



**Public Health**  
Prevent. Promote. Protect.  
Established 1923

# CATTARAUGUS COUNTY BOARD OF HEALTH

Leo Moss Drive, Olean, NY 14760, Tel. (716) 373-8050, Fax (716) 701-3737

*Joseph Bohan, MD, President*

*James Lapey, Vice-President*

*Giles Hamlin, MD*

*Zahid Chohan, MD*

*Sondra Fox, RN*

*Richard Haberer*

*Georgina Paul, FNP*

*Theresa Raftis*

*James Snyder*

## MINUTES

FEBRUARY 12, 2015

The 833<sup>rd</sup> meeting of the Cattaraugus County Board of Health was held at St. Bonaventure Clubhouse Restaurant, Route 417, Allegany, New York on February 12, 2015.

The following members were present:

Dr. Joseph Bohan

Mrs. Sondra Fox, RN

James Lapey

James Snyder

Dr. Giles Hamlin

Richard Haberer

Theresa Raftis

Also present were:

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

Thomas C. Brady, County Attorney

Linda Edstrom, County Legislator

Donna Vickman, County Legislator

Paula Stockman, County Legislator

Gilbert Witte, MD, Medical Director

Susan Andrews, Director of Patient Services

Kathleen Ellis, Administrative Officer

Raymond Jordan, Sr. Public Health Sanitarian

Richard Porter, Hearing Officer

Eric Wohlers, Director of Environmental Health

Rick Miller, Olean Times Herald

The meeting was called to order by Dr. Bohan, the roll was called and a quorum declared.

Mr. Lapey made a motion to approve the minutes of the Board of Health meeting held on December 3, 2014. It was seconded by Mr. Snyder, and unanimously approved.

Dr. Hamlin made a motion to approve the minutes of the Professional Advisory Committee meeting held on October 14, 2014. It was seconded by Mrs. Raftis, and unanimously approved.

Mrs. Fox reported on behalf of the nominating committee that after much deliberation they are pleased to recommend the following slate of officers:

Dr. Joseph Bohan, President

Mr. James Lapey, Vice President

Dr. Watkins asked if there were any other nominations, after hearing none he asked for a voice vote to approve the nominating committee recommendation. The vote was unanimously approved.

**DIRECTORS REPORT:** Dr. Watkins offered his congratulations to Dr. Bohan and Mr. Lapey on their recent election and stated that he looks forward to working with them in 2015.

It is that time of year that the Board is asked to approve the immunization and clinic fee schedules. Dr. Watkins reviewed the increased fees as outlined on the schedule distributed to those in attendance. He stated that these are nominal increases but it does afford the department to recover some of these costs.

Mr. Snyder asked about the difference in the two amounts being shown on the schedule, what will the insurance company pay? Dr. Watkins explained that by law we can charge 30% over our cost and that is what we charge insurance companies, however insurance companies often pay a much lower amount.

Dr. Bohan asked for clarification on the rabies vaccine, stating that since those shots are given based on the person's weight are these rates multiplied by each shot given, Dr. Watkins confirmed that he was correct, and added that a rabies vaccine series include four doses of the vaccine plus the immunoglobulin.

Mr. Lapey made a motion to approve the revised Immunization and Clinic Rate Fee schedule as proposed and reviewed. The motion was seconded by Mrs. Raftis, and unanimously approved.

In addition, Dr. Watkins requested approval from the Board of Health to present to the County Legislature the following amounts to be written off of the 2014 accounts receivable:

\$8,382.60 for Home Care

\$5,310.74 for Family Planning

\$255.92 for Immunization

\$3,096.00 for Laboratory Water

\$206.32 for Laboratory Clinical

Total amount to be submitted to the County Legislature \$17,251.58

Dr. Bohan asked if these amounts included any fines. Dr. Watkins explained to the Board that the staff will send three reminder letters to the patient and if a bill remains unpaid it is sent to the collection agency. If the collection agency is successful in getting the bill paid, they will keep 33 1/3% of any amount they collect. If the bill continues to remain unpaid, the department does not take further collection action against a patient. Mr. Brady also clarified that there are no environmental health fees or fines included in these amounts and Dr. Watkins concurred. Mr. Snyder asked if the County Attorney's office does any of these collections, Dr. Watkins reported that they do not; an outside collection agency is utilized for this purpose.



Mrs. Fox asked if there is a procedure in place whereby a patient that is unable to pay for their services is referred to an agency that can assist them with finding insurance. Dr. Watkins stated that yes, everyone we work with who does not have insurance we refer them to programs that could potentially qualify them for some form of insurance. Since the affordable care act became law, often time's people have insurance, but they have high deductibles or their insurance does not cover specific services. In those instances, they are charged our sliding fee prices, but due to limited income, people are still unable to pay.

