



# 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*

*Richard Haberer*

*Theresa Raftis*

*David L. Smith, Mayor*

*James Snyder, Legislator*

*Kathryn Cooney Thrush, NP, MSN*

## MINUTES August 10, 2018

The 867<sup>th</sup> meeting of the Cattaraugus County Board of Health was held at The Point Restaurant, 800 East State Street, Olean, New York on August 10, 2018.

The following members were present:

Dr. Zahid Chohan

Mayor David Smith

Mr. Richard Haberer

Jim Snyder Sr., Legislator Chairman

Sondra Fox, RN

Kathryn Cooney Thrush, NP, MSN

Also present were:

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

Mike Higgins, Account Executive at AirGas, Guest Speaker

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

Dr. Paul Schwach, Clinical Physician

Eric Wohlers, Environmental Health Director

The meeting was called to order by Legislator Snyder, Sr. The roll was called and a quorum declared. Mayor Smith made a motion to approve the minutes of the Board of Health (BOH) meeting held on August 10, 2018, it was seconded by Mrs. Fox and the motion was unanimously approved.

Legislator Snyder, Sr. introduced guest speaker Mike Higgins who received his Master's degree from St. Bonaventure University. He is an adjunct professor at St. Bonaventure University and Account Executive at AirGas.

Mr. Higgins briefly shared his thoughts about Dragon's Breath. He stated he witnessed a science experiment where a student dropped Cheetos into a glass of liquid nitrogen and it created the phenomena of Dragon's Breath.

Mr. Higgins informed the Board that AirGas sells nitrogen in liquid form because it is so dense and cold and occupy less space. Nitrogen is an inert gas that is purchased for industrial (i.e. Dresser Rand, and Cutco) in addition to medical (dermatological) uses. Air is made up of 80 percent nitrogen and 20 percent oxygen. Nitrogen is extracted from air and separated from oxygen by cooling air to the point where oxygen becomes liquid, (oxygen's boiling point is -297 °F). The liquefied oxygen is separated from the remaining gas and the remaining air is further cooled down to produce liquid nitrogen, (nitrogen's boiling point is -320 °F).

Liquid nitrogen at -320 °F can burn (frostbites) an individual if handled incorrectly. Currently the only place to purchase liquid nitrogen in this area is from welding facilities like AirGas. This product is not sold to just anyone off the street, a vendor must first identify the industrial/medical use of the product and who they are before AirGas will sell them the product. In Cattaraugus County there are only two distributors of liquid nitrogen, it can be obtained from AirGas or Strate Welding Supply.

Mr. Wohlers asked if there were any regulations against transporting liquid nitrogen across state lines. Mr. Higgins responded that he is not aware of any regulations about transporting liquid nitrogen over state lines. Legislator Snyder asked if there were heavy state regulations regarding the sale of liquid nitrogen. Mr. Higgins response was they self-regulate who they will sell to and the New York State Department of Transportation (DOT) regulates the transportation services used to move the product. There are no regulations for who can purchase the product, we choose at AirGas to self-regulate and investigate the purchaser.

Another product that is sold at AirGas is nitrous oxide (laughing gas) and many individuals have tried to purchase this product and we deny the sale if not for a legitimate purpose (i.e. dental facilities). Laughing gas is commonly used as a recreational drug in the wrong hands. Legislator Snyder asked Mr. Higgins if he felt that the purchase of liquid nitrogen should be regulated. Mr. Higgins replied no. Dr. Chohan interjected his concern, he stated that reports have shown where individuals have ingested liquid nitrogen and it creates havoc on the esophagus and stomach, like a bomb exploded. He stated if these individuals presented in the emergency room, as a surgeon, he has to try and save this individual's life. Dr. Chohan's stance is that the sale of liquid nitrogen should be regulated due to the possible devastating consequences of misuse. Mr. Wohlers added at his last state conference many county commissioners have decided not to provide permits for restaurants using liquid nitrogen.

Dr. Watkins added that at the last BOH meeting a case report from "Clinical Endoscopy" was distributed to all those in attendance of a 13 year old boy who had ingested liquid nitrogen and the report described the damage it caused in the child's gastrointestinal tract. The chest x-ray revealed a pneumoperitoneum, and a laparotomy revealed a perforated stomach. Due to a recent presentation that Dr. Watkins made to the New York State Association of County Health Officials (NYSACHO), commissioners and public health directors were made aware of the possible dangers of the novelty treat "Dragon's Breath", and now counties are moving forward with their BOH/Legislators in deciding whether they are going to issue a permit to a vendor wanting to sell the novelty treat "Dragon's Breath" in their respective county.



