



CATTARAUGUS COUNTY BOARD OF HEALTH

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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, MSN, C.S.

Richard Haberer

Theresa Raftis

David L. Smith, Mayor

James Snyder, Legislator

Kathryn Cooney Thrush, NP, MSN

MINUTES

July 3, 2019

The 876th meeting of the Cattaraugus County Board of Health (BOH) was held at The Point Restaurant, 800 East State Street, Olean, New York on July 3, 2019.

The following members were present:

Dr. Joseph Bohan

Mayor David Smith

Sondra Fox, MSN, C.S.

James Snyder, Legislator

Richard Haberer

Kathryn Cooney Thrush, NP, MSN

Theresa Raftis

Also present were:

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

Tom Brady, County Attorney

Barb Hastings, Legislator

Donna Vickman, Legislator

Raymond Jordan, Sr. Public Health Sanitarian

Debra Lacher, Secretary to the Public Health Director

Colette Lulay-Pound, Administrative Officer

Lynne Moore, Director of Patient Services

Dave Porter, Hearing Officer

Dr. Paul Schwach, Clinic Physician

The meeting was called to order by Dr. Joseph Bohan. The roll was called and a quorum, was present.

Legislator Snyder made a motion to approve the minutes of the BOH meeting held on May 7, 2019, the motion was seconded by Mr. Haberer and unanimously approved.

Mrs. Fox made a motion to approve the minutes of the Professional Advisory meeting held on April 17, 2019, the motion was seconded by Mayor Smith and unanimously approved.

DIRECTORS REPORT: Dr. Watkins shared that the board learned last month that there were nearly 8,000 known e-liquid flavored nicotine “vape juices” available on the market. It is the variety of flavors that makes vaping appealing to teens and adolescents who are now using electronic cigarettes in record numbers.

Nicotine, which is one of the most addictive chemicals known to man, is one of the major components in e-cigarettes, it can harm brain development in children and young adults into their early twenties and is toxic to the developing fetuses. According to the Centers for Disease Control and Prevention, both children and adults have been poisoned by swallowing e-cigarette liquid.

Since the main source of nicotine actually comes from the tobacco plants, which is developed in the roots and then becomes concentrated in the plant leaves, the question is, why aren't e-cigarettes regulated by the Food and Drug Administration (FDA).

At our meeting last month the Board also learned that the JUUL brand of e-cigarettes are the most common electronic nicotine delivery system used amongst youth nationwide. It looks like a flash drive and it can be easily concealed.

A JUUL contains around 45 milligrams of nicotine, which can deliver 200 puffs from one cartridge and can deliver the nicotine up to 2.7 times faster than cigarettes because of the nicotine salt formulation within the JUUL apparatus. The concentration of nicotine varies among the two types of JUUL pods. A JUUL pod can be purchased in a 3% or 5% nicotine mixed concentration.

The popularity of this high potency nicotine delivery device raises concerns about the lack of education and regulation of e-cigarette products, and the slow action of the FDA and NYS legislature to regulate the sales.

Due to students increased use of electronic cigarettes the Olean City School district has added the word vaping to its student's code of conduct. Vaping and even wearing clothing that promotes vaping is against school rules and can lead to detention and a family conference. A recommendation by a tobacco coalition has been sent to the department asking if the department could reach out to the school district to see if a tobacco/nicotine educational program can be offered to students if they have been sent to detention or at least a cessation program in lieu of suspension.

At the last BOH meeting Dr. Bohan inquired if anything could be done at the legislative level. After reviewing several proposed local laws and the bill being considered by the State Senate and Assembly (a copy was provided to all those in attendance) it appears that each regulation proposed a restriction of the sale of all flavored e-liquids nicotine. Local law #16 adopted in 2011 for Cattaraugus County, regulates electronic and herbal cigarettes (copy provided to all those in attendance). A discussion was held by the Board regarding vaping, and the flavored e-liquid specifically. Dr. Bohan stated that originally e-cigarettes were promoted as a cessation device for those who wanted to quit tobacco and he proposed eliminating the e-liquid flavors that are enticing youth. Dr. Bohan also commented that if this was truly a cessation device the nicotine concentration should be less potent than what is in cigarettes, not higher. In addition, if these vaping cartridges were closed devices that would also be helpful in preventing someone from adding an unknown substance to the apparatus.