Mrs. Raftis asked if we are seeing many people without insurance today, Dr. Watkins stated that we don't see a lot of people without insurance, nearly 90% of Cattaraugus County residents have some type of health insurance, but more often their insurance has limited coverage, and residents can't afford the services beyond the scope of their insurance.

Motion made by Mr. Haberer to send the list of uncollected accounts receivable for 2014 to the County Legislature to have them written off of the Health Department books. The motion was seconded by Dr. Hamlin, and unanimously carried.

Dr. Watkins reported that Influenza Activity for the week of January 31<sup>st</sup> is still categorized as geographically widespread in NYS; however the numbers we are seeing are a lot less than last year. There were 4,766 laboratory confirmed reports in NYS which represent a 5% decrease over the previous week. Cattaraugus County saw 22 new laboratory confirmed cases between the weeks ending January 31<sup>st</sup> until today. We are not seeing as much influenza like illness in the emergency room and no deaths from influenza in the county. In NYS, there was one pediatric death during the week ending January 31<sup>st</sup>, bringing a grand total of three influenza related pediatric deaths in New York State this season. We saw a slight incline in the number of influenza cases in late January but the numbers appear to be dropping off as are most of our surrounding counties. Cattaraugus County was one of the last counties to report widespread influenza within the community. Dr. Watkins stated that the reduced number of reported illnesses may be due to the number of people who have been vaccinated or physicians not sending test to confirm influenza but electing to just treat the symptoms. There has been an informal survey of the number of influenza vaccines given by our local pharmacies and local providers but we have not had a good response from the pharmacists as to how many vaccines they have given out. Olean Medical Group gave out over 6,000 vaccinations alone. Dr. Witte stated that since the Health Department authorizes the pharmacies to provide vaccines, they should, as a condition of their approval, be required to complete any survey questionnaires. Dr. Watkins continued by informing the Board that Influenza A (H3N2) is the most prevalent strand circulating in the community. He added that the makeup of the vaccine includes an Influenza A (H3N2), but the type of strand that is showing up in the community is slightly different than what was included in the vaccine. The vaccine appears to be only 23% effective; however vaccination remains the first line of defense in fighting off complications from influenza.

Dr. Witte also mentioned that even though this year's vaccine may not have been as effective as they would have hoped, it does provide antibodies that will build up in the body and help in future years and he also recommends that everyone continue to get an influenza vaccine.



Dr. Watkins spoke about the measles outbreak in the United States, he stated that it is speculated that the origin began with a person who was probably exposed overseas and then visited Disney Land in California. Since January 1<sup>st</sup> the CDC has reported over 121 confirmed measles cases in 17 states and Washington DC so far in 2015. Last year there were 23 different measles outbreaks. We had about 644 measles cases confirmed in 2014 that included a large outbreak of 383 cases that occurred in an unvaccinated Amish community in Ohio, many were associated to cases brought in from the Philippines. From a public health official standpoint this is a very unfortunate incident because in the calendar year 2000, measles were just about eliminated in the United States by vaccination. Before the vaccine was available, measles made more than 5,000 people sick each year and killed about 500 of them. It is very unfortunate that the fallacy about this vaccine causing Autism continues to persist.

An article about the correlation of vaccines and Autism that was published in a reputable medical journal (The Lancet) in 1998 was retracted in 2010 and the physician that did the research was discredited and his license revoked. Because measles can be detrimental and can cause encephalitis or result in death, it is important to debunk the myth that the vaccine we have today is correlated with the development of Autism in children. Mr. Snyder asked if we had any measles cases in our County, Dr. Watkins replied that we have not seen any cases in our county since 1987 and that was with our Amish community. Dr. Witte mentioned that a newspaper article reported that in our County the vaccination rates for our schools was listed at 68%, but this low rating includes the schools in the Randolph area that are largely Amish. In light of the low rating reported in the article, Dr. Watkins informed the Board that many of our schools have vaccination rates at 95%-100% and we maintain a very good record of not seeing an outbreak within our communities.

The race for an EBOLA cure is heating up and scientists are continuing with experiments in West Africa. There is now a vaccination trial in Liberia; however there are not enough participants since EBOLA cases are decreasing. We have been pleased with the number of medications and vaccinations in the works to treat and prevent EBOLA but we still need to complete several successful trials before FDA will approve their use.

Dr. Watkins distributed a report on the use of the new 13-Valent Pneumococcal Conjugate Vaccine and 23-Valent Pneumococcal Polysaccharide Vaccine. He stated that both the Olean Medical Group and the County Immunization Clinic have been distributing the vaccine. The back page of the handout shows an algorithm that describes when and whom should have the vaccine. Dr. Witte added to the dialogue about the new vaccines and why the new vaccine adds protection to those who chose to have the vaccination.

**NURSING DIVISION REPORT:** Mrs. Andrews reported that for communicable disease in January, there were 8 newly identified Hep C cases. There were 3 Pertussis isolated cases that required only treatment of the family members. Mrs. Andrews reported that there were no new rabies cases in January and that there were a total of 17 post exposure cases for 2014. Influenza appears to have affected all of the long term care facilities in our County.

