of Violation issued by the Health Department. Respondent agreed to have the subject properties connected to the sanitary sewer and provide documentation of completion to CCHD no later than 9/21/12 in stipulation offers signed 8/27/12 & 9/1/12. Notice of Hearing was mailed with no stipulation offered.

DOCKET 12-052

ERIC HOLLAMBY, 1722 & 1726 Butler Avenue, Olean

Violations: CCSC, Section 11.7 Respondent failed to fully comply with all conditions of a stipulation offer signed in settlement of a Notice of Violation issued by the Health Department. Respondent agreed to have the subject properties connected to the sanitary sewer and provide documentation of completion to CCHD no later than 9/21/12 in stipulation offers signed 8/27/12 & 9/1/12. Notice of Hearing was mailed with no stipulation offered.

Administrative Hearing for Docket #12-051:

Public Health Technician: Rich Dayton and Eric Wohlers, Environmental Health Director, appeared for CCHD and were sworn.

Respondent: Failed to appear.

Enf. 1 was read and affirmed to be correct by Mr. Dayton and identified as People's Exhibit #1a. Very extensive testimony was given, following is a brief summary:

- Two brothers, William and Eric Hollamby, own 1722 and 1726 Butler Ave., Olean, NY.
- A public sanitary sewer was made available and both properties have to be connected. Both brothers signed a stipulation that the properties would be connected by 5/23/12 and 6/20/12 (Docket #12-029).
- Neither property was hooked up by the agreed date.
- When CCHD started a second enforcement action, Docket #12-051, they were notified that Eric Hollamby, co-owner of 1722 and 1726 Butler Ave., Olean, NY properties, is in the process of legally transferring his share of the two properties to his brother William.
- CCHD was notified on 11/16/12 CCHD that the sole owner of both properties is William Hollamby.
- One of the properties is occupied by a relative of William Hollamby and the relative rents out the second property for income.

Hearing Officer finding: Respondent is in violation of the Sanitary Code of the Cattaraugus County Health District, Section 11.7 – failure to connect properties to a public sanitary sewer when available.

Recommendation: 1. Properties located at 1722 and 1726 Butler Ave., Olean, NY be connected to the available public sanitary sewer according to the Code Enforcement Officer (CEO), City of Olean, NY on or before 12/31/12. Permits must be obtained and then proof of connection to

DOCKET 12-051 (continued)

satisfy City of Olean CEO.

2. The existing septic tanks at both locations must be disabled and filled in.

3. Failure to connect to the public sanitary sewer by 12/31/12 will result in a \$10.00 per diem fine and placing a placard on the residence as unfit for occupancy.

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

Board Ordered:

1. That properties located at 1722 and 1726 Butler Ave., Olean, NY be connected to the available public sanitary sewer according to the Code Enforcement Officer (CEO), City of Olean, NY on or before 12/31/12. Permits must be obtained and then proof of connection to satisfy City of Olean CEO.

2. The existing septic tanks at both locations be disabled and filled in.

3. That failure to connect to the public sanitary sewer by 12/31/12 will result in a \$10.00 per diem fine and a placard being placed on the residence as unfit for occupancy.

DOCKET 12-061

JEROME SMITH (Key Largo, FL), FRANK GAMBLE (Delevan, NY), property located at 11297 Brown School House Road, Freedom

Violations: CCSC, Section 16.6.1 A dye test was performed on the sewage disposal system on 4/25/11. Inadequately treated sewage was found discharging onto the surface of the ground. A compliance date of June 6, 2011 was set and the violation has not been corrected to date. Notice of Hearing offering a \$75 civil compromise was mailed on 10/11/12 to each Respondent. Notice sent to Frank Gamble was received and signed for by Robert Gamble on 10/12/12.

Administrative Hearing:

Sr. Public Health Sanitarian: Raymond Jordan appeared for CCHD and was sworn.

Respondents: Failed to appear.

Enf. 1 was read and affirmed to be correct by Mr. Jordan and identified as People's Exhibit #1. Brief background:

Helen and Jerome Smith own the subject house and were financing it through M & T Bank.

Mr. & Mrs. Smith moved to Florida where Helen died first and then on 1/8/12 Jerome passed.

Mr. Smith's heir is his son, listed as the Respondent living in Key Largo, FL, and a step-son, Mr. Frank Gamble of Delevan, NY who was not legally adopted.

In a phone conversation with Mr. Jordan on 1/19/12, the Respondent (Jerome Smith) said that the septic would be fixed by 5/15/12 or that the home would be vacated and sold with the disclosure that the septic was not operational. At that time, Mr. Gamble's adult children were living in the house with a child (age 1 or 2).

In a phone conversation with CCHD on 6/19/12, Jerome Smith said that there were too many debts and they were going to allow the bank to foreclose on the subject property. Also, Mr. Smith said he has given Power of Attorney to his brother, Frank Gamble of Delevan, NY.

DOCKET 12-061 (continued)

The M & T Bank spokesman, Mr. Hanley, said that he cannot discuss legal matters with Mr. Frank Gamble and the bank can only answer to Mr. Joseph Keller, County Treasurer. Mr. Hanley strongly suggests that Mr. Gamble hire an attorney to resolve the issues at hand.

