



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 February 12, 2019

The 872nd meeting of the Cattaraugus County Board of Health (BOH) was held at The Point Restaurant, 800 East State Street, Olean, New York on February 12, 2019.

The following members were present:

Dr. Joseph Bohan

Theresa Raftis

Dr. Giles Hamlin

James J. Snyder Sr., Legislator Chair

Sondra Fox, RN, MSN, C.S.

Richard Haberer

Also present were:

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

Eric Firkel, County Attorney

Donna Vickman, Legislator

Raymond Jordan, Sr. Public Health Sanitarian

Debra Lacher, Secretary to Public Health Director

Colette Lulay-Pound, Administrative Officer

Lynne Moore, Director of Patient Services

Dave Porter, Hearing Officer

Eric Wohlers, Environmental Health Director

The meeting was called to order by Dr. Joseph Bohan. The roll was called and a quorum declared. Legislator Snyder, Sr. made a motion to approve the minutes of the BOH meeting held on December 3, 2019, it was seconded by Theresa Raftis and the motion was unanimously approved.

NOMINATING COMMITTEE REPORT: Sondra Fox and Theresa Raftis met as the nominating committee. Mrs. Fox shared that the nominating committee's recommendations for the 2019 BOH officers were Dr. Joseph Bohan for President and Dr. Giles Hamlin for Vice President. A motion was made by Legislator Snyder to accept the recommendations, seconded by Mr. Haberer and the motion was unanimously approved.

DIRECTORS REPORT: Dr. Watkins congratulated the President and Vice President on their re-elections to the Board for another term.

He reported that during the week ending February 2nd, the influenza activity was categorized as geographically wide spread. This is the eighth consecutive week widespread influenza activity has been reported.

There were 6,977 laboratory confirmed influenza reports in New York State (NYS), which is a 3% increase over the week prior to Feb. 2nd. Of the (56) specimens that were tested at Wadsworth Center (48) were positive for influenza, (29) were influenza A (H1), (13) were influenza A (H3N2), and (6) were influenza A not subtyped. The number of patients that have been hospitalized with laboratory confirmed influenza in NYS were (968) an 8% decrease over the week prior to February 2nd. There has been (1) influenza associated pediatric death in NYS reported this season. Cattaraugus County has reported a total of (55) laboratory confirmed cases of influenza, (54) or 98% were influenza A and (1) or 2% was influenza B.

It is still recommended that anyone 6 years or older who has not been vaccinated against influenza to get vaccinated as a first line of defense against influenza. People who are infected with influenza virus despite vaccination appear to have a reduced burden of the disease compared to those who did not receive a vaccination. Similarly, patients across multiple age groups hospitalized with influenza that are vaccinated benefit from reduced risks of in-hospital death, decreased rates of intensive care unit admission, and shortened hospital stays.

Antiviral drugs work best for treatment within 48 hours of getting sick. However, starting them later can still be beneficial. As discussed at our November meeting, Baloxavir (trade name Xofluza) is one of four anti-viral medications that can be prescribed to treat early influenza. This is a single oral dose antiviral that can be prescribed to those who are 12 years and older.

A handout was provided to those in attendance listing the proposed 2019 clinic immunization fee schedule, effective March 1, 2019. Dr. Watkins reviewed the fee schedule changes in detail with attendees. A motion was made By Mr. Haberer to approve the proposed 2019 clinic immunization rates as presented, seconded by Mrs. Fox and the motion was unanimously approved.

Dr. Watkins presented a list of uncollected 2018 debit that had been carried onto the 2019 accounts receivable books. He asked the Board for approval to send this uncollected 2018 debt before the County Legislators to have it written off the accounts receivables. He explained that this debt was sent to collections but has not been recouped. The total amount of uncollected 2018 debt is \$8,480.70, this is a \$181.74 increase from 2017. The different divisions with uncollected debt consist of; homecare \$4,792.68, family planning \$1,148.19, immunization clinic, \$1,055.83, and water \$1,484.00. These are fees that come from patient's pay such as copays, coinsurance, or percent of medical costs that a patient is required to pay. A motion was made by Mr. Haberer to send this uncollected 2018 debt before the County Legislators to have it written off the department accounts receivables, seconded by Ms. Raftis, and the motion was unanimously approved.