New York State is monitoring persons under investigation for possible EBOLA in New York City and we have not been notified of any health care workers returning from the affected area to our County.



For January Chest Clinic, one person completed their treatment and there are 5 people being followed in the chest clinic.

Adding to the measles outbreak, in Niagara Falls and Toronto, there are people who have been exposed. There are 3 in New York State and one was a college student in Eastern New York State that traveled by train but they have found no secondary cases. For immunization against preventable diseases, the Amish Community remain the toughest to get vaccinated, but Mrs. Andrews passed around a copy of the booklet that is given to each Amish family when the nurse makes a newborn baby visit and screenings. These booklets are left with them for their reference.

Family Planning clinic continues to do very well with the insertion of Nexplanon, a sub-dermal contraceptive implant, and most patients have been happy with that method.

Mrs. Andrews informed the Board that we did have an unannounced survey of our Home Care Agency by NYSDOH. The survey started on January 21<sup>st</sup> and lasted through February 10, 2015. This was a partially extended survey and they conducted an extensive and very thorough review of all aspects of the agency. They interviewed at least 20 staff members, went out with the nurses to the homes and spoke to the County Attorney. A summary of deficiencies identified during the survey will get sent to Dr. Watkins and we will need to respond in writing with a Corrective Action Plan (CAP) and then follow through with those corrections.

New York State will be conducting a Consolidated Review of the Health Department's programs in March.

Dr. Bohan asked if the deficiencies will be part of the public record, or could someone's attorney call and obtain this information. Mrs. Andrews confirmed that yes it will be part of public record and will affect our rating on the Medicare Homecare rating report.

He asked if there are fines associated, Mrs. Andrews stated that yes, fines can be associated with these surveys, however they did not conduct that type of survey at this visit, and we are not expected to have to pay any fines.

**ENVIRONMENTAL HEALTH DIVISION:** Mr. Wohlers reported that the Governor recently signed an amendment to Article 13-F of the Clean Indoor Air Act to include a ban on sales of liquid nicotine to minors. Our staff will be getting new signs out to vendors and we are in the process of reviewing the local law prohibiting the use of e-cigarettes for possible amendments as well.

During the slow winter season while some of the seasonal work is slow, staff has been working to improve and utilize electronic data more efficiently. Staff has over the course of the past few years, as time permits, scanned old files and records and put them in electronic formats. New York State has initiated an electronic inspection form to eliminate paper and data entry that the staff is diligently working to utilize.

Environmental Health staff has developed a new computer program for the Lab for the tracking, testing and billing of water samples and has been able to better utilize the technology available.

In February, the EPA put out a new standard for outdoor wood boilers. Vendors of these boilers will need to meet 90% efficiencies and will be phased in over the next five years.

Mr. Snyder asked if Mr. Wohlers has any statistics on what percent of Cattaraugus County residents utilize wood to heat their homes. Mr. Wohlers indicated that he did not have these statistics and that many of the cities and villages do not have any restrictions in their current zoning laws.

Staff is in the final planning phases for the Home Show Booth and preparing for the annual drinking water taste test that will be conducted at the Home Show.

Mr. Haberer asked what types of security are in place to ensure that there are no breaches of the computerized records. Mr. Wohlers replied that everything we do is on the County network and the County Information Services department has secured networks. Mr. Haberer asked if there have been any breaches of the County system and is there a way to tell if one has occurred? Mr. Brady replied that there have not been any breaches from outside the system and that Information Services has recently added an IT Security Specialist position for this purpose specifically.

Dr. Bohan asked how long these records have to be kept. Mr. Wohlers responded that New York State Archives Department has a thick guide that tells us how long we have to keep certain types of records. Some are kept for 1 or 2 years, some are to be kept forever, depending on the type of record.

Hearing Officer David Porter submitted the following enforcement cases for Board action:

#### **DOCKET 14-043**

**VM Catering, 212 S. Fourth St., Olean, New York 14760 Violations: 10 NYCRR Sec. 14-1.90 (a) operating a catering operation** (VM catering), without a valid food service establishment permit issued by the Health Department.

#### **Administrative Hearing: 1-6-15**

Public Health Technician: Richard Dayton appeared for CCHD and was sworn in.

Respondent: Vincent Marra, respondent appeared and was sworn in.

Testimony of Mr. Dayton:

1. Enf.-1 was read and affirmed to be true by R. Dayton, identified as Peoples Exhibit #1. Action commenced due to a complaint 1-15-14, extensive testimony was supplied by R. Dayton.
2. 6 pages of inter-net advertisement dated 1-2014, 8-2013 identified as P. E. #2.
3. 2 pages of catering prices identified as P.E. #3.
4. 4 pages of face book advertisement dated 6-2013, 12-2012 identified as P. E. #4.
5. Face book page advertising VM Catering since 1987 identified as P.E. #5.



