



**Public Health**  
Prevent. Promote. Protect.

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# CATTARAUGUS COUNTY BOARD OF HEALTH

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

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*Joseph Bohan, MD, Acting President*

*Giles Hamlin, MD*

*Joseph Eade*

*Sondra Fox, RN*

*Richard Haberer*

*James Lapey*

*Georgina Paul, FNP*

*James Snyder*

## MINUTES

June 4, 2013

The 816<sup>th</sup> meeting of the Cattaraugus County Board of Health was held at St. Bonaventure Clubhouse Restaurant, Route 417, Allegany, New York on June 4, 2013.

The following members were present:

Joseph Bohan, MD

Richard Haberer

Giles Hamlin, MD

James Lapey

Joseph Eade

Georgina Paul

Sondra Fox

James Snyder

Also present were:

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

Kathleen Ellis, Administrative Officer

Karen Manners, Secretary to Public Health Director

Thomas Brady, County Attorney

Linda Edstrom, County Legislator

Paula Stockman, County Legislator

Donna Vickman, County Legislator

Howard VanRensselaer, County Legislator

Eric Wohlers, Environmental Health Director

Raymond Jordan, Sr. Public Health Sanitarian

Susan Andrews, Director of Patient Services

Gilbert Witte, MD, Medical Director

Henry Storch, MD, Clinic Physician

David Porter, Hearing Officer

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

Dr. Bohan stated that Dr. Andrew Klaczynski, passed away on May 15, 2013. He commented that Dr. Klaczynski epitomized what people from foreign lands refer to as the American Dream. He was born during war times and immigrated to the United States in 1947 with his family. Dr. Bohan said that initial language difficulties and other barriers that Dr. Klaczynski experienced as an 18 year old coming to this country were just a few things he had to overcome. He went to college in the U.S., joined the U.S. Army, served as a medic during the Korean War and continued in the Reserves until 1962. He graduated from the Marquette University School of Medicine, interned at Mercy Hospital

and served his residency at Sisters of Charity Hospital, both in Buffalo. He and his wife, Evelyn, of 52 years decided to settle in Olean to raise their family where he started his practice, first at the Mountain Clinic and later in the Medical Arts Building until his retirement in 2001. Dr. Klaczynski served on the Board of Health for 21 years, he was Vice-President from 2000-2007 and served as President from 2008-2013, all because he loved giving back to the community. Dr. Bohan went on to say that Dr. Klaczynski was a real gentleman and we will miss his concerns regarding health care that he brought to the Board meetings. He was always willing to hear both sides of every issue and was respectful of other board members and anyone that would come before the Board to discuss their issues. Mr. Eade made a motion to dedicate today's meeting in memory of Dr. Klaczynski. Dr. Hamlin seconded the motion and it was unanimously approved. Mr. Eade asked for a moment of silence in Dr. Klaczynski's memory.

Dr. Watkins read a thank you note from Evelyn Klaczynski thanking the Board and Dr. Watkins for the beautiful flowers and everyone for their visits. Dr. Watkins also read a note from a former Board member's wife, Mrs. Thomas Thrasher, in appreciation of the care given to Tom Thrasher by the home care nurse, Lois Lowry. Dr. Watkins added that Dr. Klaczynski will truly be missed by the Board and the Health Department.

**Director's Report:** Dr. Watkins reported that the Medicare Cost Report revealed that the Home Care Program continues to do well, breaking even for the 2012 FY. The auditors recommended that we monitor reimbursement rates with the Medicaid Managed Care insurances as the reimbursement rate is progressively decreasing. They also identified that our cost per visit was higher than what we were recouping from Medicare and recommended that the Board increase the rates we charge for our providers services. Mr. Eade made a motion to increase the home care rates as recommended by the auditors effective 7/1/13. It was seconded by Mr. Haberer and unanimously approved. There was discussion on why the Home Care Program just broke even, when in the past it has generated money for the Department. Dr. Watkins stated that there were fewer patients in the program and the reimbursement rates are lower from Medicaid and Medicare.