Governor Andrew Cuomo proposed to raise the minimum sales age for tobacco and electronic cigarette products from 18 to 21 in his 2019 executive budget as part of comprehensive legislation to address the teen vaping epidemic, curb youth tobacco use and remove sources of tobacco and nicotine products from high schools.

This proposal has been recommend by the Board of Health and adopted by the County legislature in November 2016.

Other public health news includes the fast track proposal by the governor to legalize recreational marijuana. This legislation although unfortunate, is expected to be adopted by the State Legislators. If adopted this year, legal sales would not occur until April 1, 2020. Additionally, plans are being made to create an Office of Cannabis Management within the division of Alcohol Beverage Control to regulate recreational marijuana. Its power would include:

- Establishing cultivation and processing standards
- Issuing licenses to businesses in the production and distribution chain
- Inspecting and enforcing program standards
- Developing and insuring program regulations
- Supervising continued expansion of medical cannabis program
- Promoting reforms that expands patient access to medical marijuana and product affordability

County Government have the ability to opt out of authorizing the cultivation, processing, distribution, and sale of adult use cannabis with the passage of a local law. If a county does not opt out a city with greater than 100,000 people can chose to opt out. Counties, villages and towns can pass ordinances to determine time place and manner of license adult use cannabis retail dispensaries, provided that such ordinances do not make the dispensaries operation unreasonable.

The North Hempstead Town Board in Nassau County passed a law prohibiting the retail sale of recreational marijuana in their town. Dr. Watkins reported that the New York State Association of County Health Officials are asking the Governor and the State Legislature if they would provide additional funding, and resources to local health departments for education, and research and the limitation of retail dispensaries within local municipalities. Dr. Bohan asked if the Cattaraugus County Legislators have taken a position on this topic. Legislator Snyder, stated not yet.

Dr. Watkins gave an update about the ongoing measles outbreak on both the West and East coasts. He stated that the Centers of Disease Control (CDC) and Prevention confirmed 101 measles cases this year (55) of those were in Washington State which seems to be the epicenter for the outbreak. Almost all the cases occurred in children younger than 10 years of age whose parents had chosen not to vaccinate them. In December of last year, NYS reported a measles outbreak in Rockland County with (91) confirmed measles cases (71) were children under the age of 18 years of age, NYC identified (39) confirmed measles cases, and Orange County identified (5) measles cases; in 89% of the cases in NYS, the vaccine status could be determined and of those 89%, 95% of the cases were unvaccinated children. There are (17) states that allow non-medical exemptions from vaccination requirements for going to school, according to the National conference of State Legislatures. Currently (47) states still allow religious exemptions, and since 2009, the number of philosophical-belief vaccine exemptions has risen in twelve of the eighteen states that currently allow this policy.

In NYS the state law requires that every student entering or attending public, private, or parochial school must be immunized against diphtheria, tetanus, pertussis, measles, mumps, rubella, polio, hepatitis B, varicella, and meningococcal.

The state law also requires in coming college students to be vaccinated against measles, mumps, and rubella (MMR). The law grants an exemption for parents who hold a genuine, and sincere religious belief that run contrary to immunizations. If a doctor believes it would be detrimental to a child's health they may also provide exemption status.

Measles can be severe, and highly infectious. Following exposure, up to 90% of susceptible persons develop measles. It is spread by airborne contact with an infected person through coughing, and sneezing. It replicates in the nose and throat of an infected child or an adult. When someone with measles coughs, sneezes or talks, infected droplets spray into the air, where other people can inhale them. The infected droplets may also land on a surface, where they remain active and contagious for several hours. If a person then puts their fingers in their mouth, nose or rub their eyes after touching an infected surface, they can contract the measles virus.