**DOCKET 14-043 (continued)**

6. Letter to V. Marra dated 1-23-14 explaining operating a catering business without a food service permit is a CCHD violation from R. Dayton identified as P.E. #6
7. Memo dated 1-27-14 summarizing visit with V. Marra about stopping all food service without a proper permit. As of 1-27-14 all face book information on V. M. Catering was removed.
8. Advertisements picked up at John Ash Community Center on 12-9-14 identified as P.E. #8 Brochure and pricing.
9. Advertisement off internet pictures, pricing and responses during 2014 identified as P.E. #9.
10. Memo dated 12-10-14 outlining R. Dayton's activities once he found VM Catering was operating without a valid food service permit identified as P.E. #10.
11. Rental agreement John Ash Community building, stresses page three that if the renter plans to prepare and serve food they must have a valid caterer's permit from the C.C.H.D. identified as P.E. # 11.
12. Advertisement for dinner catered by V. M. Catering on 12-5-14 identified as P.E. #12.
13. Bill and cancelled check of catered dinner at John Ash Community Center 12-5-14 identified as P.E. #13.
14. Memorandum dated 12-16-14 from R. Dayton an excellent wrap up of V. Marra performing catering without a valid catering permit identified as P.E. #14.

Hearing Officer Findings: That the respondent is in violation 10NYCRR Sec. 14-1.90 (a) operating a catering operation without a valid food service establishment permit issued by the Health Department.

Recommendation: V. Marra respondent, cease and desist any food service enterprises including catering until the C.C.H.D. Board decides on the violation described in Docket 14-043. V. Marra be fined in the amount of \$250.00 for operating a catering operation (VM Catering) without a valid food service establishment permit issued by the Health Department. Fine must be paid on or before 3/16/15. Failure to comply will result in a \$10.00 per day per diem for every day late.

Motion made by Mr. Haberer to accept the Hearing Officer's recommendation; seconded by Mrs. Raftis, and unanimously carried.

Board Ordered: \$250 fine to be received on or before March 16, 2015 and a \$10 per day per diem fine if not paid by that date.

**DOCKET 14-044**

**Ann Smith 212 S. Fourth St., Olean, New York 14760 Violations: 10 NYCRR Sec. 14-1.90 (a) operating a retail baking operation** (Cookies by Ann), without a valid food service establishment permit issued by the Health Department.

**Administrative Hearing: 1-6-15**

Public Health Technician: Richard Dayton appeared for CCHD and was sworn in.

Respondent: Ann Smith, respondent appeared and was sworn in.

Testimony of Mr. Dayton: 1. Enf.-1 was read and affirmed to be true by R. Dayton, identified as Peoples Exhibit #1.

2. When investigating docket 14-043 it was noted that a business card for "Cookies by Ann" was being passed around for advertisement identified as P.E. #2.

3. P.E #13 from docket 14-043 showed \$50.00 billing for cookies.

Testimony of Ann Smith Ann Smith, respondent, admitted to making the cookies for her business partner, V. Marra for sale in his catering business "VM Catering".

Hearing Officer Findings: That the respondent is in violation 10NYCRR Sec. 14-1.90 (a) operating a retail baking operation without a valid food service establishment permit issued by the Health Department.

Recommendation: When and if the respondent, Ann Smith, goes back into the baking business she obtains the proper permit from the Cattaraugus County Health Department.

Motion made by Mr. Haberer to accept the Hearing Officer's recommendation; it was seconded by Mrs. Raftis, and unanimously approved.

Board Ordered: Ms. Smith is to obtain proper permits for any future baking business that is conducted in Cattaraugus County.

**DOCKET 14-045**

**Darel Tingue Corner Sports Bar and Grill, Inc., 8383 Kingsbury Hill Road, Franklinville, NY 14737 Violations: 10 NYCRR Sec. 5-1.72(c) (1)** respondent failed to submit complete daily records for the operation of the non-community water supply for the month of October 2014 to this office by the 10<sup>th</sup> day of the following month. The respondent has also failed to submit the complete daily records for November 2014.

**Administrative Hearing: 1-6-15**

Public Health Sanitarian: Chris Covert appeared for CCHD and was sworn in.

Public Health Sanitarian: Elisha Rust appeared for CCHD and was sworn in.

Respondent: Darel Tingue, did not appear.



**DOCKET 14-045(continued)**

Testimony of Ms. Covert:

1. Enf.-1 was read and affirmed to be true by C. Covert, identified as Peoples Exhibit #1.
2. Respondent was properly served by certified mail of the pending enforcement action and date.
3. Respondent did not appear at the hearing.
4. Respondent purchased the Sports Bar and Grill in September 2014.
5. E. Rust testified that the Sports Bar and Grill is under a boil water mandate from the CCHD until equipment is repaired and or replaced.
6. E. Rust testified that he informed the respondent of the need and importance of filing the monthly operation reports.
7. Letter dated 12-2-14 to respondent explaining the importance of filing the monthly operation reports from C. Covert identified as P. E. #2.
8. The operating permit for Corner Sports Bar and Grill is attached identified as P.E. #3 states that the non-community water supply is an active operation category.