Mayor Smith stated that JUUL's and other e-cigarettes are becoming an epidemic in schools. As a school official he has had (16) e-cigarettes offenses at the Gowanda High School and (4) offenses in Gowanda Middle School for vaping in the schools during the 2018-2019 calendar year. Out of (20) students caught vaping in school (6) had marijuana dabs in their e-cigarettes cartridges mixed with scented e-liquid flavored juice to mask the smell of the marijuana.

Gowanda School District has a policy that requires all parents to attend a drug and alcohol education night every school year. Forty minutes of the education specifically deals with the e-cigarettes (i.e. JUUL's) and the juices, where the apparatus can be hidden, and how to detect if students are carrying the apparatus and or its products. If the parent or guardian does not attend, the students cannot participate in any extracurricular activities for the district including prom, graduation, sports, clubs or other extracurricular activities. In order to re-participate they must attend cessation sessions which are three sessions of two hours each in length. If they complete this cessation program their penalty can be shortened by one week.

Dr. Bohan asked how much does a JUUL apparatus cost. Dr. Watkins replied that the apparatus or starter kit can cost anywhere between \$30 and \$40, and the liquid cartridges or pods cost approximately \$10.00 each. Sondra Fox asked if hookahs can be substituted with potent nicotine or marijuana. Dr. Watkins replied yes, sweetened and flavored non-tobacco products are sold for use in hookahs. Mr. Haberer asked if the County Attorney was aware of the Board's plan to recommend to the legislators that they amend the current local law. County Attorney Brady stated yes he was aware, and that the legislature will be given the recommendation in the form of an amended local law.

A draft handout was provided to those in attendance regarding a recommendation to the county legislature to amend local law number 16-2011 to restrict the sale of e-liquid flavors in e-cigarettes sold in Cattaraugus County to only tobacco flavor. Attorney Brady recommended that the recommendation of the Board, mirror the definition of restricting e-liquid flavor as the State Senate and Assembly has in their bill. Mayor Smith made a motion to prepare a recommendation to the county legislators that mirrors the State Senate and State Assembly bills, the motion was seconded by Mr. Haberer and unanimously approved.

Dr. Bohan asked for further clarification on the concentration of nicotine in e-cigarettes and suggested that the concentration be limited to the European Union's limit of 20 milligrams per milliliter or even less in Cattaraugus County.

Dr. Watkins reported that several inquiries have been answered by the Health Department regarding Rafi's Platter restaurant's new Hookah lounge that is located on the outside of their restaurant. Hookah's are a single or multi stem instrument for vaping and smoking tobacco but can also be used for flavored tobacco or other products. The department has explained that the clean indoor act allows smoking of tobacco product or vaping devices at outdoor dining areas with no roof or ceiling enclosure separated from non-smoking outdoor areas, and clearly designated with appropriate signage. A picture was provided, to those in attendance, of Rafi's Platter designated area for Hookah vaping. Ms. Raftis stated that even though the restaurant has followed the clean indoor air act regulation, as a consumer, when eating at this establishment you can still smell the smoke when you are not in the designated area. Dr. Bohan asked if the law required a certain distance from other customers. Dr. Watkins replied that the space should constitute no more than 25% of the outdoor seating capacity, and should be at least three feet away from the customer area not designated for smoking and vaping. Environmental Health staff did measure to make sure that all guidelines were met. Dr. Watkins added that if the Board wanted to propose a more stringent regulation on this outdoor hookah lounge the County Attorney would need to investigate this avenue. Mrs. Fox expressed her concerns with the Hookah lounge, and Dr. Watkins replied that he would work with the County Attorney on recommendations that could possibly be imposed on Rafi's hookah lounge. Attorney Brady stated that the only issue for him would be whether local legislation is preempted by State legislation.

