



# CATTARAUGUS COUNTY BOARD OF HEALTH

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



**Public Health**  
Prevent. Promote. Protect.  
Cattaraugus County  
Health Department

Established 1923

*Joseph Bohan, MD, President*

*Giles Hamlin, MD, Vice-President*

*Zahid Chohan, MD*

*Sondra Fox, RN*

*Richard Haberer*

*Theresa Raftis*

*David L. Smith*

*James Snyder*

*Kathryn Cooney Thrush, NP*

## MINUTES February 7, 2017

The 853<sup>RD</sup> meeting of the Cattaraugus County Board of Health was held at The Point Restaurant, 800 East State Street, Olean, New York on February 7, 2017.

The following members were present:

Dr. Joseph Bohan

Dr. Giles Hamlin

Mrs. Sondra Fox, RN

Mr. Richard Haberer

Ms. Theresa Raftis

Mr. David L. Smith

Mr. James Snyder

Kathryn CooneyThrush. NP

Also present were:

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

Eric Firkel, County Attorney

Barb Hastings, County Legislator

Sue Labuhn, County Legislator

Donna Vickman, County Legislator

Gilbert Witte, MD, Medical Director

Dave Porter, Hearing Officer

Rick Miller, Olean Times Herald

Susan Andrews, Director of Nursing

Kathy Ellis, Administrative Officer

Raymond Jordan, Sr. Public Health Sanitarian

Debra Lacher, Secretary to Public Health Director

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

Mr. Haberer made a motion to approve the minutes of the Board of Health (BOH) meeting held on February 7, 2017, it was seconded by Dr. Hamlin and the motion was unanimously approved.

The nominating committee this year consisted of Theresa Raftis and Sondra Fox. Mrs. Fox reported that the nominating committee was recommending Dr. Joseph Bohan for President and Dr. Giles Hamlin as Vice President for the BOH. A motion was made by Mr. Snyder to accept this recommendation, it was seconded by Mr. Smith and unanimously approved.

Dr. Bohan acknowledged that a communication was sent by Sandra Watkins thanking the Board for the donation they made to the Alzheimer Association in honor of her mother after her passing.

Dr. Bohan introduced and welcomed Eric Firkel, the new County Attorney to his first Board of Health meeting.

Dr. Bohan thanked Julie Hamacher, for her time on the Board. A formal letter and certificate has been mailed to her in appreciation of her service.

Dr. Bohan welcomed the new Salamanca representative, Kathryn Cooney Thrush to the board who was recently appointed by the Cattaraugus County Legislature. He stated that she is a nurse practitioner who received her B.S. and Master's Degree from Damien College. Her past employers include Bradford Hospital, the Seneca Nation of Indians Health Department, Total Senior Care in Olean, and she is currently a primary care provider at the Warren, Pa. Clinic, Veterans Association. Additionally, she has a certification in pain management and diabetes counseling.

**DIRECTORS REPORT:** Dr. Watkins congratulated Dr. Bohan and Dr. Hamlin for being reelected as President and Vice President for 2017. He also welcomed County Attorney Firkel to his first BOH meeting.

Dr. Watkins informed the board about the recent influenza activity, he stated that influenza is rising nationwide and currently in NYS, influenza is described as being widespread. He went on to say that during the week ending January 28, 2017 there were 5,235 laboratory-confirmed influenza reports in NYS, which is a 20% increase from the previous week.

He added that of the 66 specimens tested at Wadsworth Center, 41 were positive for influenza. 31 were influenza A (H3), 2 were influenza A (Not Subtyped), and (8) were influenza B. The number of patients hospitalized throughout the state with laboratory-confirmed influenza was 961, which is a 4% increase over last week.

Dr. Watkins reported that there has been a total of (4) influenza associated deaths in New York State but none in Cattaraugus County. In addition, there has been a number of admissions to our local emergency room for influenza like illnesses recently. He stated that vaccination remains the first and most important step towards preventing influenza. Clinicians should continue vaccinating any unvaccinated individuals during the remainder of 2017 influenza season. If a person is suspected of having influenza an antiviral medication like Tamiflu should be given. The treatment should begin as soon as possible preferably within 48 hours of becoming sick.

Handouts were provided to those in attendance for Board action items. The first was an immunization fee schedule for the clinic. Dr. Watkins explained that the cost of vaccines continues to fluctuate throughout any given fiscal year and it is important to try to recoup some of the cost for the department. He referred the board to the handout comparing 2016 immunization fees to the proposed 2017 immunization fees. Dr. Bohan asked what individuals would be designated to receive the rabies immunoglobulin vaccine. Dr. Watkins stated that any individual that receives a bite or a lick in an open wound, from a suspected rabid animal that cannot be captured, to test the rabies status, or one that tested positive for rabies should be given this vaccine. Dr. Watkins explained that there is no cost to Cattaraugus County residents for any rabies vaccine. He stated that the Health Department must take on the expense, but if the individual has insurance, the insurance company would be billed. Mr. Smith asked why this particular vaccine is so costly, is it because of supply and demand, usage issues, or greed.

Dr. Watkins stated that the cost fluctuates due to availability, and it depends on the manufacturer selling the vaccine. A motion was made by Mr. Haberer to accept the proposed 2017 clinic immunization fees as presented, the motion was seconded by Mrs. Fox and unanimously approved.

The second action item brought to the Board were uncollected debts to write off from the department's 2016 account receivables. Dr. Watkins explained how various divisions within the department accumulated uncollected debt from customer's inability to pay. He asked the Board for approval to write off the 2016 uncollected debit. Homecare, \$9,070.97; family planning, \$5,540.98; immunization clinic, \$465.00; environmental health (water), \$1,454.00 and laboratory, \$215.00. The total amount the department is requesting to write off for 2016 is \$16,745.95 this is \$1,545.38 less than what was written off of the 2015 uncollected debit. A motion was made by Mrs. Fox to send the requested uncollected 2016 debt to the legislature to write off the department's account receivables, the motion was seconded by Mr. Smith and unanimously approved.

Dr. Watkins informed the Board that a resolution request had been sent to the legislature requesting a fee increase for services provided within the environmental health division of the department. He stated that the fees in the environmental health division had not been increased since 2011. He added that increasing these fees will require a change in the local law. A public hearing has been set for February 22, 2017 and a copy of the proposed fee increases were distributed to those in attendance for their review. A motion was made by Ms. Raftis to approve the submission of the resolution request to the legislature to increase the environmental health division fees, the motion was seconded by Dr. Hamlin and unanimously approved.

Dr. Watkins shared information regarding the statistics from the heroin opioid epidemic that has been plaguing western New York, especially Cattaraugus County. There was (1) death in 2014, (11) deaths in 2015, and unofficially, about (10) deaths are on record for 2016 in Cattaraugus County due to heroin/opioid overdoses. He stated that a number of resources were needed by our county to get through this epidemic including: a need for inpatient beds, a need for medicated assisted treatment along with outpatient therapy, and a need for a county wide resource coordinator to refer residents to services that are available to users and family of users within the region. One of the local substance abuse treatment centers, Council on Addiction Recovery Services, Inc. (CAREs) has recently received a 2 million dollar grant to start a capital project to add (20) new beds to its current facility in Weston Mills. The project should get underway by March and the structure for the program will be based on a redesign model that will offer stabilization and preventative therapy for clients. Clients will be allowed to stay in the facility for extended treatment, up to one year if needed. In addition, a \$750,000 grant has been awarded to WCA hospital in Chautauqua County to add (20) new residential beds as well. There has also been a new wing that has opened at CAREs current facility in Olean to allow medicated assisted therapy to be administered to residents as well. This facility will offer Suboxone, Vivitrol, and nicotine replacement therapy. CAREs will offer a new resource hotline during working hours that will go live later this month, and the Department of Community Services has offered their crisis hotline to residents after normal working hours. Dr. Watkins reminded the Board that just a year ago, a campaign was started to increase resources for our community and now we are seeing many things come into fruition for our residents. He informed the Board that Erie County Executive Director has announced that he will be suing Johnson & Johnson, Purdue Pharm, Janssen Pharmaceutical, and Teva Pharmaceutical, the big opioid manufactures producers, and four individual physicians for misrepresenting the dangers of opioid use. Dr. Bohan congratulated the task force for accomplishing so much in such a short time.