At the last BOH meeting the Board asked Dr. Watkins and attorney Firkel to explore the best legal option/ramification to advise the Board on issuing a permit for the novelty treat "Dragon's Breath" since other culinary facilities may be using liquid nitrogen for other purposes besides "Dragon's Breath" (i.e. chilling of sauces, gravies, marinades, custards, cookie dough, ice cream and frozen yoghurt, etc.).

Dr. Watkins stated that after examining the two options, 1.) requiring a safety plan before a permit is issued or 2.) citing NYS Sanitary Code Part 14, Subpart 14-1.190(d) which states that a permit will be issued subject to the food service establishment being constructed; maintained and operated in compliance with this Subpart and not presenting a danger to the health of the consumer or to the public; it was decided that a comprehensive Safety Plan or a Hazard Analysis Critical Control Point (HACCP) Plan would be appropriate and would be legally accepted. Dr. Watkins reiterated that several counties have decided not to allow permits for this novelty treat and recently New York State denied the permit of a vendor wanting to sell "Dragon's Breath" at the State Fair since this awareness campaign was brought to their attention and the vendor's safety plan did not meet their satisfaction.

A safety data sheet from Airgas was handed out to all those in attendance. A template of a HACCP plan was provided to those in attendance as well, showing all of the precautions that are necessary to handle liquid nitrogen in a facility. Mr. Haberer asked if this would require a facility to carry the burden of extra staff, or costs to utilize liquid nitrogen. Dr. Watkins replied that no additional economic burden should be experienced by the facility/vendor, it will only require the facility/vendor to complete a HACCP plan to show the department how they plan to protect their employees, the public/customers, and how they would handle an emergency. Legislator Snyder, asked if there are any restaurants in our area that are currently using liquid nitrogen. Dr. Watkins replied that he was not aware of any at this time, and Mr. Wohlers confirmed that there are currently none. Mr. Wohlers stated that Drangon's Breath is more a novelty seen at kiosks in malls, and at places like the county fairs. Mr. Haberer asked if there was a need for the Board to vote to require the department to request a detailed HACCP plan prior to issuing a permit to a vendor. Dr. Watkins responded yes. Legislator Snyder inserted that since there has not been any problems, or any permit requests, the Board fixing something that is not broken. Dr. Watkins stated we are being proactive versus reactive.

Mrs. Fox asked if the kiosks and fair locations had an age requirement to purchase these novelty treats. Dr. Watkins responded no, anyone could make a purchase including children. Legislator Snyder asked Mr. Higgins what his thoughts were as a citizen. Mr. Higgins replied that as an industry they have received training, and he believes his company have it under control, but it's hard to say what can occur with the public without oversight. Airgas will not sell the product for that purpose but there are other small independents who may not follow that practice. Mr. Haberer asked if a law was passed would this be a hardship to Mr. Higgins industry. Mr. Higgins replied no, since their practice is not to sell to vendors for this type of a request. Mr. Haberer made a motion to require vendors to have a detailed HACCP plan prior to the Health Department issuing a permit to any vendor using liquid nitrogen, Dr. Chohan seconded the motion, and it was unanimously approved.

**DIRECTORS REPORT:** Dr. Watkins proceeded to talk about the new Behavioral Risk Factor Surveillance System (BRFSS) report for adult smoking rates reported for all counties throughout NYS. A copy of the report was distributed to everyone in attendance. He stated that looking at the map on this report, which shows the percentage of adults that are current smokers, that one region on the map, Western New York (WNY) counties, has some of the highest adult smoking rates in NYS.



Orleans County at 28.6%, followed by Cattaraugus at 26.7%, Chautauqua at 25.8%, and Wyoming County at 25%. Erie County has the lowest adult smoking rate in WNY at 17.8%. NYS overall adult smoking rate is only 14.6%, however it appears that WNY is dragging the State down in this behavior health category, resources to help combat the adult smoking rate in this region is definitely needed.

Dr. Watkins provided those in attendance with another handout entitled "Executive Summary – Assessment of the Potential Impact of Regulated Marijuana in NYS". He stated that in 2014, Governor Cuomo signed the Compassionate Care Act into law, establishing New York State's Medical Marijuana Program. The State's Medical Marijuana Program has 1,700 registered providers and nearly 60,000 certified patients. Currently, the program only allows non-smokable products that come in the form of liquids and oil for vaporization or administration via inhaler as well as capsules to take orally.

