

MINUTES

Tompkins County Board of Health

September 26, 2017

12:00 Noon

Rice Conference Room

- Present:** Will Burbank; David Evelyn, MD, MPH; Brooke Greenhouse; Edward Koppel, MD; James Macmillan, MD, President; Michael McLaughlin, Jr.; and Susan Merkel
- Staff:** Karen Bishop, Director of Community Health; Brenda Grinnell Crosby, Public Health Administrator; Frank Kruppa, Public Health Director; Kristee Morgan, Senior Public Health Sanitarian; Deb Thomas, Director of Children with Special Care Needs; Jonathan Wood, County Attorney; and Shelley Comisi, Administrative Assistant II
- Excused:** Liz Cameron, Director of Environmental Health; Samantha Hillson, Director of Health Promotion Program; William Klepack, MD, Medical Director; and Janet Morgan, PhD, Board of Health Member
- Guests:** Dammi Herath, Owner/Operator of Sri Lankan Curry in a Hurry; Trung Dai Lam, Owner/Operator of Saigon Kitchen; Gen Meredith, Associate Director, Cornell Master of Public Health Program; and Isaac Weisfuse, Cornell Master of Public Health Program

Call to Order: Dr. Macmillan called the regular meeting of the Board of Health (BOH) to order at 12:00 p.m.

Privilege of the Floor – Sri Lankan Curry in a Hurry: Dammi Herath, owner/operator of Curry in a Hurry at the Ithaca Farmers Market, addressed the Board. This is the first violation since opening the business in 1992. As the Farmers Market expanded to include more food vendors, there have been problems with insufficient electrical power to cover everyone's cooking needs. She had been using propane until the fire department informed her it was a fire hazard. That led her to pay additional money to obtain two electrical units for her cooking needs. When the food inspector came, she did not realize one of the electrical power units had gone out and the food was cold. She complained to the Farmers Market Board members. They are aware of the problem and are trying to solve it by investing \$2,500 to add electrical power to the premises. She does not deny the food was out of temperature but the electrical setup was a significant reason behind it. She is requesting the BOH to reduce the fine.

Privilege of the Floor – Saigon Kitchen: Mr. Trung Dai Lam, representing Saigon Kitchen, spoke to the Board. As a restaurant owner since 1990, his business received a violation for the second time in two years. Last year there was a cold holding problem; this time it was a hot holding problem. He explained he has trained his employees but they are sometimes inattentive. They prepare the food quickly for large crowds but the food is held longer and the temperature drops. Although he was not present during the inspection, he accepts the responsibility for the violation.

Comments from Board Members:

- Mr. Greenhouse referred to the BOH order requiring at least one employee with food safety training to be at all catering events. Mr. Lam explained he is willing to send his employees for training; however, he does not know who to contact due to the language barrier faced by his employees. Mr. Greenhouse recommended Mr. Lam ask Tompkins County Health Department (TCHD) about the resources available.
- In addition to food safety training, Mr. McLaughlin pointed to the requirement to maintain temperature logs. It is helpful for supervising employees when you are not present at an event.

Approval of July 25, 2017 Minutes: Dr. Evelyn moved to approve the minutes of the July 25, 2017 meeting as written; seconded by Ms. Merkel; and carried unanimously.

Financial Summary: Ms. Grinnell Crosby reported:

- Finances are continuing to be aligned where there is higher spending.
- The biological line in the Community Health Services (CHS) budget has been depleted due to the volume of rabies post exposure vaccinations administered in August. Funds will be transferred to cover any additional costs for year end.
- In the Preschool program, there are several small claims and a large claim to be filed next April that will be split and posted to this year's books.
- Legislative action was taken for terminal pay in Environmental Health (EH) which will help their salary lines.

To Ms. Merkel's question about the payment process for rabies vaccinations, Ms. Bishop said insurance companies are billed when that is an option. TCHD pays for treating uninsured people. After the first shot is administered in the emergency room or at urgent care, TCHD provides the follow-up shots for days 3, 7 and 14. Vaccine is around \$265 per dose. It is the most expensive vaccine purchased and administered at TCHD.

Administration Report: Mr. Kruppa invited the guests from Cornell University to speak to the Board. Gen Meredith introduced herself as the Associate Director of Cornell's new Master of Public Health (MPH) program. She and her colleague, Dr. Isaac Weisfuse, former Deputy Commissioner of the New York City Department of Health and Mental Hygiene, came to observe and ultimately build a relationship that will lead to collaboration on many activities. The MPH program has a fantastic complement of 14 faculty and staff with public health training who

are leading the program in two areas of concentration: infectious disease epidemiology and food systems for health. 15 students comprise the first cohort.