Sue Labuhn, Legislator stated that she thought it was imperative that a discussion was held regarding entering into a class action lawsuit against these manufacturers. Dr. Witte asked how difficult it would be to join the lawsuit that is already in progress.

County Attorney, Mr. Firkel stated that his office could look into a class action lawsuit but it was his understanding that counties were filing individual suits, not a class action lawsuit. A discussion was held regarding the costs for treatment of drug users in Cattaraugus County. Attorney Firkel stated that if the County was going to file an individual law suit, we would need hard numbers of what the County spent in regards to this crisis. Attorney Firkel suggested that Dr. Watkins do a rough analysis of numbers to see how much was the public health cost and then together they would present a more complete report for the next BOH meeting. Mrs. Fox asked if this lawsuit might be something the State Attorney General might look into pursuing. Attorney Firkel stated he does believe that Attorney Schneiderman may already be looking into this scenario.

Dr. Watkins reported that February is Heart Health Month, and it is part of the American Heart Association's awareness campaign against cardiovascular disease and stroke, particularly in women. Mrs. Fox shared a recent incident that she experienced that lead to a diagnosis of atrial fibrillation and resulted in a three day hospitalization. She shared that her symptoms started out similar to a flu like illness, progressed to high blood pressure, and fatigue. She stated that like most people, she did not seek immediate medical attention but waited until the next day due to a persistent abnormal pulse rate and fatigue. Dr. Watkins reiterated that men and women are quite different when it comes to recognizing the symptoms of a heart attack. He stated that women pain can be felt in either arm, the back, neck or jaw. Other signs in women can include fatigue, shortness of breath, atypical chest pain brought on during rest rather than activity or triggered by emotional stress. He stressed that if a person experience these symptoms or just feel like something is not quite right, they should call their doctor or have someone drive them to the ER, especially if the symptoms get worse with exercise. It may be nothing, but then again, it might a cardiovascular event.

**NURSING DIVISION REPORT:** Mrs. Andrews reported on the monthly communicable diseases, she stated that the department has recorded lower numbers than previous months. Hepatitis B (acute and chronic), pertussis, salmonella, strep B, and syphilis were all less than the normal 3 year average occurrence. Communicable diseases that were higher included cryptosporidiosis, giardiasis, Lyme disease, and gonorrhea. Last month there were (9) new gonorrhea cases, (28) cases of chlamydia and no Zika virus tests were performed.

Mrs. Andrews reported that the department's immunization rates are down in children up to age 35 months. She speculated that some of the lower rates are due to the data exchange between the Electronic Medical Records (EMR)'s, provider's offices, and the New York State registry.

A child with an elevated blood lead level of 38 ug/dl (normal is < 9 ug/dl) was identified in Olean last month, the child was found to be chewing on the window sills of his home. Environmental Health conducted an investigation at the home and found many health hazards. The family is looking to relocate.

Mrs. Andrews reported that the current homecare census is (346) which is a little higher with (130) admits but down prior to the numbers that preceded the addition of another certified agency within the county.

Work continues with the millennium Delivery System Reform Incentive Plan (DSRIP) implementing measures to reduce the number of acute care hospitalization, and improve advance care planning. Mrs. Andrews reported that the family planning clinic is experiencing an increase in the number of individuals choosing to have an intrauterine device placement for contraception.

**ENVIRONMENTAL DIVISION REPORT:** Mr. Jordan reported that there were (279) animals vaccinated at the last rabies clinic in January which included dogs, cats, and ferrets.

In November Dr. Watkins asked for the approval of the renewal of (3) smoking waivers for facilities within the county. Mr. Jordan reported that he inspected the facilities and (2) waivers were renewed for 2017, as one of the facilities, Off Track Betting, had gone out of business.

A handout was provided to all that were in attendance regarding hyperventilation and breath holding while swimming. Mr. Jordan revealed that there was a near drowning at the beginning of January at one of the school pools contributed to underwater breath holding. He stated that the victim was attempting to swim a lap in the school pool when she ran out of oxygen and sunk to the bottom of the pool. Two lifeguards were on duty and pulled the victim from the pool, the victim had no pulse or respiration. They resuscitated the victim, and called 911. The victim was taken to Buffalo Children's Hospital and released the next day. Mr. Jordan informed the board that due to this event, environmental health is now in the process of putting together a packet on the dangers of underwater breath-holding behaviors to distribute to all of the pools and bathing facilities in Cattaraugus County.

A twelve page status report was handed out to everyone in attendance regarding information on lead in school drinking water. The report included a timeline for the new regulation, statistics, and school requirements that must be met. In addition, another handout was distributed showing the potable water lead test results of all school districts within Cattaraugus County. This information was obtained from the State's data base.

Mr. Jordan remarked that after reviewing the results of this report, it appears that all school districts have complied with the new regulations. Dr. Watkins added that column H on the report showed the number of outlets that had lead levels greater than the allowable level (15 parts per billion) for lead in drinking water. He added that schools are required to shut down those particular outlets and restore the lead solder that is around those pipes or replace the pipes/solder with something else. Most of the schools in our county have had some outlets that tested above the action level (15 parts per billion) for lead in drinking water. Two schools, Allegany-Limestone, and Ellicottville reported that none of its outlets had lead levels higher than 15 parts per billion. Dr. Bohan asked if there was a service that would test an individual's home water for lead. Mr. Jordan affirmed that there were private labs that would provide this service for \$25.00. Dr. Watkins reiterated that lead based paint and lead contaminated dust in older buildings are the most common cause for lead poisoning in our children. Dr. Watkins stated that the information regarding private lead testing will be provided at the next Board of Health meeting. Mrs. Hastings asked how much water a child would have to drink to be at risk. Dr. Watkins answered that they would have to have several years of drinking water at very high lead levels in order demonstrate lead toxicity. Mr. Smith attested that at his facility, Gowanda Schools, they tested every outlet that could be used to access water, and although some outlets had to be taken out of commission, the State's guidance was excellent detailing how to remediate the fixtures.

**ENFORCEMENT REPORT:** Mr. Porter reported on the following enforcement cases held January 17, 2017.

**DOCKET #16-048**

**Respondent: Victoria Young, 119 N. Clinton St. Olean, NY. Violation: Respondent failed to submit the required rabies vaccination certificate for her dog Zeppelin by the prescribed date following a human/animal exposure on October 21, 2016. Sanitary code of the CCHD Part 24.2.5.**

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

Respondent: Ms. Victoria Young, respondent, appeared.

Recommendation: The respondent was unable to provide proof of vaccination due to domestic separation. Respondent took advantage of CCHD rabies clinic and had her dog vaccinated. Respondent is in compliance and the recommendation is to close the case.

A motion to approve this recommendation was made by Mr. Haberer, seconded by Mrs. Fox and unanimously approved.

**DOCKET #16-038**

**Respondent: The Birdwalk, Inc. 5816 Rt. 242E, Ellicottville, NY 14731, Ms. Laurie Barrett, Owner. Violation: 10NYCRR Sec. 5-1.72 (c) (1) respondent failed to submit complete daily records for the operation of the non-community public water supply for the month of October 2016, to this office by the 10<sup>th</sup> day of the following month.**

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

Respondent: Ms. Laurie Barrett, respondent, appeared and was sworn in.

Recommendation: That the respondent pay:  
1.) Respondent pay \$200.00 fine on or before 2-28-17.  
2.) \$10.00 per day per diem will be levied for every day late.

A motion to approve this recommendation was made by Mr. Smith, seconded by Dr. Hamlin, and unanimously approved.

Mr. Porter reported on the following enforcement case held December 13, 2016:

**DOCKET #16-045**

**Respondent: Mr. Mark A Stavish, Don's Tavern of Olean, LLC 659 E. State Street, Olean, NY 14760. Stavish's Parkwood Tavern 659 E. State Street, Olean, NY 14760. Violation: Sanitary code of the Cattaraugus County Health District Sec. 8.4 the facility has been preparing and serving food which is in violation of condition #3 on the current permit to operate which was issued on 9/8/16.**

**DOCKET #16-045 (Continued)**

Sr. Public Health Sanitarian: Ray Jordan and Richard Dayton, Public Health Sanitarian appeared for CCHD and was sworn in.

Respondent: Mark Stavish appeared.