Hearing Officer Findings: That the respondent is in violation 10NYCRR Sec. 5-1.72 (c)

- (1) Failure to submit complete daily records for the operation of the non-community water supply for the months of October and November 2014 to the CCHD office by the 10<sup>th</sup> day of the following month due.

Recommendation: The \$100.00 civil compromise be changed to a fine and doubled in amount as the respondent did not appear at the administrative hearing. The \$200.00 fine must be paid on or before 3-16-15. Failure to comply will result in a \$10.00 per day per diem for every day late.

Motion made by Mr. Lapey to accept the Hearing Officer's recommendation; seconded by Mrs. Fox and unanimously approved.

Board Ordered: \$100 fine to be received on or before March 16, 2015 and a \$10 per day per diem fine if not paid by that date.

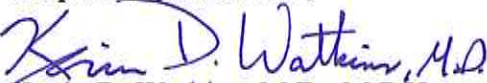
**OLD BUSINESS:** Dr. Watkins reported that staff was contacted by a former tattoo shop operator whose case remains open. The case dates back to 2012, **Docket 12-002 Robert Price/Inferno Studios, LLC, 21 Main Street, Bradford PA 16701** in which Mr. Price was found in violation of Article II, Part 26, Section 26.2.1 of the Cattaraugus County Sanitary code and was ordered by the Board to pay a fine of \$1,000 and a \$10 per day per diem. According to the person who phoned staff they stated that a Google search of their business results in the minutes of the Board of Health in which they were ordered to pay the fine. The business owner now desires to settle the matter and have the minutes of the Board of Health removed from the Google search. There was a lengthy discussion regarding the total amount currently due which is estimated at \$10,000.

Motion was made by Mr. Lapey to authorize Dr. Watkins to negotiation with Mr. Price of Inferno Studios to settle the pending enforcement case and that the amount of the fine must result in a stipulation of consent to enter an injunction to prevent him from doing tattooing in Cattaraugus County. Further, that if a payment plan is negotiated, after missing two months payments, the full cost of the fines and penalties will revert to its original amounts. Motion supported by Mrs. Raftis, motion unanimously carried.

Dr. Watkins reported that Mrs. Paula Stockman inquired if we encountered or seen anyone infected by the mosquito transmitted virus "Chikungunya virus". Dr. Watkins stated that he has conducted some research on the virus and found that it produces a debilitating sickness and that the virus is carried via certain types of mosquitoes. He stated that there were cases in New York City identified in people who traveled to the affected areas and to date there is no vaccine or treatment to prevent this illness. Mrs. Stockman stated that according to the newspaper article the patient presented at the New York City hospital and said that she thought she had the "chicken virus." Mrs. Stockman provided Dr. Watkins with the newspaper article from the Sunday Post Journal dated February 8, 2015. Dr. Watkins thanked Mrs. Stockman for the article and for bringing this to our attention once again.

Motion made by Mr. Lapey to adjourn if no further business to come before the Board at 1:45 p.m. Motion was seconded by Mrs. Raftus and unanimously approved.

Respectfully submitted,

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



Professional Advisory  
January 21, 2015

Present: Dr. Giles Hamlin, BOH  
Dr. Kevin Watkins, P.H.DIR., BOH  
Dr. Gilbert Witte, Medical Director  
Sandra Fox, RN, BOH  
Susan Andrews, DPS  
Mary Fay, NUTR  
Deborah Pettinato, MRT  
Tim Mager, OT  
Barb Parish, RN  
Carrie Ruffner, PT  
Tim Mager, OT  
Moira Kettry, Case Manager

Absent: Joan Breese, Dir. of Case Mgmt, OGH  
Carly Woodhead, SLP  
Carrie Ruffner, PT  
Elizabeth Bless, MSW

I. The Professional Advisory meeting was held in the Cattaraugus County 2<sup>nd</sup> floor conference room on Wednesday January 21, at 12:30PM. Attendance was taken as recorded above.

II. Review Tier 1 Potentially Avoidable Events Aug-Oct 2014:

Emergent care for Injury Caused by Fall (12 total, Olean- 6, Sala-1, Mach-5, < 2x reference).

Review of Olean patients care revealed that one event was reported in error due to inaccurate Outcome and Assessment Information Set (OASIS) documentation, and in the other 5 cases, Cattaraugus County Health Department (CCHD) had taken appropriate interventions prior to the fall. An example of closed chart audit includes:

1. Patient with dementia who was a resident of an assisted living facility with 24-hour supervision, received physical therapy and education was rendered to both patient and facility staff on fall prevention from CCHD. Patient fell during transfer with facility staff.