Dr. Koppel heard the program is looking for community sites where students can engage in public health field work. Ms. Meredith thanked him for publicizing that component of the curriculum involving practical experiences. Students will spend time serving community partners and developing at least two products for those partners. Potential products include public health information brochures, training manuals/slides, or evaluation reports. The program hopes to have students integrated into Tompkins County and surrounding counties as part of our commitment to upstate New York.

Health Promotion Report: Mr. Kruppa pointed out the Health Promotion Program (HPP) has been added to the agenda as a regular report. Many public health issues, especially emerging issues, have significant information, education and outreach components. Samantha Hillson, Director of HPP, will be present at future meetings to answer questions and share information.

Medical Director's Report: Dr. Klepack was not present for the meeting. He will be giving his Supervised Injection Facility presentation to the Health and Human Services Committee of the Tompkins County Legislature on October 16th at 3:30 p.m.

Division for Community Health Report: Ms. Bishop:

- Updated the Communicable Diseases report to include a new tuberculosis case and several cases of pertussis (two cases in a daycare, one case in a high school, and several suspect cases under investigation). Staff is involved with outreach and trying to vaccinate people.
- Recognized and commended Brooke Bucinell, nutritionist in the Women, Infants and Children (WIC) program, for her quick response that saved the life of a nine month old baby. After a blood test to check the baby's hemoglobin level, a band aid was applied to the baby's finger. Unfortunately, the baby put her finger in her mouth and began choking on the band aid. Ms. Bucinell, who had taken the Heartsaver CPR course earlier this year, took appropriate action to retrieve the band aid and the baby recovered. Ms. Bucinell did not panic, knew exactly what to do, and remained calm throughout the incident. The family was very grateful.

Comments/questions from Board Members:

- Referring to the babesiosis and anaplasmosis cases mentioned in the report, Dr. Koppel was surprised there were two cases of each disease. Ms. Bishop agreed it is not normal for this area; none of the cases reported a travel history.
- Mr. Greenhouse was interested in hearing more information about the meeting with Cayuga Medical Center "to improve communication strategies for future after hours communicable disease cases." Ms. Bishop explained TCHD receives calls after hours from urgent or emergent care when there is a suspect communicable disease case. With the most recent suspect measles case, staff realized the communication process could be improved. They met with hospital staff to review the process together. It is about

communicating to the right people in both organizations in those situations occurring after hours.

Children with Special Care Needs Report: Ms. Thomas had nothing to add to the written report.

County Attorney's Report: Mr. Wood had nothing to report.

Environmental Health Report: Mr. Kruppa introduced Kristee Morgan, Senior Public Health Sanitarian. She is representing EH on behalf of Ms. Cameron and Mr. Parr who are attending a conference. Ms. Morgan had nothing to add to the written report.

Report on the Community Services Board (CSB) Meeting: Dr. Morgan who attended the September 11th meeting of the CSB was not present to report on her experience.

Enforcement Actions: Mr. Greenhouse moved to accept the following seven resolutions, as written; seconded by Mr. McLaughlin. At Dr. Macmillan's recommendation, the Board agreed to vote on each resolution individually.

Resolution #EH-ENF-17-0008 – Faline Woods Apartments, T-Dryden, Violation of Subpart 5-1 of the New York State Sanitary Code (Water): Ms. Morgan reported the operator of Faline Woods Apartments did not submit an annual nitrate sample report for 2016 and did not submit quarterly total coliform sample reports for the 4th quarter of 2016 and the 1st quarter of 2017.

The vote in favor of the resolution, as written, was unanimous.

Resolution #EH-ENF-17-0023 – Sri Lankan Curry in a Hurry, C-Ithaca, Violation of Subpart 14-1 of the New York State Sanitary Code (Food): Ms. Herath from Curry in a Hurry appeared before the Board earlier in the meeting. Regarding the request for a reduced fine, Ms. Morgan noted Curry in a Hurry has a good case history; this is their first violation. Mr. Greenhouse pointed out the owner would have known the food was out of temperature if she had been using a thermometer to check the food.

The vote in favor of the resolution, as written, was unanimous.