He added that currently, medical marijuana is prescribed for those diagnosed with one or more severe debilitating or life threatening conditions: cancer, HIV infection or AIDS, amyotrophic lateral sclerosis (ALS), Parkinson's disease, multiple sclerosis, spinal cord injury with spasticity, epilepsy, inflammatory bowel disease, neuropathy, Huntington's disease, post-traumatic stress disorder or chronic pain or any condition for which an opioid could be prescribed.

Patients can purchase up to a 30-day supply of medical marijuana. A monthly supply would cost on average between \$100 and \$300. New York insurers do not cover medical cannabis. In WNY providers that can prescribe medical marijuana can be found in: Cattaraugus, Chautauqua, Erie, and Niagara Counties.

NYSDOH is moving at a steady pace to institute a regulated marijuana program in NYS, which means legalizing marijuana for recreational use. Currently there are about 9 states that have legalized marijuana and 31 states that have a legalized medical marijuana program. Dr. Watkins stated he was bringing this to the Board's attention as there are still a number of public health concerns regarding legalizing marijuana for recreational use. Two of those public health concerns include individuals driving while they are drugged, and the edible forms of marijuana that could potentially get in the hands of young children.

He stated that marijuana or tetrahydrocannabinol (THC) the main chemical ingredient that produces the psychoactive effect, can stay in the urine, blood, saliva, and hair for several days or weeks and the effect of THC on individuals is harder to predict than that of alcohol. Law enforcement officers can rely on Breathalyzer tests to identify drunk drivers, but there's no equivalent for drugged drivers, making it difficult to deter or punish them.

Dr. Watkins cited a report that revealed doctors at Children's Hospital in Denver reported that after recreational marijuana was legalized, its emergency department began treating one to two kids a month for accidental marijuana ingestion, mostly from edibles. Before legalization, the hospital hadn't treated any kids for this type of admission.

Dr. Watkins stated political and economic pressure are all doing their part to push NYS toward adult-use legalization and public hearings are already being scheduled. As a BOH we need to start preparing ourselves and our community to be a part of the conversation. Dr. Chohan stated that if we look at the trends this will be a decision we will regret and a heavy price for society to pay. Mrs. Fox stated looking at the history of cigarettes and their adverse effects, it is the same terrible path again. She stated that the Board should recognize that this is a mistake.

Mayor Smith commented that the recent BRFSS report on the percentage of adults smoking in WNY showed a disappointing behavior health habit that needs to be resolved and now we will have people smoking and high behind the wheel, this is ill advised. County Firkel stated that if an individual is under the influence and they are swerving on the road they will be held accountable. Kathryn Cooney-Thrush stated she can see where it has it's advantageous for veterans and others who may need this product but on the flip side it could be a gateway drug. However, if marijuana is legalized it can be better controlled to help ensure consumer and industry safety.

Legislator Snyder, and Dr. Chohan stated that they would like to take a stance against this legislation. Dr. Watkins reminded them to listen to their constituents to find out if this is what they wanted. Legislator Snyder stated that as the BOH, we should go on record to oppose this legislation. Dr. Watkins stated he will draft a letter and share it with the County Attorney and will send it to Senator Young, Assemblyman Giglio, Commissioner Zucker and Governor Cuomo. Legislator Snyder stated that this subject matter should be brought up again, next month, to see if there are any new thoughts.

**NURSING DIVISION REPORT:** Mrs. Moore reported that the homecare census currently has (291) patients and (13) referrals waiting. In June there were (123) admissions and in July there were only (89) admissions. The department has been trying to do some different things to bring in more referrals.

Currently in the Medicaid Obstetrical and Maternal Service (MOMS) program there are (10) patients with (10) prospective patients waiting qualification. In the lead program there are a total of (34) children being followed. Lead testing was done at both the Salamanca and Gowanda WIC clinics. The Lead Coalition Program has been very successful in adding both the Seneca Nation and Allegany County to its partnership. One of their projects was to place paint cans at hardware stores checkouts stations with information in the cans regarding the Lead Program.

The flu clinics will start at the end of September running through October. Susan Andrews has returned and will oversee the flu clinics and the family planning Quality Assurance and Quality Improvement programs.

In communicable diseases: Lyme disease, there were (4) cases in June and (14) cases in July, Hepatitis C, there were (9) cases in June and (5) cases in July, Giardia, there was (1) case in June and (1) case in July, Group B streptococcus, there was (1) case in June and (1) case in July, Malaria, there was (1) case in June, Group A streptococcus, there was (1) case in June, Campylobacter, there were (2) cases in June and (3) cases in July. Salmonella there was (1) case in June and (2) cases in July.