In the year 2000 Measles was declared eliminated in the United States, thanks to the MMR vaccine which was part of a routine childhood shot for decades. In recent years, a social movement of public health vaccine opposition has been growing and subsequently, there are multiple cases of measles outbreaks occurring.

Legislator Snyder, commented that it appears Cattaraugus, and Allegany Counties have a large number of religious exemption from vaccines compared to other counties in the state. Dr. Watkins referred those in attendance to the spreadsheet he had passed out that compares Cattaraugus County immunization status to other counties and speculated that this is due to the large Amish population in the two counties, who do not believe in immunization.

NURSING DIVISION REPORT: Mrs. Moore reported that the homecare census is (300). The average monthly admissions since January has been (110).

Staffing changes included two new Community Health Nurses, one position in Machias, and one in Salamanca.

The lead program is currently following (64) open cases, with blood lead levels between 5ug/dl and 35ug/dl (normal, 5ug/dl). There were two added cases in January that were confirmed between 10ug/dl and 14ug/dl. Blood Lead Level cases between 5ug/dl-9.9ug/dl have started to decrease. In 2017 there were (60) cases of children with blood lead levels between 5ug/dl-9.9ug/dl, and in 2018 there were (49) cases. The Lead coalition continues to meet quarterly, and is scheduled for their next meeting tomorrow.

The clinic is still immunizing for influenza and between December and January the clinic administered (412) vaccines. Countywide, there has been (2,084) influenza vaccination administered to county residents in December and January, and roughly (14,000) influenza vaccinations have been administered from October to January.

Communicable disease; Hep C (chronic), there were (5) cases between December and January; Salmonella, there were (2) unrelated cases; Legionella, there were (2) cases in January; Chlamydia, there were (18) cases in December and (20) in January; Gonorrhea, there were (4) cases in December, and (3) in January; Syphilis, there was (1) case in January.

Mrs. Fox asked Mrs. Moore about the status of the shortage in acquiring the shingles vaccine, Shringrix. Mrs. Moore responded that the vaccine is a highly effective vaccine against shingles, but the vaccine has a nationwide shortage, and the manufacture is unable to meet the demand for the vaccine. Only 20-30 of the vaccines come in at a time. People are on a waiting list and they are put on the top of the list if they have received a previous dose so they can receive the second one within the recommended timeframe. Mrs. Fox asked what the recommended timeframe would be between the two doses of the vaccine. Mrs. Moore responded that it should be anywhere between 2-6 months from the first dose of the vaccine.

ENVIRONMENTAL HEALTH DIVISION REPORT: Mr. Wohlers stated that two weeks ago a letter was received from NYS Division of Housing and Community Renewal's Office of Community Renewal that the department's application for the repair and replacement of wells and septic tanks was not selected for this round of Community Development Block Grants. This means no funding is available in 2019 to assist low income families in replacing or repairing their wells or septic system problems.

Mr. Wohlers stated that the department has been funded for four (two-year) cycles and this time the department was not selected. There is an option to request an exit conference which has been done and the department is waiting to hear from the reviewer regarding the request.

The State has announced that there is funding available for the drinking water source protection program. The Department of Environmental Conservation (DEC) has announced that they will provide grants to regional planning boards to work with Health Departments for zoning, and mapping to protect drinking water sources. In January, the state announced that they will provide grants to (30) communities statewide. They will hire consultants to work with the chosen communities to develop source water protection plans. The department is encouraging the Village of Allegany, the Village and town of Ellicottville, and the town of Machias to apply for these grants. Each of those communities have had wells that were contaminated by different sources which makes them good candidates for this program.

Mr. Wohlers stated that in Machias there was only (1) individual who did not abide by the ruling to connect to the new sewer system, out of the hundreds of cottages around the lake. The town has contacted the department officially requesting that the department help them to enforce this ruling. Mr. Wohlers is currently drafting a letter requesting this individual to hire an electrician to connect to the sewer system. If they do not comply, an enforcement hearing will be issued. Legislator Snyder asked how much money would be involved in this compliance. Mr. Wohlers stated the cost would be a few hundred dollars to establish a dedicated circuit.