Resolution #EH-ENF-17-0026 – Taste of Thai Express, C-Ithaca, Violation of BOH Orders #EH-ENF-16-0013 and Subpart 14-1 of the New York State Sanitary Code (Food): Ms. Morgan explained this is a repeat violation for failing to maintain enough refrigeration storage for potentially hazardous food during cold holding.

The vote in favor of the resolution, as written, was unanimous.

Resolution #EH-ENF-17-0027 – Taste of Thai, C-Ithaca, Violations of Subpart 14-1 of the New York State Sanitary Code (Food): The vote in favor of the resolution, as written, was unanimous.

Resolution #EH-ENF-17-0030 – GrassRoots World Café, T-Ulysses, Violations of BOH Orders #EH-ENF-16-0018 and Subpart 14-2 of the New York State Sanitary Code (Temporary Food): Dr. Evelyn asked whether there are meetings for festival food vendors to go over the rules before the event. Ms. Morgan reported there have been several meetings with GrassRoots organizers and the manager of the café to go over the rules. A clause was added to the resolution stating “if any of the Orders are not met from this day forth, the TCHD may not issue a subsequent permit to the Fingerlakes GrassRoots Festival to operate a temporary food service establishment in Tompkins County for a period of (3) years.”

The vote in favor of the resolution, as written, was unanimous.

Resolution #EH-ENF-17-0032 – Lao Village, T-Ulysses, Violations of BOH Orders #EH-ENF-16-0020 and Subpart 14-2 of the New York State Sanitary Code (Temporary Food): The vote in favor of the resolution, as written, was unanimous.

Resolution #EH-ENF-17-0033 – Saigon Kitchen, C-Ithaca, Violations of BOH Orders #EH-ENF-16-0019 and Subpart 14-1 of the New York State Sanitary Code (Food): The vote in favor of the resolution, as written, was unanimous.

Cipolla-Dennis Request for refund of Onsite Wastewater Treatment System (OWTS) Application Fee, West Dryden Road, T-Dryden: Mr. Greenhouse moved to deny the request for a refund of the application fee; seconded by Mr. McLaughlin.

Main points from a lengthy discussion regarding the refund request:

- In response to Mr. Burbank’s question about the amount of work involved for EH staff, Ms. Morgan replied technical staff spent five hours evaluating the site with at least two field visits.
- Mr. Greenhouse commented the narrative shows that instead of following the original intention of installing an OWTS on the property, the owners chose an alternative path. This “Tiny Home” is being classified as a recreational vehicle by the Town of Dryden which enables the owners to use holding tanks rather than an OWTS.
- Mr. Kruppa addressed the challenge of “Tiny Homes.” Neither the State nor the County sanitary codes specifically point to the rules that delineate where authority lies to regulate them. As the sanitary code is updated, staff hopes to include language that will clarify and provide some flexibility around these emerging “Tiny Home” developments. Ultimately TCHD is concerned about making sure sewage handling is maintained appropriately.

- Mr. Wood believes this is not a municipality zoning matter. The state sanitary code should cover these situations; however, the code is unclear.
- Dr. Evelyn recommended the letter to the applicant should emphasize that the Board reached its decision after consideration of the time and effort spent by the Division's technical staff.

The motion to deny the request for a refund of the OWTS application fee for West Dryden Road in the Town of Dryden was approved on a vote of Ayes – 6; Abstention – 1 (Mr. Burbank).

Werner-Gallegos Request for Waiver of Sewage System Construction Permit as required by Article VI of the Tompkins County Sanitary Code, 7 West Enfield Center Road, T-Enfield: Ms. Merkel moved to approve Ms. Werner-Gallegos' request to waive the sewage system construction permit; seconded by Dr. Macmillan; and carried unanimously.

Tompkins County Health Department request to modify permit expiration date requirement in Article III of the Tompkins County Sanitary Code: Mr. Kruppa provided an overview. EH staff is beginning the process of reviewing and updating the sanitary code. The proposed updates will be brought to the Board. A public hearing will follow before going to the State for approval. This is a multiyear project that will focus on one program at a time beginning with temporary residences.

Mr. Kruppa explained the temporary residence draft was inserted in the packet for informational purposes. It will be brought back officially to the Board at a later date. For now, EH is asking the BOH to grant staff the ability to set a new expiration date for temporary residence permits. Currently the date is October 31st. A temporary residence can have multiple permits with different expiration dates if they also have a food permit or a swimming pool permit. Moving the temporary residence permit expiration date to the end of the year allows those facilities to pay for all of their permits at the same time and not have to track them over the course of the year. It makes the process easier for the public.