Hearing Officer finding: Respondents are in violation of the Sanitary Code of the Cattaraugus County Health District, Article II, Section 16.6.1 – allowing inadequately treated sewage to discharge onto the ground surface at 11297 Brown School House Rd., Freedom, NY. Mr. Frank Gamble was properly served on 10/12/12 and offered a \$75.00 civil compromise with no response.

Recommendation:

1. The Respondent submits an application and fee for a permit to construct an approved sewage disposal system (including perc tests) at 11297 Brown School House Rd., Freedom, NY by 1/31/13. Failure to meet the 1/31/13 date will result in a \$150.00 fine and a \$10.00 per diem fine for failure to pay.
2. The Respondent has an approved small sewage disposal system installed and operational by 5/31/13 at 11297 Brown School House Rd., Freedom, NY. Failure to comply will result in placing a placard on the residence as unfit for occupancy.

Mr. Eade made a motion to accept the Hearing Officer's recommendation; it was seconded by Mrs. Fox and unanimously approved.

Board Ordered:

1. Respondent to submit an application and fee for a permit to construct an approved sewage disposal system (including perc tests) at 11297 Brown School House Rd., Freedom, NY by 1/31/13. Failure to meet the 1/31/13 date will result in a \$150.00 fine and a \$10.00 per diem fine for failure to pay.
2. That Respondent has an approved small sewage disposal system installed and operational by 5/31/13 at 11297 Brown School House Rd., Freedom, NY. Failure to comply will result in placing a placard on the residence as unfit for occupancy.

Other Board Action:

Docket 12-036, Burnt Hill MHP, Terry Blough – On 11/7/12 the Board ordered Respondent to install a permanent disinfection system on the water supply at the mobile home park by 12/31/12. If the disinfection system is installed and approved by the Cattaraugus County Health Department by 12/31/12 then the Permit to Operate will be renewed and the recommendation for the \$50 civil compromise will be dismissed. A Notice of Appeal was received from Respondent's Attorney, Edward P. Wright, stating that the owner is using a separate water supply so that there are only four sites now on the water distribution system at the mobile home park and falls shy of the necessary minimum required sites for regulating mobile home parks under NYS Sanitary Code (10NYCRR) Part 17. He also states in the appeal that a water line in the system had broken and was repaired in December 2011 and the system has been tested several times since then and has not failed.

Discussion: Mr. Jordan stated that the Health Department's position is that it is still a mobile home park by definition. Also, even though satisfactory water samples have been collected since September there were several samples collected that were contaminated with coliform bacteria and the Health Department feels that Mr. Blough did not find and correct the source of contamination at that time. In the proposed changes to the Sanitary Code, even if they do not meet the conditions of Part 5 by not having five service connections on the water supply, we will still treat them as a public water supply by definition because they will have a permit from the Health Department for five mobile homes and will have to meet all sections of Part 5, which would require them to have disinfection.

Mr. Wohlers stated that as Mr. Jordan pointed out, there are different regulations involved in this case; Part 17 of the State Sanitary Code (10NYCRR) which regulates mobile home parks and Part 5 of 10NYCRR, which are the drinking water regulations. Because he is a small community water system he falls into the category where there are certain provisions in the regulation that he doesn't necessarily have to agree with, but in the new proposed County Sanitary Code all regulated facilities regardless of size are going to be treated as a non-community water system. The State is discontinuing all disinfection waivers, so even if we didn't require him to install a disinfection system now as soon as our new code goes into effect he will have to do so. They are saying that by disconnecting one of the mobile homes, they have fewer than five service connections and don't have to comply with the regulations but that's not true under Part 17 of the mobile home park code; it states that they can't serve non-potable water to the tenants in their mobile homes. The Health Department's argument is that this doesn't apply because there are still two other regulations that require that they comply with the drinking water regulations.

Mr. Eade made a motion to deny the appeal; it was seconded by Dr. Bohan and unanimously approved.

Docket 12-018, Roger & Kathleen Hanley – On 11/7/12 the Board ordered Respondents to install a small sewage disposal system at their residence by 1/31/13 according to the Permit to Construct issued by the Cattaraugus County Health Department (CCHD) on 4/11/12. A representative of CCHD must do a final inspection before the system is backfilled. Failure to have the system installed and approved by 1/31/13 will result in a \$1,000 fine to be received by CCHD by 2/15/13 with a \$10 per diem fine if not received by that date. The Board further ordered that the residence be placarded as unfit for occupancy on 2/15/13 if system is not installed by 1/31/13. An appeal was received from Respondent's attorney requesting that the Board reduce the fine from \$1,000 to no higher than \$250, to extend the period of time in which a new septic system must be installed from 1/31/13 to 6/30/13 and to suspend the penalty altogether if and when Respondent installs a replacement system in accordance with the CCHD permit to construct.

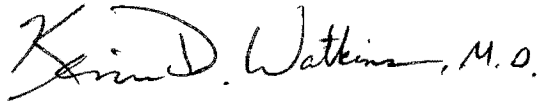
Dr. Bohan made a motion to deny the appeal; it was seconded by Mr. Lapey and unanimously approved.

Mr. Eade made a motion to recommend Dr. Bohan to the County Legislature to serve another six-year term on the Board of Health beginning January 2013. It was seconded by Mrs. Fox and unanimously approved.

The next meeting will be held on Wednesday, February 13, 2013.

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,

A handwritten signature in black ink that reads "Kevin D. Watkins, M.D.". The signature is written in a cursive style with a large, stylized "K" and "W".

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

KDW/km