Recommendation: Consider docket #16-045 closed for the following reasons:

- 1.) Fine of \$500.00 paid 11-16-2016.
- 2.) Respondent lost revenue of approximately \$1,000.00 (11-28 2016 thru 12-13-2016) serving bottled and pre-packaged food only.) Employees lost income.
- 3.) Current permit to operate expires 3-31-2017, pending unannounced re-inspections.
- 4.) Appears as if fines levied against the respondent do not have the desired effect of compliance but the loss of permit to operate does. At the present time the respondent's restaurant, Stavish's Parkwood Tavern, is in substantial compliance of CCHD sanitary codes and allowed to operate.

A handout was provided showing pictures of the latest inspection at Stavish's Parkwood Tavern who has now come into compliance with the Board Order. Dr. Watkins met with the County Attorney, it was decided to grant Mr. Stavish a quarterly permit to serve regular food and drink at his facility.

A motion was made to accept this recommendation by Mr. Haberer, seconded by Dr. Hamlin, and unanimously approved.

There being no further business to discuss, a motion to adjourn was made by Mr. Haberer, and seconded by Mr. Smith and unanimously approved.

Respectfully submitted,



Kevin D. Watkins, M.D., M.P.H.  
Secretary to the Board of Health



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*Kevin D. Watkins, M.D., MPH, Public Health Director*

*Gilbert N. Witte, M.D.*  
Medical Director

*Kathleen M. Ellis*  
Administrative Officer

COUNTY OF CATTARAUGUS  
STATE OF NEW YORK

## ENFORCEMENT LIST

Hearing Officer: David Porter

### Administrative Hearing 2-14-2017

#### DOCKET #17-002

**Respondent: Sharon Rockwell, 6860 Sweeney Hill Road, Cattaraugus, NY 14719. Violation: SCCCHD 24.2.5 Respondent failed to submit the required animal confinement and rabies certificate for her dogs by the prescribed date following a human exposure on 11-22-16.**

Public Health Sanitarian: Mike Hastings, Public Health Sanitarian appeared for CCHD and was sworn in.

Respondent: Sharon Rockwell, respondent, appeared.

#### Mr. Hastings's Testimony:

- a.) Enf.-1 read and affirmed to be true and correct identified as Peoples Exhibit #1 And timeline for dog bite.
- b.) Animal bite form from OGH I.D. as P.E. #2.
- c.) Letter sent to respondent explaining animal confinement period and date to return I.D. as P.E. #3.
- d.) Animal confinement form dated I.D. as P. E. #4.
- e.) Rabies vaccination certificates as P.E. #5.

Hearing Officer Findings: a.) The Respondent is in violation of sanitary code of CCHD Part 24.2.5 failure to submit the required confinement and rabies certificate by 12-8-16 to CCHD.

Recommendation: 1.) Consider Docket #17-002 closed due to full compliance by the respondent. Confinement and rabies certificate received by CCHD.

# CLINIC IMMUNIZATION RATES

Effective (proposed) 3/1/2017

Sliding Fee Charges only

\*Commercial Insurance has a 30% mark-up\*

CPT Code	IMMUNIZATION	ICD 10 Code	2016 Vaccine only		Admin		2017 Vaccine only	
			Actual Cost 2016	Sliding Fee Payment 2016	Sliding Fee	Ins	Actual Cost 2017	Sliding Fee Payment 2017
90471	Administration, single injection (15 mins.)				\$10.00	\$53.58		
90472	Administration, two or more injections (Daily Maximum)				\$15.00	\$107.16		
G0008	Administration, flu - (Medicare Code)							
G0009	Administration, PPV - (Medicare Code)							
90715	Tetanus, Diphtheria & Pertussis (TdaP)	Z23	\$33.01	\$33.00			\$33.01	\$33.00
90714	Tetanus, Diphtheria (Td) - Ages 7 and older	Z23	\$25.77	\$30.00			\$32.27	\$33.00
90651	Gardasil 9 (HPV vaccine) - Female - Age 11-26 Male - Age 11-21	Z23	\$170.63	\$171.00			\$185.17	\$186.00
90632	Hepatitis A - Ages 19 and older	Z23	\$47.83	\$48.00			\$46.89	\$48.00
90632	Hepatitis A - Ages < 19	Z23	n/a	n/a			\$23.81	\$24.00
90746	Hepatitis B - Ages 20 and older	Z23	\$38.72	\$39.00			\$38.72	\$39.00
90636	Hepatitis A & B (twintrix) - Ages 18 and older STD	Z23	\$71.04	\$72.00			\$71.04	\$72.00
90281	Immune Globulin - General (usually 2cc for travel) Hep A exposure	Z23	\$37.19/2cc	\$38.00/2cc			\$37.19/2cc	\$38.00/2cc
90658	Influenza 19 yrs and older	Z23	\$15.88	\$25.00			\$16.35	\$25.00
90662	Influenza - High Dose (Medicare only)	Z23	\$30.99	Medicare only			\$37.52	Medicare only
90713	Inactivated Polio Vaccine (IPV)-2 months and older	Z23	\$30.17	\$31.00			\$29.30	\$31.00
90738	Japanese Encephalitis	A83.0	\$236.35	\$243.00			\$286.96	\$287.00
90733	Meningococcal (A/C/Y/W135) Menomune MPSV4 Ages 2 years and older	Z23	\$123.07	\$124.00			\$119.49	\$124.00
90734	Meningococcal Conjugate Menveo - Ages 2-55	Z23	\$97.78	\$103.00			\$97.78	\$103.00
90734	Meningococcal Menactra	Z23	\$104.91	\$105.00			\$104.16	\$105.00
90620	Bexsero	Z23	\$153.65	\$155.00			\$153.65	\$155.00
90707	Measles, Mumps, Rubella (MMR) - Ages 1 and older	Z23	\$60.48	\$63.00			\$64.72	\$65.00
90670	PCV 13	Z23	\$158.82	\$159.00			168.36	\$169.00
90732	Pneumococcal Polysaccharide (Pneumovax) - Ages 2 and older	Z23	\$77.32	\$78.00			\$75.78	\$78.00
90375	Rabies Immune Globulin	Z41.8	\$572.32/2cc	\$573.00/2cc			\$700.86/2cc	\$701.00/2cc
90675	Rabies Vaccine-Post Exposure	Z23	\$225.76	\$226.00			\$225.76	\$226.00
90675	Rabies Vaccine-Pre Exposure***	Z23	\$225.76	\$226.00			\$225.76	\$226.00
90384	Rhogam	Z23	\$107.38	\$117.00			\$87.55	\$117.00
90691	Typhim - Ages 2 and older	Z23	\$85.70	\$86.00			\$83.15	\$86.00
90716	Varicella - Ages 1 and older	Z23	\$106.82	\$107.00			\$112.76	\$113.00
90717	Yellow Fever - Ages 9 months and older	Z23	\$136.44	\$137.00			\$132.38	\$137.00
90736	Herpes Zoster (Zostavax) - Ages 60 and older	Z23	\$194.17	\$195.00			\$203.49	\$204.00

\*\*\*Contracted Municipalities provided a 50% discount on Rabies Pre-exposure for Dog Control Officers