Dr. Watkins provided the Board with three new policies for the environmental health division. The first policy was intended to establish standardized guidelines to be used by Environmental Health staff for the handling of Real Property Transfers. The second policy was intended to establish standardized guidelines for conducting sanitary surveys of private onsite water supplies for real property transfers. Finally, the third policy was intended to establish standardized guidelines for conducting sanitary surveys of private onsite wastewater treatment systems for real property transfers.

Dr. Watkins stated that the second and third policies actually ask the owner to excavate their septic or their well systems in order that the sanitarians can access that area. The possible financial impact for the residents was provided in a handout to all those in attendance. A lengthy discussion was held amongst the Board members and it was decided that the policies should be tabled. Dr. Watkins stated that he would meet with staff and see what other solutions could be available that would have less of a fiscal impact on residents.

At the March Board meeting the Board ordered New Lakeview Chinese Restaurant to pay a \$475.00 fine by March 30, for multiple repeat violations that were identified at their facility. In addition, the Board ordered that the owner, You Wen Tang, enroll in a certified food protection training course and pass the exam by May 31, 2019. The permit to operate will be issued quarterly at this facility and re-inspected at the end of each quarter. Update, Mr. Tang did enroll in the course however he was unsuccessful in passing the exam. The instructor inquired if his wife who is also at the restaurant daily and part owner be allowed to take the course and exam in his place. After granting permission, Mrs. Tang was able to successfully pass the exam. To satisfy the penalty assessed to the New Lakeview Chinese Restaurant the department asked the Board to modify their original order to include Mrs. Tang as a person who could enroll in a certified food protection training course and pass the exam. Legislator Snyder made a motion to accept this modification, the motion was seconded by Mayor Smith and approved unanimously by the Board.

Upon re-inspection of the New Lakeview Chinese Restaurant on June 25th, there was (1) critical violation that was immediately corrected at the time of inspection. There were (5) repeat blue violations that were identified but the department have seen improvements in the way that they operate and three people within the restaurant have taken the food protection class. The department is recommending that the Board issues a permit for the next (3) months. A motion was made by Mr. Haberer to provide a (3) month permit, the motion was seconded by Mayor Smith and unanimously approved.

Legislator Snyder brought forth a concern from Vic Vena, a local pharmacist, regarding an increased cost in providing opioids to residents. Dr. Watkins responded that New York State (NYS) has imposed an excise tax on all opioids distributed in NYS as a deterrence of the millions of opioid pills being distributed in NYS.

This excise tax was to be assessed to the distributor or the wholesalers. He stated that the opioid tax was not supposed to be added as a separate charge or line item on any invoice given to the customers or otherwise passed down to the customer.

However, if the pharmacist, Vic Vena, is being taxed directly, he may have been assessed a “pass through” tax and will not be able to absorb the cost and will be left with no other alternative but to pass this cost on to the patient. The patient will then have to either get their prescription filled at a chain pharmacy who may not be directly impacted by the excise tax or have their medical provider write a prescription for a non-opioid pain medication.

Ms. Thrush asked about the status of the class action law suit on opioids. Dr. Watkins replied that this is still being worked on in the courts. In NYS, Cattaraugus County is part of a fifty eight county class action law suit and things are slowly progressing through the legal discussions in the courts. Attorney Brady added that in other parts of the country these class action law suits are coming close to trial.

NURSING DIVISION REPORT: Mrs. Moore reported that the homecare census is (278), the department will continue to look outside of the box to increase those numbers and will continue to do outreach at medical providers offices to educate them on how they can refer, and reasons to refer patients that may need homecare assistance.

Four nurses attended the Outcome and Assessment Information Set (OASAS) training which is an assessment tool, and a requirement for accreditation.

