

**Board of Health**  
**February 12, 2013**  
**12:00 Noon**  
**Rice Conference Room**

**Present:** Will Burbank; Amy DiFabio, MD; James Macmillan, MD, President; Patrick McKee; Michael McLaughlin, Jr.; Patricia Meinhardt, MD; and Janet Morgan, PhD

**Staff:** Sylvia Allinger, Director of CSCN; Liz Cameron, Director of Environmental Health; Sigrid Connors, Director of Patient Services; Brenda Grinnell Crosby, Public Health Administrator; William Klepack, MD, Medical Director; Frank Kruppa, Public Health Director; Jonathan Wood, County Attorney; and Shelley Comisi, Keyboard Specialist

**Excused:** Brooke Greenhouse

**Guests:** Kenneth Fiero, Secretary of Fraternal Order of Eagles #1253; Patricia Haines, Owner of 1519 Slaterville Road; Steven Kern, Sr. Public Health Sanitarian; and Janice Koski, Public Health Sanitarian

**Privilege of the Floor:** Patricia Haines and Kenneth Fiero

Dr. Macmillan called the regular meeting of the Board of Health to order at 12:03 p.m.

Mr. Kruppa requested the addition of one item to the Agenda under New Business for Environmental Health: Fraternal Order of Eagles Club Waiver Request. His request was approved.

**Privilege of the Floor:**

Patricia Haines, owner of the property located at 1519 Slaterville Road, reported the septic tank was pumped in January and since that time there has not been any sewage on the ground surface. When she bought the house, she thought it was on the city sewer system, but when the sewage area was opened she discovered it was not connected. The sewage system is ancient and needs to be replaced. She has been exploring ways to connect with the city's system located on the other side of the road. There are two potential ways, each one requiring an easement from the property owner which she is attempting to obtain. She has appointments with three contractors to give her cost estimates for those two options and also a cost estimate for replacing the sewage system. She has submitted a permit application for construction and has applied to Better Housing for Tompkins County for financial assistance, but she needs more than 30 days to complete the process.

Dr. Morgan asked if the 30 day period started when the Stipulation Agreement was signed on January 18, 2013. Mr. Kern responded there was a misunderstanding. It is 30 days from the point when the construction permit is issued; that permit has not been issued yet. Ms. Cameron added she plans to request an extension to the deadline on the soil test until March 20<sup>th</sup> to give Ms. Haines time to work on her options. Ms. Haines asked whether she needed a soil test if she connects with the city system. Mr. Kern answered the soil test would be unnecessary in that case.

Dr. Meinhardt asked whether the site was stable for the time being. Mr. Kern replied there is still outflow from the area of the pipe so it is important to address the situation. The sewage system needs to be pumped on a regular basis so the resolution should be changed to biweekly. Ms. Haines responded she would make arrangements to have the septic tank pumped.

Ms. Haines added that it was difficult to obtain information on how to proceed to connect to the municipal system. She stated the Health Department was helpful in outlining its requirements; however, she thought a bulleted sheet with information about connecting to municipal systems would be helpful.

Kenneth Fiero, Secretary for the Fraternal Order of Eagles #1253, addressed the Board regarding the organization's request for a waiver renewal from State and local laws to allow smoking in a designated room in their facility. He explained the Eagles Club has had a smoking permit for several years and has not received any complaints from nonsmokers. A staff member from the Health Department has inspected the facility and he assured the Board that the Eagles Club complies with the Department's rules.

**Approval of January 8, 2013 Minutes:** Mr. McLaughlin moved to approve the minutes of the January 8, 2013 meeting as written; seconded by Dr. Meinhardt. The minutes carried with Dr. Morgan asking for an abstention.

**Financial Summary:** Ms. Grinnell Crosby stated there was no written financial summary for the month. She reported the 4<sup>th</sup> Quarter State Aid claim was filed last week. Staff is currently reconciling the 13<sup>th</sup> period which is the December close out that includes last minute 2012 expenses.

Kevin Sutherland from County Administration has met with staff to develop a new format for financial reporting to Board members. His preliminary draft work contains about 60 graphs from which one or two will be selected.

**Administration Report:** Mr. Kruppa reported:

- The Governor's Executive Budget has been released. There is a significant process change being proposed; its impact is unclear. The Executive Office is proposing to take 150 line items within the budget and combine them into 6 "buckets" aligned with fine-tuned priorities. There would be a shift from the Legislature having line item authority to granting broader authority to the Commissioner of Health to distribute money throughout the State. The reductions built into the budget are an across-the-board 10% reduction. First, the Legislature must decide on the process change, and then the next step would be for the Commissioner to decide where the reductions would occur. If the process change is not approved, there will be discussion regarding which of those 150 line items will have the 10% reduction. There is also discussion about increasing the base State Aid amount by \$100,000.

