

**Tompkins County Board of Health**

**April 22, 2014**

**12:00 Noon**

**Rice Conference Room**

**Present:** Brooke Greenhouse; Edward Koppel, MD; James Macmillan, MD, President; Patrick McKee; Michael McLaughlin, Jr.; and Patricia Meinhardt, MD

**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:** Will Burbank and Janet Morgan, PhD

**Guests:** Samantha Hillson, Tobacco Program Education Coordinator; Steven Kern, Sr. Public Health Sanitarian; Theresa Lyczko, Director of Health Promotion Program; Skip Parr, Sr. Public Health Sanitarian; and Ted Schiele, Program Coordinator for Tobacco Free Tompkins

**Privilege of the Floor:** No one was present for Privilege of the Floor.

Dr. Macmillan called the regular meeting of the Board of Health to order at 12:05 p.m.

**Approval of March 25, 2014 Minutes:** Dr. Koppel moved to approve the minutes of the March 25, 2014 meeting as written; seconded by Mr. McLaughlin; and carried unanimously.

**Financial Summary:** Ms. Grinnell Crosby referred to the March 2014 financial summary submitted in the packet. Reviewing her notes for program areas in red, she reported:

- **Preschool Special Education:** The revenue situation will improve once the Automated Voucher Listing (AVL) split between 2013 and 2014 is calculated and posted.
- **Planning and Coordination:** Due to the grant claiming process, preparedness expenses are not filed until one month later so revenues will always be a month behind expenditures. There was also a vacancy in the Preparedness Coordinator position for the first four months of 2013.

- Vital Records: Revenue is on track based on the budget for the year. In this program, the financial presentation still needs to be reduced to two graphs. There is more work to be done on the dashboard; however, Kevin McGuire in County Administration has been redirected to other projects so the dashboard is in limbo.
- Division for Community Health: Reduced revenues are primarily due to a staffing shortage dating back to September 2013. Additionally, there is an issue related to the Medicaid Obstetrical and Maternal Services (MOMS) program billing and Medicaid managed care. Staff will be meeting to discuss the issue.
- Early Intervention: The State owes a significant sum of money to the program as staff continues to deal with State management of the billing process through a fiscal agent.
- Two grants are new functional units this year. Last year, the Community Partnerships Tobacco Control Grant was folded into Division for Community Health and the Healthy Neighborhoods Program was folded into Environmental Health. Both are now stand-alone budgets that need to be represented in the dashboard. Expenses are in line with their grants.

Questions/discussion regarding the financial summary:

Dr. Meinhardt noted the dashboard has become easier to understand so she wondered how staff views the software program. Ms. Grinnell Crosby believes it will be useful once staff members grasp the meaning of the numbers and how to interpret them.

Knowing revenue is eventually coming from the State, Dr. Koppel asked if there is a way to depict the meaning or significance of programs being in the red. Mr. Kruppa replied the notes associated with the graphs should be helpful. There is an expectation of payment built into the system with revenues flowing in on a regular basis for work completed in the past. In addition to the State, other funding sources include the County and third parties.

Mr. McLaughlin heard the County's sales tax revenue is down so inquired about the potential effect upon the Health Department to receive its funding from the County. Mr. Kruppa explained the County maintains a contingency fund and a fund balance to deal with potential emergency or unforeseen events. If there is a shortfall, the next budget cycle would be affected. Eventually it would impact the Health Department's ability to deliver services.

In response to Dr. Meinhardt's question, Ms. Grinnell Crosby stated the Health Department does not actually receive money from the County. The County pays bills from a global account. The Health Department submits its bills at the end of the month and files claims for reimbursement at the end of the quarter.

Mr. Greenhouse asked whether the financial reports to the Board are based on an accrual or cash basis. Ms. Grinnell Crosby responded it is a blend. Article 6 State Aid claims are filed on a cash basis; the County's books are on an accrual basis for most lines. Internally, the Health Department posts on an accrual basis while keeping track of cash received.

**Administration Report:** Mr. Kruppa reported staff members from the tobacco control grant in the Health Promotion Program (HPP) are present to discuss the issue of tobacco sales in pharmacies. They are here to provide data around the issue and answer questions. The process will begin with the presentation of the issue followed by a discussion that will include the proposed resolution language. After the Board has time to consider the issue, there will be an

opportunity to take action on the resolution language at the next meeting. In the future, there will be another discussion about the County's local law related to smoking and electronic cigarettes (e-cigarettes).