The lead program is following (68) children with elevated blood lead levels (normal < 5ug/dl). There were (15) point of care lead tests conducted in May and (8) conducted in June at WIC clinics sites. Four children were found to have elevated blood lead levels at the Olean Head Start and will need venous confirmation. Lead testing will be done in collaboration with the Seneca Nation of Indians at the Celebrate Salamanca event on July 13th. The next lead coalition meeting will be held on August 14th from 10:00 AM to noon in the Cattaraugus County health department’s conference room.

NYS Department of Health (DOH), Western Region office, stopped by the department last month for a courtesy visit to see if recommendations left after the consolidated review last year had been put into practice. The visit showed that the department was in compliance with all recommendations. There was a suggestion that the Maternal Child Health program be reinitiated with a coalition involving the surrounding counties.

Recently the department was contacted by NYSDOH to see if the department would be interested in hosting a hepatitis C virus dried blood spot testing training for the western region. This is a test done for hepatitis C, which combines two tests into one, and does not require venous testing, simply a finger or heel stick. This training will be provided on July 25th at the department.

Communicable diseases: Hepatitis B, there was (1) case; Hepatitis C, there were (9) chronic cases; Lyme disease, there were (4) confirmed cases; Campylobacter, there were (2) cases in May and (1) case in June. Sexually transmitted diseases included: Chlamydia, (17) positive cases for May and (17) positive cases for June; Gonorrhea, there were (2) cases in May and none in June; Syphilis, no cases in May, and (5) cases in June; HIV, no cases in May, and (1) positive case in June.

Rabies post exposures prophylaxis vaccine, there were (3) given in May and (13) given in June, rabies pre-exposure prophylaxis vaccine, there were none given in May and (1) given in June.

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The department received a report that neighborhood children had kept two baby raccoons in a barn for a month and one died. Upon testing both raccoons, it was determined that they were negative for rabies, this could have been a case of several exposed children.

ENVIRONMENTAL HEALTH DIVISION REPORT: Mr. Jordan reported that there was a rabid raccoon that got into a house through a dog door, and fought with a dog that resulted in (3) people getting rabies post exposure prophylaxis vaccinations. The owner of the dog and two neighbors who helped him retrieve the raccoon. A conservation officer came on-site to euthanize the raccoon.

Program aides in the mosquito program have been working for about a month and a half, surveillance of both adults and larva mosquitoes has indicated an increase in numbers. There has been lots of rain and stagnant water and with the warm weather projected in the next few weeks, the numbers of mosquitoes will continue to increase. Dr. Bohan asked if there had been any larva spraying yet. Mr. Jordan replied no.

In anticipation of the increased lead cases in Cattaraugus County, there will be a need to purchase an XRF machine for the department and someone will need to be licensed to utilize the machine.

Staff is busy providing temporary food permits, inspections of children's camps, and inspections of sewer systems.

Enforcement Report: Mr. Porter reported on an enforcement from June 19, 2019.

Docket #19-016:

Respondent: Peter Duchmann, 5201 Parker Road, Hamburg, NY 14075. Violation sanitary code of Cattaraugus County Health District 7.1 Closure Placard removed on 5/23/19 after being posted on 5/22/19 by the Cattaraugus County Sheriff's Department. Location of property 10290 Wilder Road Town of Persia.

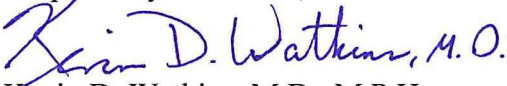
Recommendation: That the respondent pay a fine of \$250.00 on or before 7-31-19. A \$10.00 per day per diem will be levied for every day not in compliance. Until respondent's fines are paid the respondent will not be issued a permit to operate.

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

The next BOH meeting will be held Wednesday, August 7, 2019.

There being no further business to discuss, a motion to adjourn was made by Legislator Snyder and seconded by Ms. Raftis and unanimously approved.

Respectfully submitted,


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