Dr. Watkins stated that last month he reported that in the Early Intervention Program, where the State has taken over the billing component of the program, providers were experiencing delays in their payments for services, but as of one week ago, the providers received their first payment for services. Providers who originally indicated that they could no longer work for the program are now willing to continue as providers for the program.

As reported at the last meeting, the Centers for Disease Control and Prevention (CDC) was concerned that the novel (new) Avian (bird) Influenza A (H7N9) virus, which was known at the initial outset to be transmitted to humans by working or handling infected poultry, could mutate (antigenic shift). Since that last report, they have now verified a couple of cases where human to human transmission has occurred, CDC is quickly trying to develop a vaccine for this virus and prepare us for a mass immunization program. CDC is not sure if the vaccine will be available for the next influenza season.

Another virus that is now getting a lot of attention is a Coronavirus called "MERS-CoV" which stands for Middle East Respiratory Syndrome Coronavirus, because it is seen mostly in the Middle East. The biggest concern about this viral illness is the mortality associated with this virus, at



present count, more than half of the infected individuals have died from the virus. There were 38 cases in Saudi Arabia and 21 of those individuals died and it has now moved to the United Kingdom, however we have not seen any cases in the United States. The CDC recommends that if a person succumbs to an acute infection which includes a fever of 100.4 degrees or higher and a cough, suspicion of pulmonary parenchymal disease (e.g., pneumonia or acute respiratory distress syndrome based on clinical or radiological evidence of consolidation) and a history of traveling from the Arabian Peninsula, they should be considered suspect or a patient under investigation for this virus. Isolation and treatment or support of care is what is currently recommended.

Dr. Watkins summarized the 2012 Health Department Annual Report which was handed out. The Report will be available on the Health Department website at [www.cattco.org/health](http://www.cattco.org/health). Dr. Watkins thanked the entire Health Department staff for all that they do on a daily basis to meet the needs of the community as well as meeting the New York State Department of Health requirements.

Mr. Eade made a motion to approve the minutes of the May 1, 2013 meeting. It was seconded by Mr. Lapey and unanimously approved.

**Nursing Division Report:** Mrs. Andrews reported that there were fewer Chlamydia cases last month, but unfortunately there were three additional cases of Gonorrhea and we are well above the usual percentage rate.

There was one confirmed Lyme Disease case and four newly identified Hepatitis C cases and one of those was found with the rapid test done in the Salamanca office. There was also a Pertussis case in a fully vaccinated school aged child. The onset occurred sometime before it was diagnosed so by then the communicability period had already passed. The child and family were treated and there have been no additional cases.

Last month there were four post-exposure rabies treatments administered as a result of exposures to three bats and a dog. The total number of post exposure rabies treatments for 2013 has been eight.

Mrs. Andrews also reported that they have started screening for presumptive eligibility for the Family Planning Benefit Program (FPBP) in the clinic. This allows us to enroll the patient in a Medicaid Program if they attest to a certain level of income so that we can get paid for that visit. Upon completion of a full application and sending it to the State for review, if they do not qualify for the FPBP, the benefit service will end, but we still will get paid for the service we initially provided. Mrs. Andrews and the Physician's Assistant, Gretchen Dowdy, attended the Family Planning meeting in Albany which has not been held in several years.

The New York State performance measure for contraceptive coverage is the percentage of patients who leave a clinic with an effective method of contraception. Our rate is 84.8%, the average county operated clinic rate is 77.8% and the Western Region average, which includes Planned Parenthood, is 70.4%. Our rating may be one of the highest because we now have the Physician's Assistant (PA) do all pregnancy testing. If the PA does the test instead of the nurse and the results are negative, she can immediately get them on some form of contraception instead of making a second appointment for the patient. Statewide the number of visits to Family Planning clinics has decreased which also is reflected in Cattaraugus County.



In May there were three confirmed elevated blood lead level cases. The initial case was identified by our nurse in the WIC clinic and then two additional children within the same family were identified. Environmental Health also conducted an investigation on this household.