- There are significant continuing changes in Preschool and Early Intervention (EI) programs with the State taking over as fiscal agent for EI. The fiscal agent was to be in place by the beginning of this year, but the RFA was put out recently. Ms. Allinger will provide additional information regarding the fiscal agent.
- The State is making an effort to streamline the State Aid claim process by proposing to eliminate the Municipal Health Services Plan and incorporate some of its concepts into the State Aid Application.
- The Department's internal Steering Committee has put the finishing touches on the Strategic Plan draft document. There will be a staff meeting on March 7<sup>th</sup> to present it to all staff members. Then the BOH and Health and Human Services Committee will have the opportunity to review and make comments at their March meetings. The expectation is April will be the first quarter of the 5 year plan.

**Medical Director's Report:** Dr. Klepack reported:

- This year's influenza vaccine has been moderately effective. It has been shown to reduce the risk for influenza associated medical visits by approximately 60%.
- Laura Lautz of Project SWIFT (Shale-Water Interaction Forensic Tools) responded to his inquiry about setting up a fee-for-service program to test well water in Tompkins County. She told him there is a path to set this up, but it will take a few more weeks to organize. The program would allow individuals to pay to have their water samples tested; however, she advised him it is not an EPA certified facility. She will contact him when the program is available. Ms. Cameron said the Board should be careful about promoting this program in Tompkins County because it is not an EPA certified laboratory. There is also concern about when to conduct the testing and whether the test results would be beneficial. Dr. Meinhardt suggested Professor Lautz put out a fact sheet for potential landowners who may be interested in participating in the program. Mr. Kern stated the Department is not able to recommend a laboratory that is not EPA certified.

Mr. Burbank asked whether the incidence of Lyme disease is growing or stable. Dr. Klepack said no one has made any projections, but it is definitely a condition to be considered when diagnosing and treating people.

**Discussion of a letter drafted by Dr. Klepack for consideration by Board members:** Dr. Klepack read the draft letter in which the Board requests the release of information from the health review of hydrofracking before a final decision is reached regarding the regulations and the SGEIS, and before permits are issued. This letter would be sent to NYS government officials. Mr. Kruppa noted Commissioner Shah of the NYSDOH has stated the review and the information used for the review will be made public. The expectation is the information will be released; however, the timing of that release is unknown. There was a lengthy discussion among Board members on whether or not to send the letter with concern expressed from many of them about its impact and its timing.

With input from Dr. DiFabio and Mr. Burbank, Dr. Meinhardt moved that the Board hold this letter and if it becomes clear that specific deadlines of communication are missed and/or disregarded without the promised disclosures from the State, then the Executive Committee be empowered to edit and submit the letter. Dr. DiFabio seconded the motion; carried unanimously.

**Division for Community Health Report:** Ms. Connors stated:

- She was pleased to report the hire of Patricia Stoiko to fill the half-time Community Health Nurse position that has been vacant for 8 months. Ms. Stoiko will be working with tuberculosis and communicable disease case management and providing back-up for HIV anonymous counseling and testing.
- The statistics distributed before today's meeting are finalized for December and should replace the statistics submitted in the packet.

**Children with Special Care Needs Report:** Ms. Allinger reported:

- In January, Cheryl Tubbs was welcomed as a full-time Community Health Nurse. She is in the process of orienting as an Early Intervention Service Coordinator.
- There have been changes in the Early Intervention (EI) program. On January 1, 2013, a regulation referred to as the "arms length" regulation or conflict of interest regulation took effect whereby the agency that is chosen by the parents to evaluate the child may not provide the services to the child. It has created some challenges, especially in rural counties that do not have the capacity to have one agency evaluate and also have a pool of other agencies available to provide the services. Legal action opposing the regulation was initiated on December 31, 2012 by an organization called Professional Agencies for Children's Therapy Services (ACTS). It is an association of 25 agencies on Long Island and New York City providing services for EI, Preschool, and School Age Special Education. After an injunction and a hearing, the case has been remanded to the New York State Supreme Court. The ruling does state the NYSDOH was to cease and desist immediately from continuing to enforce this regulation. There has been no word from NYSDOH regarding the court ruling; her staff is continuing to honor the regulation. She will keep the Board informed.
- Another change in EI involves the fiscal agent that was to have been in place by January 1, 2013 according to Public Health Law enacted during the last NYS legislative session. The change has created challenges for staff and providers. Effective April 1, 2013, the State assumes responsibility for all billing and payments to agencies and independent providers in New York State; however, there is no mechanism in place to accomplish this change. The counties have had to choose a date when providers will stop submitting invoices to Tompkins County. We have determined that March 1<sup>st</sup> will be the last date for agencies and March 15<sup>th</sup> will be the last date for independent providers to submit billing. Ms. Allinger thanked Ms. Connors for allowing her high level support staff to help with billing. It is uncertain when payments to providers will begin once the State takes over because agreements to providers have not been released and signed yet. Additionally, providers need to go through a process to become Medicaid billable providers. Since independent teachers for EI are not eligible to become billable Medicaid providers, an agency needs to be identified that will employ these teachers. Ms. Allinger stated she has found one agency who will hire the teachers and she is working on finalizing the arrangement.
- In the Preschool program, the New York State Education Department and Medicaid are requiring a Medicaid cost report for the 2010-2011 school year. It was due December 31, 2012, but when it was discovered the statistical data entered by Medicaid was incorrect, the State postponed the due date to February 15<sup>th</sup>.