**Medical Director's Report:** Dr. Klepack updated his influenza report. At the time he submitted his report, influenza was showing a downturn; however, there has been an increase in influenza, predominately influenza B, in the last month. Three more pediatric deaths were reported making a total of five for the year in New York. It is too soon to say if this trend will continue into the spring. Influenza vaccinations are still available at the Health Department.

Being an outdoorsman, Mr. McLaughlin has been surprised by the number of ticks that survived the harsh winter. He suggested informing the public about the timeline for removing ticks to reduce the risk of Lyme disease. Dr. Klepack emphasized the importance of checking for ticks and removing them within 36 hours. During a conference call, Ms. Connors heard a State epidemiologist report temperatures were very low this winter, but the extensive snow cover provided insulation for ticks to survive.

**Division for Community Health Report:** Ms. Connors had nothing to add to her written report. She welcomed staff members from the Health Promotion Program.

**Children with Special Care Needs Report:** Ms. Allinger had nothing to add to her written report.

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

**Environmental Health Report:** Ms. Cameron had nothing to add to her written report.

**Discussion - Ending Tobacco Sales in Pharmacies:** The Health Promotion Program (HPP) staff members introduced themselves: Theresa Lyczko, Director of the HPP; Ted Schiele, Planner/Evaluator and Program Coordinator for the Tobacco Control Program; and Samantha Hillson, Education Coordinator for the Tobacco Control Program.

Mr. Schiele thanked everyone for the opportunity to speak about the sale of tobacco products in pharmacies and drug stores. This issue is part of the Tobacco Control Program's work plan for its grant which ties into the goal of preventing the initiation of smoking and tobacco use among youth. Pharmacies and drug stores promote themselves as direct service providers of health care and as trusted, responsible sources for medical advice; however, the largest retailers sell cigarettes, a product that kills more than 25,000 New Yorkers each year. Boards of Health across the State are being asked to consider this issue.

Ms. Hillson reviewed the timeline and efforts to ban tobacco sales in stores with pharmacies. The municipalities of Boston and San Francisco acted more than five years ago with 81 other Massachusetts municipalities acting by February 2014. Earlier this year, CVS Caremark announced its pharmacies will stop selling tobacco products by October 2014. Last month, 28

Attorneys General urged the five largest retailers to stop selling tobacco products in their stores having pharmacies.

Regarding local efforts, Ms. Hillson reported the Cortland County Board of Health signed a resolution in support of ending tobacco sales in pharmacies in December 2012. The draft resolution in the packet is an amended version of that resolution. In Tompkins County, pharmacies currently selling tobacco products are located in five large chain retailers: Kinney, Rite Aid, CVS (until October), Wal-Mart, and Tops. From a telephone survey conducted in June 2013, a majority of Tompkins County adults (60%) believe pharmacies should not be allowed to sell tobacco.

In bringing this issue to the Board, Mr. Schiele explained the tobacco control program's main goal is finding ways to deter youth initiation and decrease their exposure to tobacco marketing. Pharmacies and drug stores are places to start. After spending time with the 7th grade health classes at Boynton Middle School, Ms. Hillson and Mr. Schiele heard students say they have seen tobacco marketing and products in pharmacies. If tobacco was not sold in stores with pharmacies, the number of tobacco outlets in Tompkins County would be reduced by 17%. It would also help people wanting to quit.

Mr. Schiele passed around an advertisement (Attachment 1) promoting the pharmacist as "happy to help you manage your health," and a notice (Attachment 2) that banning tobacco sales in pharmacies prevents people from buying tobacco products in the same stores that sell cessation products. He concluded his remarks by saying there is a need to end the mixed messages and create a healthier tobacco free community for everyone.

Questions/comments/discussion regarding the resolution:

Dr. Macmillan appreciated the presentation. To him, it never made sense for pharmacies to be selling tobacco products. He feels it is time for this change.

Noting he supports the effort, Mr. McKee prefers a science-based approach to the issue rather than an emotional approach.

Dr. Meinhardt suggested including the names of large retailers that have proactively decided not to sell tobacco products as additional documentation. Mr. Schiele said a statement could be included noting Tobacco Free Tompkins recognized Green Street Pharmacy on World No Tobacco Day in 2013 for not selling tobacco products. Some retailers are reluctant to publicize that decision.

Mr. McLaughlin raised concerns about regulating behavior and activities, even those considered unhealthy. Mr. Schiele responded this is the opportunity to educate the public regarding the evidence and data going back 60 years about tobacco use and its addictiveness. When used as intended, tobacco kills half the people who use it.