There was an oil derrick tank (drilling rig) fire early this morning in the town of Allegany, the State has asked the department to check to see if any homes had their wells affected by this fire.

Enforcement Report: Mr. Porter reported on Docket # 18-045:

Administrative Hearing 1-8-19

Respondent: Hutch Enterprises, Inc. Marie Hutchins, 7510 Porter Road, Niagara Falls, 14304 DBA/The Woods at Bear Creek, 3510 Bear Creek Road, Machias, NY. Violations: Respondent failed to submit complete daily records for the operation of the non-community water supply for the month of November 2018 to the office of the CCHD by the 10th day of the following month 10NYCRR Section 5-1.72 (c) (1).

Recommendation: The \$100.00 stipulation be changed to a \$100.00 fine x 2=\$200.00 total fine for the non-appearance and violations. The fine is to be paid on or before February 28, 2019. Failure to be in compliance would result in a \$10.00 per day per diem until payment in full is made.

A motion to support this recommendation was made by Ms. Raftis, seconded by Mrs. Fox, and unanimously approved.

Administrative Hearing 1-8-19

DOCKET #19-002, #19-005:

Respondent: Ravyn and Robyn Lounge, LLC, 1167 Bay Ridge Parkway, Brooklyn, NY 11228 DBA/Ravyn & Robyn Lounge, LLC, 219 North Union Street, Olean, NY 14760.

Violation: BOH ordinance November 14, 2017 Certified Food Protection Manager Training verification not provided to the Health Department by December 1, 2018.

Recommendation: 1.) The respondent did not have a Certified Food Safety Manager employed until January 6, 2019. Fine \$75.00.
2.) The placard for notice of closure was removed from Ravyn & Robyn Restaurant within minutes of being attached by CCSD personnel. fine \$100.00
3.) All fines to be paid on or before February 28, 2019. A \$10.00 per day, per diem will be levied for every day not in compliance.

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

Administrative Hearing 12-18-18

DOCKET#18-027:

Respondent: Pete Duchmann, Armor Trail Raiders, Inc., 5201 Parker Road, Hamburg, NY 14075 DBA Yoderland Mud Park, location of property 10290 Wilder Rd, Persia, Cattaraugus County, NY.

Violations (8):1.) 10NYCRR 7-3.7 (c) Construction of campground not in compliance with approved engineered plans.

DOCKET#18-027 (continued):

2.) 10NYCRR 7-3.8 (b) Campsites not designated and therefore multiple campers were able to park too close to each other not providing code required minimum sized lots. 3.) 10NYCRR 7-3.13 (k) Potable water was not available within 500 feet of each camp site. 4.) 10NYCRR 7-3.14 (c) Half of all hand wash stations (6 total) drained directly to the ground. 5.) 10NYCRR 7-3.14 (c) Shower trailer drained directly into drainage inlet next to entrance road. 6.) 10NYCRR 7-3.13 (e) Wash out hose not installed on dumping station without hose and water it was not a sanitary dumping station. 7) 10NYCRR 7-3.15 (b) (1) One toilet for each sex was not available within 500 feet. 8) Sanitary Code of the Cattaraugus County Health District Section 8-4 did not meet conditions #3 & #4 of permit that was issued July 12, 2018. #3 campground capacity is 15 sites, over 100 campers on site. #4 all waste water has to be disposed of according to approved plans see administrative hearing violations 4 & 5.

Recommendation: The respondent pay a fine of \$75.00 each for (6) category 1 hazards, and \$50.00 each for (2) category 2 hazards. To the recommended fine \$550.00. The fine is to be paid on or before February 28, 2019 or a \$10.00 per day per diem will be levied until full compliance.

Mr. Haberer asked if enforcement hearings were recorded. Mr. Porter replied that no they were not unless requested to do so or if consul is present.