Mr. Kruppa responded to questions from Board Members:

- Hotels are examples of temporary residences. Ms. Morgan pointed out bed and breakfast establishments are exempt from the code. They can have up to ten people if the owner lives on the property.
- Airbnbs do not fall under any of our definitions so they are not regulated. The sanitary code did not anticipate arrangements like Airbnbs when it was written thirty years ago. It would be a challenge to regulate them but staff needs to consider them as the sanitary code is updated.
- Staff does not believe they will be overloaded with work all at once. The intent is to align temporary residences with their multiple permits so they will be able to reapply once a year.

Mr. Greenhouse moved to approve TCHD's request to modify the permit expiration date requirement in Article III of the Tompkins County Sanitary Code, as written; seconded by Dr. Koppel; and carried unanimously.

Health Information Exchange Policy & Procedure for HealtheConnections: Ms. Bishop presented the new policy for the Board's approval. The intent is to enable staff to electronically access pertinent health information to help deliver the most efficient and informed care to our patients. Staff went through the training in August and all consented to participate. Both Dr. Klepack and the Community Health Quality Improvement Committee have approved the policy.

While Mr. McLaughlin believes communication among health providers is a positive development, he also knows there is the challenge of securing data. According to Ms. Bishop, there will be regular auditing to ensure staff obtained the necessary consents to access information when providing treatment and services to patients. There are also flags in the system that will let HealtheConnections know every time staff accesses the site for a public health purpose. Investigating communicable diseases does not require patient consent so staff will inform our HIPAA officer in real time when accessing records for that purpose.

Regarding security concerns, Mr. Kruppa stated the responsibility for protecting the conglomeration of information falls to the Regional Health Information Organization (RHIO). Its purpose is to be the hub for sharing information based on appropriate consents. Nothing is ever 100 percent secure with no risk but they are in the business of protecting medical records and have taken significant security measures.

Dr. Koppel moved to approve *Health Information Exchange Policy & Procedure for HealtheConnections*, as written; seconded by Mr. Greenhouse; and carried unanimously.

Establish Board of Health Nominating Committee: Mr. Kruppa informed the Board there will be a vacancy when Mr. Greenhouse's term expires at the end of the year. Mr. Greenhouse shared that serving on this Board has been enjoyable and rewarding. After more than 20 years, he thinks it is time for a change. He characterized the current Board as "robust, inquisitive and engaged" and thanked everyone, including the great staff at the Health Department, for the opportunity to work together. Dr. Macmillan led Board members in expressing appreciation for the special level of expertise and interest Mr. Greenhouse has brought to the Board.

In the discussion about recruiting for the at-large seat, anyone who is 18 years or older and a resident of Tompkins County is eligible. As the County is proactively encouraging diversity on its many boards, Mr. Burbank recommended widely advertising the vacancy. To begin the process, Mr. Kruppa and staff will prepare the advertisement and send out press releases. The Board will ultimately make a recommendation to the Legislature.

Mr. Greenhouse, Dr. Macmillan, and Mr. McLaughlin volunteered for the BOH Nominating Committee.

Additional Discussion: Mr. Greenhouse requested an update on the issue of delayed payments from the State Fiscal Agent to Early Intervention (EI) providers. Citing the positives, Mr. Kruppa stated there have been inroads on the payments, some former providers are returning to the

program, and Ms. Thomas has done a great job recruiting new providers. As a result, children are being evaluated sooner.

In his review of the contract with the current State Fiscal Agent, Mr. Kruppa found it to be short on details for deliverables. Representatives of the New York State Association of County Health Officials (NYSACHO) will be meeting with Paul Francis, Deputy Secretary for Health and Human Services who is the top health official in Governor Cuomo's administration, to discuss the situation. The group wants to be a part of developing the Request for Proposal (RFP) for the next contract in order to establish more appropriate expectations.

Referring to other positive developments, Ms. Thomas reported the Bureau of EI has recognized the problem, has been providing updates to the counties, and has been putting more pressure on insurance companies. She stated the cost to providers in Tompkins County for unprocessed claims in March 2017 was approximately \$115,000 and is currently down to approximately \$25,000 with less old claims outstanding.

Expressing his gratitude to all who have spent time and energy calling attention to this issue, Mr. Kruppa believes it has had an impact. That effort will continue.

Adjournment: At 1:43 p.m. Dr. Macmillan adjourned the meeting.