# ENVIRONMENTAL HEALTH FEES

	Allegany	Cattaraugus	Cayuga	Chautauqua	Chemung	Clinton	Eric	Madison	Wyoming	NY State
Effective Date	4/1/2016	8/1/2011	2014	1/1/2011	9/1/2015	1/1/2014	1/1/2006	1/1/2011	4/1/2015	1/1/1988
Population	48,946	80,317	82,000	134	88,830	80,000	919,086	73,442	41,531	
Exemptions for Non-profit	Yes	No	Yes	Yes	limited	No	Yes	Yes	Yes	Some
<b>FOOD PROTECTION</b>										
Food Service Establishment										
High Risk	175.00	125 - 210	145.00	300.00/2 yrs.	201.00	130 - 165	147 - 282	210.00	220.00	75 - 150
Medium Risk	150.00	100.00	110.00	200.00/2 yrs.	174.00	105 - 115	147 - 282	185.00	110.00	75 - 150
Low Risk	125.00	75.00	75.00	100.00/2 yrs.	123.00	75.00	79 - 282	135.00	85.00	75 - 150
Temporary Food Service	50.00	40.00	30.00	40 - 80	20 - 50	65 - 130	106 - 190	40.00/event	55/event	30.00
Frozen Dessert	75.00	25.00	25.00			40.00	25.00			
Commissary/Caterer	100.00	210.00	70.00				79 - 282		220.00	200.00
Mobile Food Vendor	75.00	75 - 125	45 - 75	75 - 125	105.00	105.00	147.00	fee fee +25	85 - 110	30.00
Vending Machine	50 + 10/machine		15/site		70 + 12/ site (max. 200)	40.00		160.00/unit		
<b>CAMPS AND RECREATION</b>										
Children's Camp	250.00	200.00	200.00	100.00	200.00	200.00	100.00		100.00	200.00
Hotel/Motel	125 - 150	75 - 175	70 - 140	125 - 450	125 + 5/unit	130 - 265	196 - 600	200.00	85 - 140	50 - 400
Campground	150 - 175	75 - 175	70 - 140	125.00	100 - 200	130 - 265	300.00	85 - 235	85 - 140	50 - 250
Mass Gathering	1000 - 1500	1000 - 1500	25000-100000			3,300.00		85 - 185	200 - 600	500.00
Swimming Pool	125.00	100.00	70.00	75.00	125 - 165	45 - 110	376.00	2000/event+exp	75 - 165	50 - 100
Bathing Beach	125.00	75.00	70.00	75.00	125 - 165	45 - 110	376.00	150 - 185	75 - 165	30 - 70
Spray Park								100.00		
Agricultural Fair	150.00		155.00							
Migrant Labor Camp		150.00	280.00	75.00		130 - 250	376 - 600		150.00	50 - 100
Food		75.00					79 - 282	150.00		
Rooming House/B & B						120 - 240	150/na			
<b>COMMUNITY SANITATION</b>										
Individual Sewage Disposal Permit	150 - 200	175.00	150.00	125 - 275	115 - 225	55 - 70	300.00		100 - 300	50.00
Individual Sewage Loan Survey	200.00	175.00		260.00			300.00		100 - 250	
Private Water Supply Sanitary Survey	40.00			40.00			196.00		75.00	
Private Water Monitoring/Resample	40.00			20.00					50.00	
Mobile Home Park	175 - 200	50 + 4/site	100 - 500	125.00	125 + 5/unit	130 - 265	196 - 600		85 - 330	50 - 200
								110 - 260		
<b>PUBLIC WATER SUPPLY</b>										
Community		100.00*				60 - 200			110.00	100 - 1000
Noncommunity		50.00*	55.00			60 - 200			40.00	100.00
Bottled and/or Bulk Water, Ice			25.00					30.00	45.00	
		* at permitted est.								
<b>MISCELLANEOUS</b>										
Tattoo and/or Body Piercing Facility	200.00	100.00		100.00			100.00		275.00	
Tattoo and/or Piercing Artist	100.00			50.00			50.00		150.00	
CIAA Waiver		150.00	150.00			275.00	147.00		110.00	
renewal			50.00	200.00			147.00			
Environmental Audit		50 - 1000								
Tanning Facility	50 + 50/bed 2 yr permit		30 + 50/device	30/2 yr permit +10 - 50/unit	30 base fee (2 yrs) + 50/unit 65.00	30 + 50/bed 2 years		30 + 50/device (biennial)	30 + 50/device 2 year	
Day Care Center		75.00								
<b>PLAN REVIEW/APPROVAL</b>										
Individual Sewage	200.00	50 - 100				50 - 170	300.00		110.00	50.00
Hotel/Motel	100.00	100.00	150.00			60/room		125.00		50 - 200
sprinkler system		0.00						75 - 150		
Mobile Home Park	100.00	100.00	150.00	100 - 200		50/lot	300.00			100.00
Swimming Pool	100.00	150/filter syst.	150.00	100 - 250		155.00	300.00	50 - 75/site		100 - 150
Bathing Beach	100.00	50.00	150.00			95.00	300.00	125 - 150		50 - 200
Public Water Supply	based on project cost		150.00					125 - 150	110.00	50 - 200
source/treatment	100 - 300	150.00		50 - 200			226.00	100.00		
distribution	100 - 300	100.00		50 - 200			226.00	100 - 150		
Cross Connection Control	100 - 300	50/device	100.00							
Sanitary Sewer Extension	100 - 300	150.00		50 - 200						
Realty Subdivision	25/lot	25/lot	30 - 55/lot	25/lot	25/lot	50 - 70/lot	25/lot	50/lot (300 min)	50.00	
Food Service Establishment	100.00	50 - 100	150.00		75.00		147.00	200 + 25-75/lot		75.00
Mass Gathering	1,000.00	1000 (site plan)			500.00			100 - 125		

"2017 Proposal to Increase Environmental Health Fees - Reference Local Law #6-2008"

PROGRAM AREA	SERVICE	2016	CURRENT FEE	2016 ACTUAL FEES	PROPOSED INCREASE	FISCAL IMPACT
A. Food Protection	Food Service Establishments (P)					
	High Risk Food					
	(0-50 seats)	20	125.00	2,500.00	145.00	400.00
	(51-100 seats)	20	165.00	3,300.00	185.00	400.00
	(101+ seats) / Catering	62	210.00	13,020.00	230.00	1,240.00
	Moderate Risk Food	243	100.00	24,300.00	120.00	4,860.00
	Low Risk Food	61	75.00	4,575.00	95.00	1,220.00
	Permissions To Operate	76	0.00	0.00	0.00	0.00
	Temporary Food (P)					
	Prior to Event	150	40.00	6,000.00	60.00	3,000.00
Day of Event				80.00		
	Frozen Desserts (P)	49	25.00	1,225.00	25.00	0.00
B. Camps/Recreation	Bathing Facilities (P)					
	Swimming Pool/Spa	37	100.00	3,700.00	120.00	740.00
	Each Additional Pool/Spa	16	25.00	400.00	45.00	320.00
	Beach (Mandatory Sampling Required)	3	75.00	225.00	95.00	60.00
	Temporary Residence (P)					
	Hotel/Motel					
	Base Fee & Fire Safety					
	(0-20 Rooms)	16	75.00	1,200.00	95.00	320.00
	(21-50 rooms)	6	100.00	600.00	120.00	120.00
	(51-100 rooms)	4	125.00	500.00	145.00	80.00
(101+ rooms)	2	175.00	350.00	195.00	40.00	
Campgrounds (P)						
Base Fee						
(0-50 sites)	6	75.00	450.00	95.00	120.00	
(51-100 sites)	8	100.00	800.00	120.00	160.00	
(101-200 sites)	2	125.00	250.00	145.00	40.00	
(201+sites)	2	175.00	350.00	195.00	40.00	
Children's Camps (P)						
Basic Facility	0	200.00	0.00	220.00		
(fee for profit only; non-profits are exempt per 10NYCRR)						
Mass Gathering (P)						
Attendance/Ticket Sales						

"2017 Proposal to Increase Environmental Health Fees - Reference Local Law #6-2008"

<u>PROGRAM AREA</u>	<u>SERVICE</u>	<u>2016</u>	<u>CURRENT FEE</u>	<u>2016 ACTUAL FEES</u>	<u>PROPOSED INCREASE</u>	<u>FISCAL IMPACT</u>
	(5,000-10,000)	0	1,000.00	0.00	2,000.00	
	(10,000+)	0	1,500.00	0.00	3,000.00	
C. Community Sanitation						
	Mobile Home Parks (P)					
	Base Fee	34	50.00	1,700.00	70.00	680.00
	Unit Fee (Per Site)	1729	4.00	6,916.00	5.00	1,729.00
	Day Care Center (I)	8	75.00	600.00	95.00	160.00
	(As regulated per NYSDOH Tech. Ref. Item #CSFP 159)					
	Labor Camp (P)					
	Base Fee	0	150.00	0.00	170.00	0.00
	With Food Service (Add)		75.00	0.00	95.00	0.00
	Real Property Transfer/Mortgage Refinancing (I)					
	Water Supply	28	75.00	2,100.00	95.00	560.00
	Sewage System	72	175.00	12,600.00	195.00	1,440.00
	Water and Sewage Systems	369	250.00	92,250.00	290.00	14,760.00
	Privy Only	3	75.00	225.00	95.00	60.00
	Residential Well Water Quality Test					
	(U.S. HUD Mortgage Requirements)	0	150.00	0.00	170.00	0.00
	Small Sewage Disposal System (P)					
	New System	65	175.00	11,375.00	195.00	1,300.00
	Full or Partial replacement	72	125.00	9,000.00	145.00	1,440.00
	Septic Tank Only Replacement	14	75.00	1,050.00	95.00	280.00
	Privy	4	75.00	300.00	95.00	80.00
	Sewage Disposal System Construction					
	renewal Fee (After 1 year)	2	35.00	70.00	55.00	40.00
D. Onsite Public Water/Sewage						
	For all regulated facilities which have onsite water and/or sewage disposal systems add the following:					
	Community Public Water Supply (I)	24	100.00	2,400.00	120.00	480.00
	Non-Community Public Water Supply (I)	89	50.00	4,450.00	70.00	1,780.00
	Onsite Sewage Disposal (I)	111	30.00	3,330.00	50.00	2,220.00
E. Communicable Disease Prevention						
	Body Art Establishment (P)	7	100.00	700.00	120.00	140.00
	Individual Artist Certificate	21			75.00	1,575.00
F. Environmental Reviews/Investigations						
	SEQRA - Positive Declaration - EIS Required		1,000.00	0.00	1,020.00	