A motion was made by Mr. Haberer, seconded by Ms. Raftis and unanimously approved.

Administrative Hearing 12-18-18

DOCKET #18-032:

Respondent: Pete Duchmann, Armor Trail Raiders, Inc., 5201 Parker Road, Hamburg, NY 14075 DBA Yoderland Mud Park, location of property 10290 Wilder Rd, Persia, Cattaraugus County, NY.

Violations: 10NYCRR 7-3.5 (a) The Respondent advertised and operated a campground at the referenced location without having a valid permit to do so from CCHD on 9-7-18, 9-8-18, and 9-9-18.

Recommendation: The respondent pay a \$100.00 fine to the CCHD by 2-28-19. A \$10.00 per day per diem will be levied for every day not in compliance.

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

Administrative Hearing 1-7-19

DOCKET #18-043

Respondent: Todd Boser, 1859 Four Mile Road, Allegany, NY 14706, DBA Bonaview Mobile Home Park, 1892 Four Mile Road, Allegany, NY 14706.

Violations: Driveway is not being maintained. Many potholes and some are very large and deep. This is a hazard to vehicles and may hinder emergency vehicles. Repeat violation November 8, 2017, deadline November 30, 2018. 10NYCRR Section 17.11 (e) (3).

- Recommendation: 1.) That the respondent pay a \$50.00 fine on or before February 28, 2019. A \$10.00 per day per diem will be levied for every day not in compliance.
- 2.) The driveway at Bonaview Mobile Park be repaired to the satisfaction of CCHD on or before May 1, 2019. The respondent would have had approximately one ½ years to repair. Failure to be on compliance by said date would result in a \$10.00 per day per diem levied for every day not in compliance.

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

Administrative Hearing 12-18-18

DOCKET #18-038:

Respondent: Jamie Pratt, 511 ½ North 4th Street, Olean, NY 14760.

Violations: Subsection 24.2.5 of the sanitary code of the Cattaraugus County Health District. Respondent failed to provide proof of a current rabies vaccination for her dog, Gigi, to the Health Department when directed, following a biting incident.

Recommendation: The respondent be fined 2x the civil compromise offered 75.00 for not appearing at the administrative hearing and proof of rabies vaccination of her dog, Gigi by October 2, 2018. The fine of \$150.00 and proof of vaccination for her dog Gigi must be to CCHD on or before February 28, 2019. A \$10.00 per day per diem will be assessed for every day not in compliance after February 28, 2019.

A motion to accept this recommendation was made by Mrs. Fox, seconded by Ms. Raftis, and unanimously approved.

DOCKET #18-039:

Administrative Hearing 12-18-18

Respondent: Mrs. Alice Ferguson, DBA R & R Dude Ranch, PO Box 139, 8940 Lange Road, Otto, N.Y. 14766.

Violations: 1.) 10NYCRR Section 5-1.72 (c) (1) Respondent failed to submit complete daily records for the operation of the non-community water system for the months of August and September 2018 to the CCHD by the 10th day of the following month. Two previous violations for the same offense. 2.) 10NYCRR Section 5-1.30 (a) During a level II assessment it was found that the chlorinator pump was unwired and inoperable.

- Recommendation: 1.) That the respondent cease operations until further notice.
2.) The respondent pay a \$400.00 fine by February 28, 2019 for records not completed and submitted.
3.) The respondent pay an additional \$200.00 fine by February 28, 2019 for a non-operational chlorine pump.
4.) For every day not paid by February 28, 2019 that there be a \$10.00 per day per diem until levied.

A motion to accept this recommendation was made by Legislator Snyder, seconded by Mr. Haberer, and unanimously accepted.

Mr. Jordan has received notification that the facility has been closed and they will be disposing of the property. Mr. Haberer asked if a lien can be put on this property as it is being disposed. County Attorney Firkel stated yes that he has recommended that this case be sent to small claims as quickly as possible in order to obtain payment.

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

The next BOH meeting will be Wednesday, March 6th, 2019.

Respectfully submitted,



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