Review Salamanca/Machias events:

1. Patient in poor home environment, with some safety concerns, however patient and spouse desired patient to remain at home and physician agreed. Physical therapy and occupational therapy were started and the patient began to improve. Patient had an acute episode of diarrhea, causing weakness, which resulted in an unattended fall.

2. 66-year-old male with multiple medical problems. Initially, patient refused physical therapy, stating he follows a home exercise program and uses a stationary bike. CCHD identified patient as a fall risk and fall prevention interventions were put into place. Patient fell and was evaluated at local emergency room but was not admitted. CCHD nurse found him stumbling about the house at the next home visit. An ambulance was called and patient was admitted to hospital in Buffalo with a urinary tract infection.

d. Theft

- One unsubstantiated theft of clothing, which was reported to the police
- One alleged theft of controlled substance by a home health aide from licensed home health care agency

e. Staff Injury

- One motor vehicle accident – resulted only in vehicular damage
- No injuries reported due to lifting, falls or exposures

V. Recommendations

a. CCHD admission criteria was discussed. Reviewed Federal/state regulations - must be able to meet health and safety needs in home. Susan explained that we seldom refuse a patient into our services, and although some situations may be less than perfect, if the patient/caregiver choose homecare and physician approves we will provide care. Other agencies are known to evaluate referrals based on financial reimbursement they will receive and how the patient will affect their agency's outcome. The board generally agreed, recognizing our public health background, to continue with our current admission process, in coordination with the physician, but being careful to document situations which may not be ideal.

b. Authorization Process – The process we use to obtain authorizations from insurance companies was discussed. It can be very time consuming. The nurses should be focusing on patient care instead of performing support duties. All information can be located in record for a non-clinical person to submit authorization requests and related documentation. The board generally agreed that this should not be the responsibility of our homecare nurses.

VI. Adjournment

Next meeting will be held April 15, 2015



COUNTY OF CATTARAUGUS  
STATE OF NEW YORK  
**ENFORCEMENT LIST**

Hearing Officer: David Porter  
February 10, 2015

**DOCKET 14-041**

**Thomas A. Gilray, Sr. Sherwood Court 1474 Four Mile Road, Allegany, New York 14706**  
**Violations: 10 NYCRR Part 5-1.42 (d) (5) (vii) failed to monitor for lead and copper in the drinking water in Sherwood Court for the compliance period of 6/1/14 to 9/30/14.**

Previous dockets 13-014, 13-038

**Administrative Hearing: 2-10-2015**

Public Health Sanitarian: Chris A. Covert appeared for CCHD and was sworn in.

Respondent: Thomas A Gilray, respondent did not show, was properly served.

Testimony of Ms. Covert:

1. Peoples Exhibit #1 Enf.-1 was read and affirmed to be true and correct.
2. P. Ex.#1-a. a civil compromise of \$200.00 was offered with no reply.
3. P. Ex. #2 a letter dated 2-10-14 to the respondent providing the 2014 water sample schedule and the revisions to the lead and copper rule.
4. P. Ex. #3 Email to the respondent and water operator for the 2014 water sample schedule.
5. P. Ex.#4 NYS water sample schedules report for Sherwood Court.
6. P. Ex. #5 letter dated 2-4-15 to the respondent from C. Covert regarding 2015 water sample schedule, revisions to lead and copper rule and a reminder of monetary penalty if not completed on time.
7. P. Ex. #6 Sample letter provided for respondent for test results to Customers sent 2-4-15
8. P. Ex. #7 lead education information to respondent sent 2-4-15.
9. P. Ex. #8 information sent to Laurie Jobe, water operator for the respondent which is identical to P. Ex. #4 through P. Ex. #7 sent on 2-4-15.
10. P. Ex. #9 letter dated 12-2-14 to the respondent with a CC to L. Jobe, water operator for the respondent. Subject matter notice of violation for not performing sampling and testing for lead and copper for the compliance period 6/1/14 through 9-30-14.

Hearing Officer Findings: That the respondent failed to monitor for lead and copper in the drinking water in Sherwood Court for the past four years.

Recommendation: 1. Mr. Gilray be fined in the amount of \$400.00 for failure to



CATHY MACKAY

*Director, Department of Aging*

DAN PICCIOLI

*Commissioner, Social Services*

**Cattaraugus County Healthy Livable Communities Consortium  
March 5, 2015  
Bethany Lutheran Church, Olean  
11 AM – 1 PM**

- Welcome/ Intros/ Housekeeping – Watkins and Mackay
- Food and Facility costs TY – Catt Co HD Match grant through P2
- Watkins and Parks – Healthy Vending/Meeting policies
- Parks – Sugar-sweetened Beverages (SSBs) survey
- Naloxone – Southern Tier Health Care System
- Complete Streets Olean - Mayor Aiello
- Healthy Community Alliance: Obesity Prevention Work – Traci Hopkins
- Physical Activity Break – YMCA staff

**Dr. Peter Orris:** Attending Physician Rush University Medical Center, Chicago, Illinois; University of Illinois Hospital and Medical Center, Chicago, Illinois

*Public Health: Thinking Globally, Acting Locally*

Introduced by Athena Godet-Calogeras and Dr. Kevin Watkins



LOCAL LAW NUMBER 16 - 2011  
COUNTY OF CATTARAUGUS, NEW YORK

Pursuant to Article 13F of the Public Health Law.