"2017 Proposal to Increase Environmental Health Fees - Reference Local Law #6-2008"

PROGRAM AREA	SERVICE	2016	CURRENT FEE	2016 ACTUAL FEES	PROPOSED INCREASE	FISCAL IMPACT
	SEORA - Negative Declaration - Full EAF		200.00	0.00	220.00	
	SEORA - Negative Declaration - Short EAF		100.00	0.00	120.00	
G. Plan Review/Approval	Onsite Sewage Treatment System					
	(Less than 1,000 gpd) (2015)	3	50.00	150.00	70.00	60.00
	(Greater than 1,000 gpd) (2015)	1	100.00	100.00	120.00	20.00
	Mobile Home Park (Site Plan) (2015)	1	100.00	100.00	120.00	20.00
	Campground (Site Plan)		100.00	0.00	120.00	
	Realty Subdivision (Per Lot) (2015)	37	25.00	925.00	25.00	0.00
	Public Bathing Facility					
	Pool/Spa (Per Filter System)	0	150.00	0.00	170.00	0.00
	Beach		50.00	0.00	70.00	
	Public Water Supply					
	Treatment		150.00	0.00	170.00	
	Distribution (2015)	7	150.00	1,050.00	170.00	140.00
	Storage (2015)	1	100.00	100.00	120.00	
	Source		100.00	0.00	120.00	
	Cross Connection Control (Per Device) (2015)	4	50.00	200.00	70.00	80.00
	Sanitary Sewer Extension		150.00	0.00	170.00	
	Food Service Establishment					
	New Construction	3	100.00	300.00	120.00	60.00
	Renovation	4	50.00	200.00	70.00	80.00
	Mass Gathering (Site Plan)		1,000.00	0.00	1,000.00	0.00
H. Clean Indoor Air Act	Waiver Application (BOH voted to no longer issue waivers)	2	150.00	300.00	170.00	40.00
I. Permit Reissuance	Extension of Conditioned Temporary Permit				25.00	
	TOTALS		\$ 216,236.00	\$ 216,236.00	\$ 42,384.00	

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**REPORT TO THE GOVERNOR, TEMPORARY PRESIDENT OF THE  
SENATE AND SPEAKER OF THE ASSEMBLY**

**LEAD IN SCHOOL DRINKING WATER STATUS REPORT**

**Report Completed by New York State Department of Health with cooperation  
by New York State Education Department**

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**January 27, 2017**

Lead pipes, or solder used on non-lead pipes, were common in construction until their use was banned in 1986. Since then, the federal government required that only "lead-free" materials be used in new plumbing and plumbing fixtures. The federal law, however, still allowed certain fixtures with up to eight percent lead to be labeled as "lead-free." In 2011, amendments to the Safe Drinking Water Act re-defined "lead-free" to mean no more than a weighted average of 0.25 percent lead. Although schools are in the preliminary stages of source evaluation, it has been noted that some of the most common sources of lead in school drinking water are water fixtures, drinking fountains, bubblers or lead solder used to connect pipes and fixtures.

On September 6, 2016, Governor Andrew M. Cuomo signed into law Chapter 296 of the Laws of 2016<sup>1</sup> requiring all public school districts and boards of cooperative educational services (BOCES) in New York State to test drinking water for lead contamination, and if over the actionable threshold to take remedial actions.

There are nearly 4,700 public schools in New York State, spread throughout nearly 700 school districts. Of these 4,700 schools, just over 1,720 are in New York City (NYC) with approximately 2,940 located throughout the rest of the State. Under the law, every public school in the State had to test every water fixture or outlet used for drinking or cooking by students in pre-kindergarten through grade 5 by September 30, 2016 and grades 6-12 by October 31, 2016. After this initial testing, schools must test every outlet every five years or at an earlier time as determined by the Commissioner of Health.

Water samples collected from outlets by the schools are sent to a laboratory that is certified by the New York State Department of Health's (Department) Environmental Laboratory Approval Program (ELAP) for independent testing.

The law requires that for any water outlet in exceedance of the U.S. Environmental Protection Agency's (EPA) lead action level, established for public water systems, of 15 parts per billion (ppb), the school must immediately take action to eliminate the potential exposure to lead<sup>2</sup>. Any outlet that exceeds EPA's lead action level must be immediately taken out of service until a remediation plan is implemented to mitigate the lead levels at that outlet. In addition, building occupants must be provided with an adequate supply of potable water for drinking and cooking until remediation is performed and testing shows lead levels are at or below the action level. The Local Health Department (LHD), parents,

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<sup>1</sup>To implement this new law, the New York State Department of Health (Department) in consultation with the New York State Education Department (SED), issued emergency regulations, titled Lead Testing in School Drinking Water - 10 NYCRR Subpart 67-4, (Subpart 67-4) effective September 6, 2016. Subpart 67-4 applies to all schools, including those already classified as a public water system under 10 NYCRR Subpart 5-1

<sup>2</sup>To put the standard into context, 15 parts per billion means that out of one billion drops of water, 15 drops have some lead. Lead is a metal that can harm children and adults when it gets into their bodies. Lead is a known neurotoxin, particularly harmful to the developing brain and nervous system of children under 6 years old. Lead can harm a young child's growth, behavior, and ability to learn. Lead exposure during pregnancy may contribute to low birth weight, preterm delivery and developmental delays in infants.

and students must be notified of the exceedance. The outlet cannot be used as a source of drinking water until tests confirm that the level of lead in water coming from that outlet is below the lead action level.

In certain limited circumstances, the Department may issue temporary waivers to districts unable to comply with the law. Ultimately, every school district must comply.

As established in DOH regulations, several remedial courses of action are taken when test results show an outlet within a school is above the EPA action level. All outlets with results above the action level have been taken off line. Short and long-term remediation measures are dependent on several factors which could include frequency and type of use, plumbing configurations, and hydraulics. Remediation options vary by cost and appropriateness to the outlet. Some short-term solutions available to schools are shutting off problem outlets and flushing. Flushing is effective because standing water is most likely to pick up metal deposits from sitting in the pipes. Longer-term solutions are replacement of faucets and drinking fountains, filtration, replacement of lead pipes and providing an alternative source of water, among other options. The State is paying for a significant portion of districts' remediation efforts.

Finally, pursuant to Section 3602 (6-h) of the Education Law, the State will reimburse school districts for a significant portion of testing and remediation costs associated with compliance under this law.

#### ***Results to Date***

Of the 2,940 schools outside of New York City (NYC), 2,817, or ninety-six percent, have tested every outlet, and to date 2,596 (or eighty-eight percent of schools outside of New York City) have provided the Department results. For the 2,817 schools that have conducted testing thus far, there were over 256,139 individual outlets tested. Of 236,600 outlets for which data has been reported, eighty-six percent of the outlets were under the EPA lead action level. Additional results are still pending for 19,539 outlets that have been tested, as districts are awaiting the lab certified results.

By January 25, 2017, the New York City Department of Education (NYC DoE) had submitted results from 541 buildings for the approximately 1,720 schools in New York City. Of 46,654 total outlets tested, 42,261 (or ninety one percent) were under the EPA lead action level. NYC DoE will not have complete results until mid-2017.<sup>3</sup>

On November 17, 2016 a memo was sent to all superintendents notifying them that the compliance date had passed and immediate action was required if sampling and reporting had not been made. Technical guidance is being provided to bring these remaining schools into compliance. All school results must be made available on school districts' websites.