In Home Care, the Visiting Nurse Association (VNA) is currently operational in Cattaraugus County. No further certified agencies have been approved to date. The current census is a little over 360 patients which is up from last year. A significant part of the State's Medicaid Redesign Plan that affects the Long Term Home Health Care Program (LTHHCP) is that the LTHHCP is no longer able to accept clients who have only Medicaid, they have to be enrolled in a Medicaid Managed Care or a Managed Long Term Care program. This is part of the move toward Managed Care taking over all of the Medicaid clients; then we will need to contract with the Manage Care entities to continue to provide care.

Two nurses have returned after extended sick leave and one nurse is in orientation; another nurse will start on June 17, 2013. Four nurses are at OASIS (Outcome and Assessment Information Set) training. This training will help with our reimbursement and report card if we do it correctly.

**Environmental Health Division:** Mr. Wohlers commented about Rick Miller's article in the Olean Times Herald about planes that were observed flying over the area. They were spraying for gypsy moths at Allegany State Park. The Health Department budget has money appropriated for mosquito spraying but not for surveillance. New York State Department of Health (NYSDOH) staff may be able to help with limited surveillance.

Last month Mr. Wohlers reported that the State Department of Agriculture & Markets veterinarians were investigating a report of sick and dying horses in the Amish community in Cattaraugus County. Many blood samples and nasal swabs were collected and submitted to both Cornell and NYSDOH Laboratory, but results have all been negative for Equine Herpes, Arboviruses or rabies. The cause still remains a mystery.

Environmental Health staff remains busy with the start-up of seasonal programs such as children's camps, bathing beaches and summer festivals.

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

**DOCKET 13-006**

**PORKY'S BAR, ANDY J. MICHAEL, 2983 Rogers Road, Hinsdale**

**Violations:** 10NYCRR, Section 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 January 2013 to this office by the 10<sup>th</sup> day of the following month. Previous violations: Docket 11-065, 12-016 and 12-032. Notice of Hearing with no civil compromise was served by the Sheriff's Dept. to Courtney Michael (Respondent's niece) on 4/17/13.

**Administrative Hearing:**

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

Respondent: Trisha Olmstead, partner in the LLC Porky's Bar, appeared on behalf of the Respondent and was sworn.

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

**DOCKET 13-006 (continued)**

explaining the CCHD guidelines for this type of violation was identified as P. Ex. #2 and entered into evidence. Proof of service was also provided and identified as P. Ex. #3. Further evidence and facts presented to the Respondent are as follows:

- a) January 2013 report was received 3/13/13
- b) Currently Respondent is up-to-date
- c) Most current water sample failed
- d) Fourth violation – guidelines are maximum fine up to \$2,000, loss of operating permit for one month

Respondent has no questions and did not want to testify except to say that the water purification system is giving the Respondent problems.

Open discussion between Respondent and CCHD:

Mr. Jordan explained that the Health Dept. has a list of certified and trained water supply operators that could be hired under contract to insure that the Respondent's water system is operational, provides water that meets CCHD guidelines and insures that the monthly operating reports are submitted to the Health Dept. on time. The Respondent asked many questions and left the meeting with a list of approved operators and a sample contract.

Hearing Officer finding: Respondent is in violation of 10NYCRR, Section 5-1.72(c)(1) – failure to submit the daily records for the operation of the non-community water supply for January 2013, fourth violation.

Recommendation: In lieu of a fine and loss of operating privileges for one month, the CCHD will accept proof that the Respondent has entered into a contract with a certified water supply operator to provide approved water at the Respondent's place of business, Porky's Bar, and supply necessary reports of same to the CCHD per code. This agreement must be in place by 6/28/13 and a copy submitted to the CCHD. If the Respondent for any reason does not want to enter into a contract with a certified water supply operator, then the recommended fine for the fourth violation would be \$500 and the loss of operating permit for one month (July 2013). The fine would have to be paid on or before 6/28/13 with a \$10 per diem fine if not paid by that date.

