



Public Health

Prevent. Promote. Protect.

Established 1923

CATTARAUGUS COUNTY BOARD OF HEALTH

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Andrew Klaczynski, MD, President

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Giles Hamlin, MD

Joseph Eade

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James Snyder

MINUTES

May 2, 2012

The 805th meeting of the Cattaraugus County Board of Health was held at Elkdale Country Club, Route 353, Salamanca, New York on May 2, 2012.

The following members were present:

Andrew Klaczynski, MD

Joseph Bohan, MD

Giles Hamlin, MD

Joseph Eade

Richard Haberer

Georgina Paul, FNP

James Snyder

Also present were:

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

Kathleen Ellis, Administrative Officer

Thomas Brady, County Attorney

Paula Stockman, County Legislator

Donna Vickman, County Legislator

Linda Edstrom, County Legislator

Howard VanRensselaer, County Legislator

Karen Manners, Secretary to Public Health Director

Eric Wohlers, Environmental Health Director

Raymond Jordan, Sr. Sanitarian

Susan Andrews, Director of Patient Services

David Porter, Hearing Officer

The meeting was called to order by Dr. Klaczynski. The roll was called and a quorum declared. Mr. Eade made a motion to approve the minutes of the April 4, 2012 Board of Health meeting. It was seconded by Dr. Bohan and unanimously approved.

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

DOCKET 12-002

INFERNO STUDIOS, ROBERT PRICE, 21 Main Street, Bradford, PA; violation was at 21 Main St., Cattaraugus

Violations: CCSC, Article II, Section 26.2.1 Respondent of Inferno Studios, Bradford, Pennsylvania applied tattoo's at the above referenced location on 2/5/12 without having received a

DOCKET 12-002 (continued)

shop certificate of sanitation from CCHD. Previous violation, Docket #09-026. Notice of Hearing with no stipulation/civil compromise offered was hand delivered to Respondent by Mr. Raymond Jordan, Sr. Sanitarian and Elisha Rust, Public Health Sanitarian, on 3/26/12. Notice of Hearing was also mailed on 3/26/12. It was received and signed for by (signature is not legible). Certified mail card was received by CCHD on 3/30/12.

Administrative Hearing:

Public Health Sanitarians: Andrew Wolf, Eli Rust and Raymond Jordan, Sr. Public Health Sanitarian, appeared for CCHD and were sworn.

Respondent: Failed to appear.

Enf. 1 was read and affirmed to be correct by Mr. Jordan and identified as People's Exhibit #1. Extensive testimony was given by Mr. Jordan outlined as follows:

Peo. Ex. #2 - complaint investigation form stating that after hours tattoo parties are being held at the Cattaraugus Village Public Library.

Peo. Ex. #3 - advertisement from facebook showing dates and locations of 2012 East Coast Ink Tour to get a tattoo.

Peo. Ex. #4 - affidavit of service.

Peo. Ex. #5 - copy of a memo dated 3/26/12 from Mr. Jordan to the file detailing attempts to serve Respondent.

Peo. Ex. #6 - letter dated 3/5/12 from Dr. Watkins to Cattaraugus Free Library.

Peo. Ex. #7 - letter dated 3/6/12 from Cattaraugus Free Library to Dr. Watkins.

Peo. Ex. #8-19 are pictures posted on Cattaraugus Free Library facebook page of individuals receiving tattoos from Mr. Price.

Peo. Ex. #21 - copy of a stipulation offer for Docket #09-026 that Mr. Robert Price, owner of Inferno Studios, signed and paid in August 2009.

Peo. Ex. #22 - copy of Enf. 1, Docket #09-026, concerning the same violation in August 2009 issued to Mr. Price.

Peo. Ex. #23 - copy of the record of service on Docket #09-026.

Peo. Ex. #24 - letter to Mr. Rust, CCHD, from Mr. Price apologizing for Docket #09-026, stating that the incident will not be repeated.

Peo. Ex. #25 - letter dated 3/5/11 from Mr. Jordan to Mr. Price explaining the Cattaraugus County Sanitary Code requirements.

Conclusions include the following:

- a) Mr. Price, owner of Inferno Studios, has had a previous docket for the same violation.
- b) Mr. Price has applied and received a permit to operate Inferno Studios in the past.
- c) Mr. Price sent a letter to CCHD apologizing for operating without a permit to apply tattoos.

Hearing Officer Finding: The Respondent is in violation of CCSC, Article II, Section 26.2.1 – applying tattoos without a permit to operate.

Recommendation: That Respondent pays a \$1,000 fine to be received by CCHD on or before 5/31/12 with a \$10 per diem fine if not paid by that date.