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<sup>3</sup> The NYC Department of Education (DoE) conducted sampling in April 2016 prior to the enactment of both the statute and regulation. However, the sampling protocols used were not in compliance with Subpart 67-4 because the water lines were flushed (i.e. pre-stagnation flushing) in many instances before a sample was collected, which can result in false-negative results. Additionally, not all outlets were previously tested as required by the statute. NYC DoE has indicated that it is resampling all outlets in compliance with Subpart 67-4.

### ***Next Steps***

The Department has made the lead in school data publically available through the Health Data New York (HDNY) platform found at [health.data.ny.gov](http://health.data.ny.gov), that data will continue to be updated. HDNY is an interactive tool where parents, media, and the public will be able to access information on school drinking water testing for all applicable schools across the state, currently excluding New York City. The various visualization tools within this online application will allow the public to obtain information about lead testing in individual schools.

In the coming months, the Department will continue to focus its attention on activities to increase school compliance including enforcement, if necessary. In addition, the Department and local health departments will collaborate on the following:

- The LHD will contact the school to request a meeting or conference call to determine why the school is not in compliance; and
- The LHD and the school will agree on steps for the school to achieve compliance within an expedited timeline.

If a school does not demonstrate a willingness to comply, or fails to comply with the established timeline, a hearing will be scheduled that could result in fines and an order to complete the required testing.

**Part A: Regulation Requirements**

Subpart 67-4 requires schools to perform monitoring, response, public notification, reporting and recordkeeping. Below is a brief summary of the regulatory requirements outlined in Subpart 67-4.

**Compliance Dates**

The following table summarizes important compliance dates for the Lead Testing in School Drinking Water Regulation.

Table 1: Compliance Dates as Specified in Subpart 67-4	
<i>September 6, 2016</i>	Effective date of the Lead Testing in School Drinking Water regulation.
<i>September 30, 2016</i>	Schools must complete sampling in pre-Kindergarten through grade 5 buildings.
<i>October 18, 2016</i>	Schools conducting testing and remediation efforts prior to Sept. 6, 2016 must post results and remediation plans and efforts on their school websites.
<i>October 31, 2016</i>	Schools must complete sampling in grade 6 through grade 12 buildings.
<i>October 31, 2016</i>	Schools must post on their websites the list of buildings whose plumbing materials are deemed "lead-free."
<i>November 11, 2016</i>	Schools must enter the completion (or status) of initial sampling in the Health Electronic Response Data System (HERDS), and list buildings in which plumbing materials are deemed "lead-free."
<i>November 17, 2016</i>	Memo sent to all superintendents notifying them that the compliance date had passed and immediate action was required if sampling and reporting had not been made.
<i>Within 10 business days of receiving laboratory results</i>	Schools must, as results become available, enter and update the information relating to recently received laboratory results into HERDS in the Health Commerce System (HCS).
<i>2020</i>	The next round of sampling begins, or at an earlier time, as determined by the Commissioner of Health.

Part B: Monitoring Requirements

Samples must be collected in accordance with the schedule above, following the requirements in Table 2. All samples must be analyzed by a laboratory that is certified by the Department's Environmental Laboratory Approval Program (ELAP).

<i>Sample type</i>	First draw samples
<i>Action Level</i>	15 ppb (consistent with the U.S. EPA's Lead & Copper Rule)
<i>Sample volume</i>	250 mL
<i>Bottle Type</i>	Wide mouth, plastic bottle recommended.
<i>Sample collection</i>	Avoid collecting samples in the mornings after vacations, weekends, or holidays unless specifically directed to do so
<i>Water stagnation time in pipes</i>	8 to 18 hours

Part C: Response

Subpart 67-4 requires that schools immediately respond when there has been an action level exceedance (>15 ppb). Table 3 outlines the required response schools must take when there is an action level exceedance.

<i>If the lead concentration of water at an outlet exceeds the action level, the school must:</i>	1. Prohibit use of the outlet (take out of service or turn off) until a lead remediation plan is implemented to mitigate the lead level of such outlet, and test results indicate that the lead levels are at or below the action level.
	2. Provide building occupants with an adequate supply of potable water for drinking and cooking until remediation is performed and testing shows lead levels at or below the action level.
	3. Report test results to the local health department (LHD) as soon as possible (ASAP), but no more than one business day after receipt of lab report.
	4. Notify all staff and parents/guardians of the test results in writing ASAP, but not more than 10 business days after receipt of lab report.

Part D: School Reporting and Record Keeping Requirements

Schools are required to report data relating to their lead testing to the Department through HERDS in HCS, to their LHD, and to their school community, as prescribed in the table below.

Table 4. Notification and Reporting Requirements for School Districts		
Reporting Requirements	Where/To Whom	When
Information on test results and remediation efforts conducted prior to September 6, 2016	School Community*	By September 20, 2016
Information on test results and remediation efforts conducted prior to September 6, 2016	School Website	By October 18, 2016
Reporting data related to lead sampling and buildings with lead free plumbing	To the Department via HCS/HERDS	By November 11, 2016
Posting lead test results	School Website	As soon as practicable, but within 6 weeks of receipt of lab report
Reporting data related to lead test results	To the Department via HCS/HERDS	As soon as practicable, but within 10 business days of receipt of lab report
Notification of a lead action level exceedance	LHD (phone and/or email)	Within 1 business day of receipt of lab report
Notification of a lead action level exceedance	School Community*	Within 10 business days of receipt of lab report (Notification must be made in writing)

*\*School Community means all teachers, staff and parents/guardians of the student body.*

The following table summarizes the record-keeping requirements for schools, as outlined in Subpart 67-4.

Table 5. Record-keeping Requirements	
<i>Schools must retain all records for 10 years following document creation. Copies of documents must be provided to the Department/Local Health Department, or State Education Department upon request. Records may include, but are not limited to:</i>	Test Results
	Lead remediation plans
	Determinations of buildings with lead free plumbing
	Waiver requests/approvals

## Part E: Waivers

Subpart 67-4 requires schools to test all potable water outlets for lead contamination. Some schools may have performed sampling prior to September 6, 2016 that substantially, but not completely, complies with Subpart 67-4. Consistent with statutory requirements, the Department may issue waivers for schools that performed testing prior to September 6, 2016 in a manner that substantially complies with Subpart 67-4. Schools must work through their LHD to apply for a waiver. The Department is responsible for approving or disapproving waiver requests.

## Part F: Program Implementation

### Guidance and Resources

The Department has created numerous reference and guidance documents, as well as hosted numerous webinars and other outreach activities to assist schools with implementation of this regulation. The Department created a website dedicated to the [Lead Testing in School Drinking Water Regulation](#) which serves as a central repository for implementation tools and guidance for schools and LHDs. New information is posted to the website as it is developed. The website includes the following guidance and resources:

#### Memos to Schools

- [August 29, 2016: Pre-regulation Guidance Memo](#)
- [September 15, 2016: Post-regulation Guidance Memo](#)

#### Information for Schools

- [New York State Regulation for Lead Testing in School Drinking Water](#)
- [Frequently Asked Questions](#)
- [Waiver Protocol](#)
- [Sampling Instructions](#)
- [Video: "Sampling for Lead in Drinking Water in NYS Schools"](#)
- [Certified Laboratories for Conducting Lead Testing in School Drinking Water](#)
- [Public Notification Letter Template](#)
- [Example Outlet Signage](#)
- [Health Commerce System \(HCS\)/HERDS Access Information](#)
- [EPA Guidance: 3Ts for Reducing Lead in Drinking Water in Schools](#)

#### Webinar Presentations for Schools

- [DOH/SED Webinar with an Overview of the Regulation \(9/16/16\)](#)
- [Environmental Protection Agency \(EPA\) Presentation on 3Ts and NYS Regulation \(9/23/2016\)](#)
- [NYS Department of Health Presentation on Regulatory Implementation \(9/23/2016\)](#)
- [DOH/SED Webinar on HERDS/HCS \(10/4/16\)](#)
- [Reporting Lead Testing in School Drinking Water on HERDS/HCS \(11/7/2016\)](#)

In addition to the information provided on the website, the Department conducted an extensive education and outreach campaign to ensure schools and LHDs received adequate training and guidance to successfully implement and comply with the regulation. Education and outreach activities can be found in Part J.