Mr. McLaughlin noted there are ramifications of changing from an independent contractor to an employee so he wondered who would absorb the costs for the change. Ms.

Allinger replied the teachers will take a pay cut, but the advantage to them is they will not have the responsibility for billing.

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

**Environmental Health Report:** Ms. Cameron had some clarifications from the meeting held in January:

- The West Danby Water District collected lead and copper samples in December; the results were below the maximum contaminant level. To ensure sampling is completed on time, staff provides water systems with a schedule at the beginning of the year outlining the requirements; a reminder letter is sent before June which is the start of the sample collection period; and a phone call is placed one month before the end of the sampling period in September. She believes staff is making every reasonable effort to assist the water systems.
- Whenever a bat is found in a bedroom of a sleeping person, there is rabies post-exposure treatment if the bat cannot be tested.

**Resolution #13.33.6W – Fraternal Order of Eagles #1253, C-Ithaca, Clean Indoor Air Act (CIAA) Waiver Request:** Mr. McLaughlin moved to accept the waiver as written, seconded by Dr. Morgan. The vote: Aye – 6; Abstention - 1 (Dr. Morgan); carried.

**Resolution #13.19.1 – Patricia Haines, Owner of 1519 Slaterville Road, T-Ithaca, Violation of Article VI of the Tompkins County Sanitary Code (Sewage):** Ms. Cameron noted Ms. Haines had written her own summary of the situation that was distributed to Board members before the meeting. In addition, a case history compiled by staff members is located at the back of the enforcement action. This is an owner-occupied rental property with an inadequate sewage system. Ms. Haines did not respond to the initial notice of violation resulting in further action. Ms. Cameron recommends the resolution be changed with the two wording changes noted during the initial discussion:

- Item 1: “Immediately and until the sewage system is replaced, prevent the discharge of sewage to the ground surface by keeping the area of the sewage system pumped *at least biweekly* by a licensed septic hauler.”
- Item 3: “Arrange for soil tests with Tompkins County Health Department staff on or before *March 20, 2013.*”

Dr. Morgan moved to accept the resolution as amended; seconded by Mr. McLaughlin; and carried unanimously.

Mr. McLaughlin referred to Ms. Haines’ suggestion regarding information and wondered if a simplified sheet of information for connecting to a municipal system could be created. Ms. Cameron responded it is a case by case analysis; staff does try to assist in the process but often must refer individuals to another agency that has the information.

Ms. Janice Koski was introduced as the Public Health Sanitarian who worked on this case.

**Approval for revisions to “Rapid HIV Test Protocol”:** Ms. Connors stated the revised policy, based on a template provided by NYSDOH, is very specific about temperature control and storage of testing materials. The policy has been revised to fit this agency.

Dr. Meinhardt moved to approve the revisions to the policy; seconded by Dr. DiFabio; and carried unanimously.

Dr. Macmillan asked how upset clients are treated when the test result is positive. Ms. Connors stated there are about 1 or 2 positive cases a year. The nurse has the ability to request assistance from other nurses at the Department.

**Discussion of the County Charter and Public Health Law as it relates to the Board of Health:** Mr. Kruppa provided these materials as a point of reference for a discussion about the role of the Board and its members. The County Charter outlines the Board's responsibilities and its general authority for the health, well-being and safety of the people of Tompkins County so it is open to interpretation. The hope is to make this a useful, meaningful experience for members. Senior Leadership has discussed the reports each division makes to the Board, but staff needs your guidance. For that reason, Mr. Kruppa asked each Board member to think about what his or her expectations are as a member, write a few sentences describing them and email those responses to him.

Mr. Kruppa added there is a Charter Review Committee convening this year that will include updates regarding the Certified Home Health Agency (CHHA).

Mr. Wood stated the County Charter and Sanitary Code are online and are updated each year. Each department will be asked to review the Charter and propose changes.

Dr. Morgan asked about the last section of the Charter discussing BOH recommendations for meeting the public health needs and sending those recommendations annually to governing officials. Mr. Kruppa replied the Board discusses matters informally but does not have a formal process. The Strategic Plan will concentrate on looking at program priorities. In addition, a Community Health Assessment (CHA) and Community Health Improvement Plan (CHIP) should be completed by November as requirements for public health accreditation. The Cayuga Medical Center and the Health Planning Council have been engaged to help in those efforts which will also be setting priorities.

**Adjournment:** At 1:34 p.m. Dr. Morgan moved to adjourn the meeting, seconded by Dr. Macmillan, and carried unanimously.