Chlamydia, (6) cases in June, and (4) cases in July, Gonorrhea, there were (3) cases of in June and (4) cases in July. There were (2) cases that had both Chlamydia and Gonorrhea.

Rabies Post-Exposure Prophylaxis, were administered to (15) individuals in June and (22) in July and most of these were bat cases where people had released or did not catch the bat. A capture the bat press release was conducted in July. In June there were (5) dog bites, (2) of the dogs were up to date with their rabies vaccine (2) individuals were administered rabies post exposure prophylaxis treatment and (1) declined. In July, there was (1) cat and (1) dog bite both animals were up to date with their rabies vaccine.



**ENVIRONMENTAL HEALTH DIVISION REPORT:** Mr. Wohlers reported that they have had as many as (5) bats a day with a total of (42) bats being sent to Wadsworth this year and (5) were positive for rabies. Mr. Haberer asked what the cost of testing a bat compared to the cost of providing the rabies post-exposure shots. Mr. Jordan replied that the only cost to the department for testing a bat for rabies is the cost of mailing it to Albany whereas the cost of a series of immunizations for one individual is approximately \$5,000. Dr. Watkins replied that there is no cure for rabies so we would rather provide the rabies post-exposure immunization as oppose to having someone die. Mr. Wohlers commented that the cost of rabies post-exposure vaccine has really escalated within the past 10 years, it used to cost about \$1,000.

The Community Development Block Grant (CDBG) currently has (5) projects underway which will complete the grant funds for this period. The department looks forward to applying for the next round of funding.

There has been a high rate of wild parsnip alongside the roadways and (2) Department of Public Works employees ended up in the hospital after mowing these areas and sap got on them. The Department of Environmental Conservation (DEC) was contacted and their invasive species expert in Buffalo was consulted. She has agreed to make herself available to do a presentation for county, state DOT, and municipal employees regarding the wild parsnip. Most budgets only allow for mowing the sides of the highway twice a year however, it is important to know when the parsnips should be mowed in order to prevent its spread. If the parsnips have gone to seed prior to mowing then the seeds will collect on the mower deck and be spread down the highway. The expert from the DEC said that it should be mowed while it's flowering because if it's gone to seed, it's just going to continue to spread during the mowing process. The department will try to do some public education.

We had a couple of water samples that tested for elevated levels of arsenic in the County. We have requested extra bottles to test in that area to determine if the arsenic source is natural occurrence or from a particular source.

The mosquito surveillance program has come to an end but in the last week of July we did have a pool that tested positive for West Nile Virus.

Rabies clinics have been scheduled for September 6<sup>th</sup>, 11<sup>th</sup>, and 13<sup>th</sup> in Markhams, West Valley, and Allegany highway barns respectively.

**Enforcement Report:** Mr. Porter reported on the following enforcement case held on July 10, 2018:

**DOCKET #18-015:**

**Respondent:** Thomas A. Gilray, 1474 Four mile Rd, Allegany, NY 14706

**Violations:** Respondent is operating a mobile home park without having a current permit to operate from the CCHD, permit expired 5/31/18.

**Recommendation:** a.) That the respondent be fined \$250.00 to be paid on or before 8-31-18.  
b.) A \$10.00 per day per diem will be levied for every day not in compliance.

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

**DOCKET #18-020:**

**Respondent:** Karen Gayton, 4003 Erie Street, Salamanca, NY 14779

**Violations:** Sanitary code of Cattaraugus County Health District Sec. 16.6.1 Result of complaint on subject property inadequately treated waste water was discharging to the ground surface compliance date 6-10-18 was not met. Violation is not corrected.

**Recommendation:** a.) The respondent repair/replace reasons why inadequate treated waste water  
b.) Failure to be in full compliance by said date will result in placard said residence not allowing occupancy until in full compliance.  
c.) This is an enforcement category 1, a \$75.00 fine will be levied also.  
d.) For every day not in full compliance after 8-31-18 and fine paid a \$10.00 per day per diem will be levied.

A discussion was held amongst the Board, a motion was made by Dr. Chohan to accept this recommendation, seconded by Mayor Smith, and unanimously approved.

Legislator Vickman commended the Health Department for their thorough process in following up on rabies cases.

There being no further business to discuss, a motion to adjourn was made by Mayor Smith, and seconded by Kathryn Cooney Thrush, and unanimously approved.

Respectfully submitted,

*Kevin D. Watkins, M.D.*

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