Part G: Roles and Responsibilities

The following table outlines the roles and responsibilities of the stakeholders responsible for implementation, compliance, and enforcement of Subpart 67-4.

Table 6. Roles and Responsibilities	
<i>Schools</i>	Implement the requirements of the Lead Testing in School Drinking Water regulation as specified under Subpart 67-4. This includes: identifying, testing, and remediating all outlets (where applicable); reporting results to the school community on the school's website; and reporting data into the Statewide Electronic Reporting System, per the requirements of Subpart 67-4.
<i>Local Health Departments</i>	Assist schools with implementation of Subpart 67-4 by answering implementation and compliance questions, reviewing and evaluating waiver requests, making recommendations regarding waivers to the Department, conducting data quality checks and compliance reports and following -up with schools as appropriate, and assisting with enforcement actions, when needed.
<i>Department of Health</i>	Develop tools and resources for implementation of the regulation, assist schools and LHDs by answering implementation and compliance questions, review and approve or disapprove waiver requests.
<i>Education Department</i>	Review and approve applications for State aid for expenses related to testing and remediation pursuant to Section 3602 (6-h) of the Education Law and for testing only pursuant to Section 1950 (5)(b) of the Education Law.

Part H: Reporting System

The Department collaborated with the New York State Office of Information Technology Services to develop a statewide electronic reporting system for schools to satisfy the reporting requirements established in Subpart 67-4. This system, which builds on an existing reporting system known as Health Electronic Reporting Data System (HERDS), is found on the Department’s electronically secure Health Commerce System (HCS).

To report in HERDS, the school district or BOCES HCS Coordinator must assign a **School Lead in Drinking Water Reporter (Reporter)** role for each school. This was a new role created specifically to allow schools to report into HERDS. The Department conducted extensive outreach activities to School HCS Coordinators and Reporters with the instructions on how to add this role and use the electronic reporting system.

Statistical analyses were performed on data extracted from HERDS and the NYS HCS Communications Directory.

## Part I: State Aid for Testing and Remediation Costs

The state will help pay for school districts' testing and remediation costs pursuant to Section 3602 (6-h) of the Education Law (and for BOCES testing costs only, pursuant to Section 1950 (5)(b) of the Education Law). New York State is the first state in the nation to do so. School districts will submit their claims for State Aid to the State Education Department, and will receive payment as part of General Aid pursuant to Section 3609-a of the Education Law. To determine aid amounts, an aid ratio is applied to approved expenses such that school districts with less local fiscal capacity to support the expenses receive proportionately more State Aid.

### Testing

The costs associated with testing in all occupied buildings owned or leased by a school district or BOCES are eligible for aid. The costs associated with testing of water taps located on the site of a school district or BOCES building, such as water taps in a concession building, or an exterior drinking fountain, are also considered approved expense for aid.

### Remediation

The installation of filters and/or other effective remedial measures for immediate remediation is aidable in cases where a finding of lead contamination is initially made and verified by confirmatory sampling, and reviewed by a water quality professional. The cost of filters and other effective remedial measures must be incurred prior to July 1st, 2019. Remedial measures that are aidable expenses must be permanently installed devices, as opposed to costs of short term remediation strategies.

Aidable effective measures of remediation include activities such as: the installation of filters, changing out water taps, including faucets, drinking fountains and bubblers, or the replacement or reconfiguration of piping in the vicinity of the water outlets in those situations where the lead contamination is a result of piping materials in the vicinity of the outlets, and not in (or not just in) the outlets themselves.

Short and long term remediation measures are dependent on several factors which could include use, plumbing configurations, and hydraulics. Therefore, it is important that schools consult with a professional versed in remediation of lead in school drinking water to determine the appropriate short and long term remediation measures for the specific school and outlet. The Environmental Protection Agency's 3Ts program provides recommendations for routine, short and long remediation or "control" measures which can be found at [https://www.epa.gov/sites/production/files/2015-09/documents/toolkit\\_leadschools\\_guide\\_3ts\\_leadschools.pdf](https://www.epa.gov/sites/production/files/2015-09/documents/toolkit_leadschools_guide_3ts_leadschools.pdf). Examples of recommended short and long term measures may include:

### Short-Term Remediation Measures

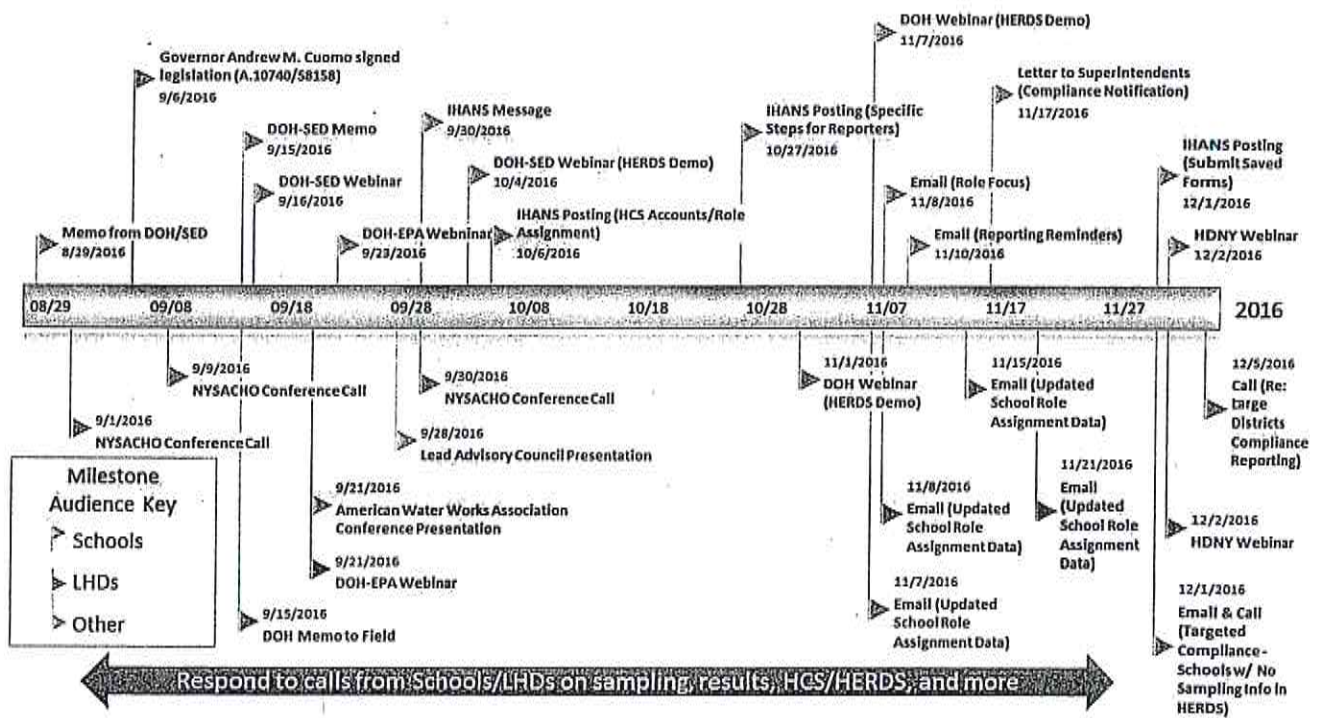
- Shut off problem outlets: This is required, as per Subpart 67-4, for all action level exceedances,
- Provide an adequate supply of potable water until remediation is performed; If applicable, this may be required, as per Subpart 67-4, for action level exceedances, and
- Flushing.

### Long-Term Remediation Measures

- Outlet or fixture (faucets, drinking fountains, bubblers, etc.) replacement,
- Point of use treatment (i.e. filters),
- Checking grounding wires,
- Lead pipe replacement,
- Plumbing reconfiguration,
- Use of lead-free plumbing materials,
- Permanently shut off problem outlets,
- Provide an adequate supply of potable water until remediation is performed: If applicable, this may be required, as per Subpart 67-4, for action level exceedances, and
- Automatic flushing systems.