A LOCAL LAW REGULATING ELECTRONIC  
CIGARETTES ("E-CIGARETTES") AND HERBAL CIGARETTES

BE IT ENACTED by the County Legislature of the County of Cattaraugus as follows:

SECTION 1. Legislative Intent: The Legislature hereby makes the following findings and determinations:

a) The Legislature hereby finds and determines that new, unregulated high-tech smoking devices, commonly referred to as electronic cigarettes or e-cigarettes, have recently been made available to consumers. To "smoke" e-cigarettes, users inhale vaporized liquid nicotine created by heat through an electronic ignition system. The vapors are expelled through a cartridge that usually contains a concentration of pure nicotine. The cartridge and ignition system are housed in a device created to look like a traditional cigarette, cigar or pipe. After inhaling, the user then exhales the heated vapors producing a "cloud" of undetermined substances that is virtually indistinguishable from cigarettes, cigars and pipes.

b) The Legislature also finds that the nicotine content in e-cigarettes can vary in doses and presents a significant risk of rapid and or continual addiction.

c) The Legislature also finds that it is not in the best interests of the County or its residents to permit the use of e-cigarettes in public places or to permit their sale to persons under the age of eighteen (18).

d) The Legislature also determines that protecting Cattaraugus County residents from an untested nicotine product like e-cigarettes represents sound public health and fiscal policy.

e) Therefore, the purpose of this Local Law is to prohibit the smoking of e-cigarettes, herbal cigarettes, and like products in public places where traditional forms of smoking are already disallowed and to ban the sale of such products to persons under the age of eighteen (18).

SECTION 2. Definitions: As used in this Local Law, the following terms shall have the meanings indicated:

a) "electronic cigarette" or "e-cigarette" shall mean any battery operated device designed to emit a nicotine vapor upon inhalation without being lit. E-cigarettes are composed of a battery, a heating element or atomizer, and a cartridge. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name or style.

b) "electronic cigarette cartridge" or "e-cigarette cartridge" means a component of an e-cigarette that contains liquid nicotine.

c) "food service establishment" and "person" shall, for the purpose of this local law, be defined as such terms are defined in Public Health Law Section 1399-aa.

d) "herbal cigarettes" (also called tobacco free cigarettes or nicotine-free cigarettes) shall mean any product made primarily of an herb or combination of herbs, and

intended to be smoked in any of the methods that tobacco is smoked, including but not limited to, as cigarette, cigar or pipe filler.

e) "Board" shall mean the Cattaraugus County Board of Health.

SECTION 3. Sale to Minors Prohibited:

a) Any person operating a place of business wherein electronic cigarettes are sold or offered for sale is prohibited from selling such electronic to individuals under eighteen (18) years of age, and shall post in a conspicuous place a sign upon which there shall be imprinted the following statement: "SALE OF ELECTRONIC TO PERSONS UNDER 18 YEARS OF AGE IS PROHIBITED BY LAW". Such sign shall be printed on a white card in red letters at least one-half inch in height.

b) Sale of electronic cigarettes shall be made only to an individual who demonstrates, through (1) valid drivers license or non-drivers identification card issued by the Commissioner of Motor Vehicles, the federal government, any United States territory, commonwealth or possession, the District of Columbia, a state government within the United States or a provincial government of the Dominion of Canada; or (2) a valid passport issued by the United States government or any other country; or (3) an identification card issued by the Armed Forces of the United States, that the individual is at least eighteen (18) years of age. Such identification need not be required of any individual who reasonably appears to be at least twenty five (25) years of age, provided, however, that such appearance shall not constitute a defense in any proceeding alleging the sale of electronic cigarettes to an individual under eighteen (18) years of age.

(c) (1) No retailer or vendor shall display or store products containing herbal or electronic cigarettes, electronic cigars, electronic pipes, or under any other product name or style, in a manner which allows direct access to the product by the customer prior to the purchase.

(2) No vendor shall allow vending machines containing electronic cigarettes, electronic cigars, electronic pipes, or under any other product name or style to be placed in any location accessible to a person under the age of eighteen (18).

(3) (i) Any person operating a place of business wherein electronic cigarettes are sold or offered for sale may perform a transaction scan as a precondition for such purchases.