Dr. Bohan questioned why the fine was so high. Mr. Porter explained that the reason he recommended the \$1,000 fine was because the Respondent previously had a permit to operate and was aware of the requirements. Mr. Price also had a previous violation and the tattoo operation was

DOCKET 12-002 (continued)

set up in the Cattaraugus Free Library. Mr. Porter felt that if the fine was assessed at \$1,000, it would reinforce that this type of illegal operation will not be tolerated within Cattaraugus County.

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

Board Ordered: \$1,000 fine to be received by CCHD on or before 5/31/12 with a \$10 per diem fine if not paid by that date.

DOCKET 12-004

INFERNO STUDIOS, JUSTIN BYRD, 21 Main Street, Bradford, PA; violation was at 21 Main St., Cattaraugus

Violations: CCSC, Article II, Section 26.2.1 Respondent of Inferno Studios, Bradford, Pennsylvania applied tattoo's at the above referred to location on 2/5/12 without having received a shop certificate of sanitation from CCHD. Notice of Hearing offering a \$75 civil compromise was hand delivered to Respondent by Mr. Raymond Jordan, Sr. Sanitarian and Elisha Rust, Public Health Sanitarian, on 3/26/12. Notice of Hearing was also mailed on 3/26/12.

Administrative Hearing:

Public Health Sanitarians: Andrew Wolf, Eli Rust and Raymond Jordan, Sr. Public Health Sanitarian, appeared for CCHD and were sworn.

Respondent: Failed to appear.

Enf. 1 was read and affirmed to be correct by Mr. Jordan and identified as People's Exhibit #1. Extensive testimony was given by Mr. Jordan outlined as follows:

Peo. Ex. #2 - complaint investigation form stating that after hours tattoo parties are being held at the Cattaraugus Village Public Library.

Peo. Ex. #3 - an advertisement from facebook showing dates and locations of 2012 East Coast Ink Tour to get a tattoo.

Peo. Ex. #4 - letter dated 3/5/12 from Dr. Watkins to Cattaraugus Free Library.

Peo. Ex. #5 - letter dated 3/6/12 from Cattaraugus Free Library to Dr. Watkins.

Peo. Exhibits #6, #7, #8 & #9 are pictures of individuals receiving tattoos. Three of the pictures show Justin Byrd applying tattoos in the Cattaraugus Free Library posted on the friends of Cattaraugus Free Library facebook page.

Peo. Ex. #10 - copy of an application to operate a tattoo parlor listing Robert Price as the owner/operator received 12/14/10 that lists Justin Byrd as a tattoo artist.

Peo. Ex. #11 - memo dated 3/26/12 from Mr. Jordan to the file detailing attempts to serve Mr. Justin Byrd with Notice of Hearing.

Peo. Ex. #12 - affidavit of service.

Hearing Officer Finding: The Respondent is in violation of CCSC, Article II, Section 26.2.1 - Applying tattoos without a permit to operate in Cattaraugus County.

Recommendation: The \$75 civil compromise offered as settlement be changed to a \$75 fine and then doubled as Respondent failed to appear at hearing. \$150 fine should be received by CCHD on or before 5/31/12 with a \$10 per diem fine if not paid by that date.

DOCKET 12-004 (continued)

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

Board Ordered: \$150 fine to be received by CCHD on or before 5/31/12 with a \$10 per diem fine if not paid by that date.

Director's Report: A copy of the 2011 Health Department Annual Report was handed out. Dr. Watkins stated that a lot of time and effort from the staff was put into preparing the report and summarized the report to the Board. The Annual Report is available on the Health Department website at www.cattco.org/health. Dr. Watkins thanked the Health Department staff for doing a superb job in meeting the requirements set by New York State Department of Health during the tough economic times in 2011.

Dr. Watkins reported that the Medicare Cost Report for the Home Care Program was completed last week and it shows that the program continues to do well. Profits in 2011 were not as high as in 2010 but the number of clients served was also lower. One recommendation was that we must continue to monitor Medicare Managed Care insurance, as the reimbursement rates are progressively decreasing. Another recommendation was to look at revenue potentials in our Telehealth program because billable services are not being billed. Overall the program continues to be profitable and continues to support other programs within the Health Department, especially the Long Term Home Health Care Program.

The deadline was April 20, 2012 for agencies to apply to the State to become certified agencies. Three agencies submitted applications for a certificate of need (CON) to become certified home health agencies and one of those applications was submitted after the deadline date and probably will not be reviewed by the State. Two applications are under review by the State and they are both based out of Buffalo. There was one application that was submitted for expansion to Western New York counties outside of Cattaraugus County. Dr. Watkins stated that he is very optimistic that this will not have any adverse affect on our projected revenue and if no further applications are accepted by the State then we should continue to do very well in our home care program.