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

Board Ordered: That Respondent enters into a contract with a certified water supply operator by 6/28/13 to maintain the disinfection equipment and submit necessary reports to the CCHD. If the Respondent for any reason does not want to enter into a contract with a certified water supply operator, then the recommended fine for the fourth violation would be \$500 and the loss of operating permit for one month (July 2013). The fine would have to be paid on or before 6/28/13 with a \$10 per diem fine if not paid by that date.



**DOCKET 13-015****RICHARD SANDBURG, 3118 W. Valley View Drive, Allegany**

**Violations: CCSC, Article II, Part 16.3.1** A sewage disposal system was constructed on this property without submitting an "Application for a Small Sewage Disposal System Construction Permit." Notice of Hearing offering a \$50 civil compromise was mailed on 4/12/13. It was received and signed for by Barbara M. Sandburg on 4/16/13.

**Administrative Hearing:**

Public Health Sanitarian: Rebecca Johnstone appeared for CCHD and was sworn.

Respondent: Failed to appear at hearing

Ms. Johnstone gave the following testimony:

- Enf. 1 was read and affirmed to be correct by Ms. Johnstone and identified as People's Exhibit #1.
- On 10/12/12 CCHD received a call from a contractor at the Sandburg residence saying the sewage system was leaking untreated sewage onto the surface of the ground.
- Ms. Johnstone gave the contractor a verbal okay to repair and left the contract with the contractor for the Respondent.
- The contractor is an approved CCHD small sewage disposal system installer.
- Ms. Johnstone inspected the new system on 10/17/12 and approved it.
- Letter sent dated 12/6/12 to Respondent identified as P.Ex. #2.
- Letter sent dated 3/19/13 to Respondent identified as P.Ex. #3.

To date there has been no contact from the Respondent to CCHD concerning the new system installed and approved in October 2012.

Hearing Officer finding: Respondent is in violation of CCSC, Article II, Part 16.3.1 – failure to submit an application for a construction permit.

Recommendation: That Respondent pays a \$100 fine to be received by CCHD by 6/28/13 and provide the CCHD with a completed application form and \$125 fee for a small disposal system construction permit. A \$10 per diem fine will be assessed for each day of non-compliance after 6/28/13.

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

Board Ordered: That Respondent pays a \$100 fine to be received by CCHD by 6/28/13 and provide the CCHD with a completed application form and \$125 fee for a small disposal system construction permit. A \$10 per diem fine will be assessed for each day of non-compliance after 6/28/13.

**Other Board Action:**

**Victor Farr, Jr., Docket #12-027** – On 10/3/12 the Board ordered Respondent to connect his sewage system on property located at 1702 Andrews St., Olean, New York to the public sewer system by 5/1/13. Respondent did not comply with the Board of Health Order. Mr. Lapey made a motion to amend the Order to give Mr. Farr the opportunity to come before Mr. Porter, Hearing Officer, to state his case. It was seconded by Mr. Eade and unanimously approved.

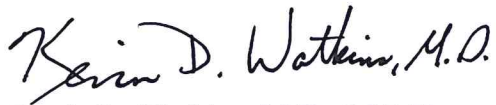
**Jerome & Helen Smith, Docket #11-061** – Board of Health Order dated 12/5/12 ordered premises to be vacated on 5/31/13 if an approved sewage disposal system was not installed by that date. It is our understanding that the family has moved out of the premises. A placard will be placed on the residence by the Sheriff's Department that states that the residence will remain vacant until an approved sewage disposal system is constructed.

Mrs. Fox and Mr. Lapey were appointed to a committee to nominate a board member to fill the vacancy as President for 2013.

Mrs. Stockman turned in more Community Health surveys and submitted a copy of a letter she distributed at the last town/village clerk meeting requesting the clerks/registrars to make a clean copy of the death certificates before sending to the Health Department if they are illegible.

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

Respectfully submitted,

A handwritten signature in black ink that reads "Kevin D. Watkins, M.D." in a cursive script.

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

KDW/km