The cost of remedial measures that would be eligible for regular Building Aid pursuant to Section 3602 (6) of the Education Law, are not eligible for State Aid under Section 3602 (6-h) of the Education Law. These would most likely be larger scale, long-term remediation projects that would qualify as capital construction projects, for which districts would apply for project approval through the State Education Department.

## Part J: Timeline and Outreach Activities



Note: During period of 10/8/2016 to 10/24/2016, the Department was developing guidance documents for schools and LHDs



American Red Cross  
Advisory Council on  
First Aid, Aquatics,  
Safety and Preparedness

## ACFASP Advisory Voluntary Hyperventilation Preceding Underwater Swimming



### Overall Recommendation including any Standard, Guideline or Option:

#### **Standards:**

Voluntary hyperventilation prior to underwater swimming and underwater breath holding is a dangerous activity. Swimmers should not engage in hyperventilation prior to either practice. Aquatic managers, lifeguards, and swim instructors should prohibit all persons from hyperventilating prior to underwater swimming and breath holding activities. All aquatic facilities should have a policy of actively prohibiting hyperventilation.

#### **Questions to be addressed:**

Does the evidence available on voluntary hyperventilation preceding underwater swimming support the conclusion that over breathing can lead to a sudden loss of consciousness with or without exercise, and therefore must be prohibited at aquatic facilities?

#### **Introduction/Overview:**

Grimaldi J. (1993) notes that over breathing or hyperventilation is breathing at rate and depth higher than necessary to meet the metabolic needs of the body. Voluntary hyperventilation dangerously deregulates brain's control of breathing and perilously lowers the blood's carbon dioxide level. Hyperventilation does not increase the oxygen level in the blood. After a person takes a series of rapid and deep breaths and then attempts to swim a long distance, oxygen is quickly used up. The person will then become unconscious before the CO<sub>2</sub> level raises to the level that triggers the urge to breathe. Drowning then occurs if the person is not rescued.

#### **Summary of Scientific Foundation:**

Control of breathing originates in the respiratory centers of the brain. The main function of the respiratory system is to take oxygen (O<sub>2</sub>) from the air that enters the lungs, transport it to the body's tissues, and remove excess carbon dioxide.

There are two major physiological sensors for detecting oxygen and carbon dioxide levels. Oxygen sensors detect low arterial oxygen (PO<sub>2</sub>) concentration. The oxygen level indicator is a weak signal and is easily suppressed especially during competition like underwater swimming or breathe holding.

The carbon dioxide level, rather than the oxygen level, is the major signal for drawing air into the lungs. Sensors in the human brain make certain that an increase in carbon dioxide level

beyond normal limits triggers the urge to breathe before a decreased oxygen level leading to unconsciousness occurs.

Sensors in the brain constantly sample the blood for CO<sub>2</sub> levels. The CO<sub>2</sub> sensors respond to rising carbon dioxide levels and trigger the urge to breathe. This process insures that the blood oxygen level is adequate to provide the brain with sufficient oxygen to maintain consciousness and not drop below levels that cause unconsciousness.

Either voluntary or involuntary hyperventilation affects the body in many negative ways. It interferes with the functioning of the breathing centers in the brain, increases blood pressure, and reduces the blood flow to the brain. Decreased brain blood flow causes lightheadedness and a decreased ability to concentrate. Hyperventilation can also cause double vision, epileptic like seizures, and EEG and EKG changes.

There is undeniable evidence that hyperventilation prior to underwater swimming can lead to a sudden loss of consciousness and death due to decreased carbon dioxide level. Even though this dangerous practice has been identified as a contributing factor to drowning, it is still attempted in varying degrees at aquatic facilities by swimmers unaware of the dangers of hyperventilating before swimming underwater or breath holding. Hyperventilation is dangerous and must be prohibited through signage and active intervention by aquatic facility managers, lifeguards and swim instructors.

## **Injury Prevention News: June 2015**

**New York State Department of Health, Bureau of  
Occupational Health and Injury Prevention**

### **Spotlight Injury Prevention Topic: Drowning Prevention Awareness**

#### **Hyperventilation and Breath-Holding**

From 1996 to 2011, behaviors involving hyperventilation, prolonged breath-holding, or a combination of the two were the primary contributing factor in 15 cases of drowning or near drowning at regulated bathing facilities in New York State. Prolonged underwater breath-holding, with or without prior hyperventilation, can lead to drowning.

When an individual holds their breath, involuntary breathing movements eventually occur that cause breathing to resume spontaneously.<sup>1</sup> However, drowning can result if this occurs underwater, as breathing reflexes cause aspiration of water and laryngospasm, which produce hypoxia.<sup>2</sup> This oxygen deficiency leads to excess carbon dioxide (CO<sub>2</sub>) in the blood (hypercapnia) and acidosis, and eventually cardiac arrest. Breath-holding can also cause a loss of consciousness that occurs when the body's natural impulse to breathe is not triggered when underwater. It happens when the oxygen level in the blood runs low before the carbon dioxide (CO<sub>2</sub>) level in the blood rises to the point that the brain signals the need to take a breath (i.e. involuntary breathing movements). The bather never actually feels as though a breath is needed. This loss of consciousness is known as breath-holding blackout (BHB). Even skilled swimmers are at risk for BHB. Shallow water blackout is another term that has been used to refer to this occurrence; however BHB is not limited to shallow water.

Swimmers who practice prolonged underwater breath-holding or underwater distance swimming, and children and others who participate in 'hold your breath' games are at risk for BHB. In addition, hyperventilation prior to submersion increases the risk of BHB.<sup>3</sup> A training practice called voluntary hyperventilation used by swimmers is dangerous. During voluntary hyperventilation, a series of deep breaths are taken in rapid succession and forcefully exhaled. Swimmers sometimes do this before submerging so they can try to swim underwater or hold their breath underwater for a longer time. When a swimmer hyperventilates, they reduce the CO<sub>2</sub> in their blood, which prolongs the length of the breath-hold since CO<sub>2</sub> levels take longer to rise to the point that prompts the brain to signal to breathe. However, since hyperventilation does not increase the blood oxygen level by enough to offset the reduction of CO<sub>2</sub> and subsequent delay in triggering the involuntary breathing movements,<sup>3</sup> it increases the risk that oxygen will run out and BHB will occur before the urge to breathe is felt. Supervision by a lifeguard or swim coach does not make these behaviors and practices safe. It is also important to note that hyperventilation can occur involuntarily, for example from breathing heavily following exertion or going underwater and resurfacing repeatedly while playing in the water.

Prolonged or strenuous exercise prior to underwater swimming or breath-holding has also been identified as a risk factor for loss of consciousness during these activities, due to lowered CO<sub>2</sub> production as a result of increased lipid metabolism induced by exercise.<sup>3</sup>

What can be done to prevent drowning and help swimmers stay safe?

- Be alert. Encourage parents and caregivers to be alert for children playing 'hold your breath' games while swimming or having underwater swimming contests. They should let children know that these games are dangerous and to keep their head above the water if they race. Parents and caregivers should always watch their children at pools and beaches, even when a lifeguard is present.
- Use other swim training techniques. Swim coaches, instructors, and other adults supervising swim team practice should educate swimmers about the dangers of voluntary hyperventilation and extended breath-holding, and should not use these practices as training techniques.
- Educate swimmers about the dangers of hyperventilation and breath-holding. Lifeguards and other supervisory staff should be alert for BHB and the practices that lead to it and should discourage this behavior at pools and beaches. Pool and beach operators should consider posting a sign explaining this hazard and prohibiting it at their facility.

For more information about swimming safety and drowning prevention, visit the [NYSDOH website](#). The publication "[When Being Careful Is Not Enough... Taking Steps To Prevent Drowning](#)" is also available in [PDF](#) and as a brochure (#3112) from the NYSDOH Distribution Center.

#### References:

1. Breskovic T, Lojpur M, Maslov PZ, et al. The influence of varying inspired fractions of O<sub>2</sub> and CO<sub>2</sub> on the development of involuntary breathing movements during maximal apnoea. *Respir Physiol Neurobiol* 2012;181:228-233.
2. Sanders MJ. Mosby's Paramedic Textbook. 4th Ed. Burlington, MA: Jones & Bartlett Learning, 2011.
3. Lindholm P, Gennser M. Aggravated hypoxia during breath-holds after prolonged exercise. *Eur J Appl Physiol* 2005;93:701-707.