The State accepted the Health Department's corrective action plan that was submitted in response to the Article 28 survey. We are waiting for a report on the consolidated review for the rest of our programs that the State conducted in March and then we will have 45 days to respond.

Dr. Watkins stated that recently we have had requests to permit temporary tattoo sites at special events for tattoo artists to apply tattoos. Currently there is no statute in the Cattaraugus County Sanitary Code to cover this, but a section has been included in the updated code. There was discussion whether or not to allow the temporary shops to operate. The updated code will require that the tattoo artist completes a blood borne pathogen training program so that they are aware of the transmissions of blood borne pathogens that can occur with tattooing. In addition to that, they will have to complete a first aid training program. They also will be required to provide a doctor's certificate to be sure that they are not carriers of any blood borne pathogens.

Dr. Bohan said that he would support strict regulations on tattooing. This can be very serious because someone can contract Hepatitis, not know it for years, and may need to have a liver transplant because of it. Mr. Wohlers stated that our health inspectors visit the permitted tattoo shops quarterly to test their autoclave machine and make sure they renew their permit. He also stated that New York State has sporadically discussed implementing tattoo regulations for nearly 20 years. It is being discussed again by the State to institute state-wide regulations in the future, but right now it is up to individual counties.

Nursing Division Report: Mrs. Andrews reported that the Nursing Division will offer a rapid Hepatitis C screening test in the near future. If the test is positive, the individual would be referred to a health care provider for treatment.

There were no post-exposure rabies treatments given in April.

There was a one new lead case in April with a level of 14 ug/dl (normal is 0 - 9 ug/dl).

The results from the Home Care Consumer Assessment Satisfaction Survey were publicly posted. This information comes directly from the home care patients. The following percentages show that the Health Department did very well in the survey.

| <u>Survey question</u> | <u>Cattaraugus County Health Department</u> | <u>New York</u> | <u>National Average</u> |
|--|---|-----------------|-------------------------|
| Gave care in a professional way | 92 | 84 | 87 |
| Rate home care on scale of 0-10 | 84 | 80 | 84 |
| Would you recommend to friends/family? | 83 | 76 | 80 |

Julie Welch is retiring in May. She is a Community Health Nurse who has worked for the Health Department for 26 years and has been the intake nurse since 2009. She never leaves any question unanswered, is very good with follow up and we will miss her. Since we now have sufficient staffing, we will have a liaison that will regularly visit Olean General Hospital, which is where the majority of our Certified Home Health Agency referrals are from.

Environmental Health Division: Mr. Wohlers reported that the Town of Olean sewer project that was funded through a grant two years ago will be finished this week. There were 10 low income residences in that neighborhood with sewage discharges that were cited for violations of the County Sanitary Code. There was money set aside in the grant to provide funding for people that qualify as low income to connect to the new sewer line. Violation notices will be sent to 6 property owners that have not yet connected. They may qualify for some of the grant money that needs to be spent within the next 30-60 days.

Mr. Wohlers stated that 46 projects were completed under the Community Development Block Grant for 2009/2010 to replace failed septic systems and contaminated water supplies for low income families. Funding for this grant has been awarded for the 2011/2012 fiscal year and the first two projects went out for bid last week. Hopefully, we can help another 36 or 40 homeowners in Cattaraugus County during this grant period.

Mr. Wohlers mentioned that the annual NYS Drinking Water Enhancement Grant will be submitted to the State tomorrow. The annual workplan to DEC for the water quality contract was also submitted. As was discussed, we hope to submit the Sanitary Code revisions to the State Health Department next month. After approval by the State, it will be submitted to the Board of Health for final adoption. This will include the addition of the section on body art for tattooing and body piercing. Mr. Snyder asked if the kiosks at the mall that offer ear piercing fall under the Sanitary Code. Mr. Wohlers stated that ear piercing is excluded.

Mrs. Andrews stated that on the state-wide epidemiology call that is scheduled every Wednesday they were discussing Monroe County because there have been a lot of infections related to tattooing that were traced back to the ink that was being used and now a recall is being put in place for this particular brand of ink. Mr. Wohlers stated that one or two years ago there was transmission of Methicillin Resistant Staphylococcus Aureus (MRSA) in Niagara County that was attributed to tattooing. He also stated that since our regulations have been in effect, tattoo parlor owners are required to keep a log book of all of their clients.

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

Respectfully submitted,

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

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

KDW/km