(ii) In any instance where the information deciphered by the transaction scan fails to match the information printed on the driver's license or non-driver identification card, or if the transaction scan indicates that the information is false or fraudulent, the attempted transaction shall be denied.

(iii) In any proceeding pursuant to this local law, it shall be an affirmative defense that such person had produced a driver's license or non-driver identification card apparently issued by a governmental entity, successfully completed that transaction scan, and that the electronic cigarettes had been sold, delivered or given to such person in reasonable reliance upon such identification and transaction scan. In evaluating the applicability of such affirmative defense, the Board shall take into consideration any written policy adopted or implemented by the seller to effectuate the provisions of this local law. The use of a transaction scan shall not excuse any person operating a place of business wherein electronic cigarettes are sold, or the agent or employee of such person, from the exercise of reasonable diligence. Notwithstanding



the above provisions, any such affirmative defense shall not be applicable in any civil or criminal proceeding, or in any other forum.

SECTION 4. Restrictions on Smoking Herbal or E-Cigarettes:

The smoking of herbal or electronic cigarettes shall not be permitted and no person shall smoke electronic or herbal cigarettes in indoor areas open to the public in which smoking is prohibited or restricted pursuant to Public Health Law Section 1399-o. For violations of this section, it shall be an affirmative defense that during the relevant time period actual control of the indoor area open to the public was not exercised by the respondent, but rather by a lessee, a sub-lessee or any other person. To establish an affirmative defense, the respondent shall submit an affidavit and may submit any other relevant proof indicating that the respondent did not exercise actual control of said area during the relevant time period. Such affidavit and other proof shall be mailed by certified mail to the Board within 30 days of receipt of such notice of violation.

SECTION 5. Enforcement:

a) The Board shall have sole jurisdiction to enforce the provisions of this local law.

b) If the Board determines after a hearing that a violation of section 3 of this local law has occurred, the Board may impose a civil penalty in the same amount as provided in Public Health Law Section 1399-ee(2), as the same may be amended from time to time. Presently, such civil penalties are as follows: in the minimum amount of \$300, but not to exceed \$1,000 for a first violation, and a minimum of \$500, but not to exceed \$2,000 for each subsequent violation. No other penalty, fine or sanction may be imposed, provided that nothing herein shall be construed to prohibit the Board from commencing a proceeding for injunctive relief to compel compliance with this local law.

c) If the Board determines after a hearing that a violation of Section 4 of this local law has occurred, the Board may impose a civil penalty in the same amount as provided in Public Health Law Section 1399-ee(2), as the same may be amended from time to time. Presently, such civil penalties are as follows: in the minimum amount of \$300, but not to exceed \$1,000 for a first violation, and a minimum of \$500, but not to exceed \$2,000 for each subsequent violation. No other penalty, fine or sanction may be imposed, provided that nothing herein shall be construed to prohibit the Board from commencing a proceeding for injunctive relief to compel compliance with this local law.

d) Hearings held pursuant to the authority of this local law shall be conducted pursuant to the procedures set forth in the Cattaraugus County Sanitary Code by the Board or its designee.

e) The decision of the Board shall be reviewable pursuant to Article 78 of the Civil Practice law and Rules.

f) The County Attorney may bring an action in the name of Cattaraugus County and/or the Board to recover the civil penalty provided by this local law in any court of competent jurisdiction.

SECTION 6. Reverse Preemption: This Local Law shall be null and void on the day that State-wide or federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the County of Cattaraugus. The County Legislature may determine by resolution whether or not identical or substantially similar state-wide legislation has been enacted for purposes of triggering the provisions of this section.

SECTION 7. Applicability: This law shall apply to all actions occurring on or after the effective date of this Local Law.

SECTION 8. Severability: If any clause, sentence, paragraph, subdivision, section or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its application to the person, individual, corporation, firm partnership, entity or circumstance directly involved in the controversy in which such order or judgment shall be entered.

SECTION 9. SEQRA Determination: This Legislature, being the state environmental quality review act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II Action pursuant to Section 617.5 (c) (20), (21), and/or (27) of Title VI of the New York Code of Rules and Regulations and within the meaning of Section 8-0109 (2) of the New York Environmental Conservation Law as a promulgation of regulations, rules, policies, procedures and legislative decisions in connection with continuing agency administration, management and information collection. The County Administrator is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

SECTION 10. Effective Date: This law shall take effect sixty days after its filing in the Office of the Secretary of State.

Resolution Referred to:

Finance	<input checked="" type="checkbox"/>	Human Services	<input checked="" type="checkbox"/>
Co. Operations	<input type="checkbox"/>	Develop. & Ag	<input type="checkbox"/>
DPW	<input type="checkbox"/>	Public Safety	<input type="checkbox"/>
Senior Services	<input type="checkbox"/>	Labor Relations	<input type="checkbox"/>
Strategic Planning	<input type="checkbox"/>		<input type="checkbox"/>