According to Mr. Kruppa, the Board would be acknowledging the CVS Caremark decision to end tobacco sales in their pharmacies. From a public health standpoint, there is no safe way to use tobacco. Throughout the state, programs are bringing this issue to their Boards of Health and Legislatures to have discussions. It is a resolution of support that the Board believes ending tobacco sales in pharmacies is important. There is no force of law behind it.

Mr. Greenhouse inquired about opportunities for the Health Department to recognize local pharmacies proactive in complying with the resolution. Ms. Lyczko noted the Tobacco

Control Program did acknowledge Green Street Pharmacy last year. Kinney Drugs on Cayuga Street is another local pharmacy that does not sell tobacco products. Mr. Kruppa suggested he could send a cover letter with a copy of the resolution to local pharmacies asking them to contact him if interested in participating in this conversation. There was positive feedback from Board members for the suggestion.

In response to Mr. Greenhouse's question about the validity of the telephone survey, Mr. Schiele responded it is considered valid; the questions were tested and the sample size of 400 Tompkins County adults was adequate and considered a reliable sample. He would be happy to share the survey with Board members. Ms. Connors added it met the research definition of validity.

Mr. McKee asked whether tobacco companies took legal action against the Massachusetts municipalities for the restrictions. Mr. Schiele stated there was no action. The tobacco companies lost in the courts in the San Francisco ban of tobacco products in free standing pharmacies and there was no challenge when Boston enacted its ban. That does not mean that the tobacco industry will not respond.

Dr. Macmillan wondered if anyone was willing to move the resolution forward rather than waiting another month. Mr. Greenhouse moved to approve the resolution with the following modifications:

- Insert language in the 2nd paragraph to read, "...National Association of Chain Drug Stores identify **their members** as..."
- Remove the second comma in the 4th paragraph to read, "...a conflict of interest for pharmacies or other providers of health care to also profit from the sale of harmful products such as tobacco..."
- Changing periods to semicolons at the end of paragraphs 2, 4, 5 and 10.

*Note: The resolution contains commas to meet the standards of the Legislature.*

There was some discussion about changing the language in paragraph 3: "Whereas, tobacco products are highly addictive and *responsible for* the preventable death of 25,000 people in New York each year." The suggestion was made to substitute "*contributing to*" in place of "*responsible for.*" However, it has been well established that those deaths were caused by smoking cigarettes so the language was left as written.

Dr. Meinhardt seconded the motion to approve the resolution with the aforementioned modifications. The vote carried unanimously.

Mr. Kruppa will present the Board's resolution (Attachment 3) to the Health and Human Services Committee of the County Legislature for direction on any further action.

The main points from a discussion regarding the impact of the BOH resolution and other steps to be taken:

- Mr. Schiele and his group will meet with Mr. Kruppa to discuss additional steps based on the Board's interest in further action or activities.

- In Dr. Macmillan’s opinion, it is about time the issue was considered. He believes it is a beginning step with more work to be done.
- Ms. Lyczko noted changing norms is incremental and takes time. As part of the groundswell, the BOH is on record for not endorsing the sale of tobacco products.
- Expressing his concern about accomplishing a realistic goal, Mr. McLaughlin believes having the ability to fine people for breaking the rules may give “teeth” to the resolution.
- In addition to a press release, Mr. Greenhouse asked about the future of the resolution. Mr. Kruppa said the first step is to present the resolution to County Legislators in a continuing effort to move the discussion forward about tobacco and the dangers associated with it. Ms. Grinnell Crosby added the Legislature often tags on to a BOH resolution that is distributed to a long list of state legislative members and state health personnel. Mr. Kruppa will work with staff on the distribution list.
- Dr. Klepack said the Board should not underestimate its influence with the community at large. The message needs to emphasize the protection of youth, the desirability of protecting health and the discontinuity of pharmacies selling an unhealthy product.
- Dr. Macmillan summarized this action is not meant as an uncompassionate act against smokers, but an attempt to limit the impact of this addiction.

Mr. Kruppa announced e-cigarettes will be the next topic of discussion for potential inclusion in the County’s smoking policy. Dr. Meinhardt pointed out e-cigarettes are nicotine delivering devices. She recently put together medical documentation for including e-cigarettes in the no smoking policy at Cornell. Since most companies do not include e-cigarettes in their smoking bans, she suggested staff research the legal challenges that may be presented. Mr. Kruppa advised this would be Tompkins County local law. The BOH could recommend the County Legislature consider including e-cigarettes as part of the smoking policy, but it would be up to the County to go through the evaluation.

**Resolution #14.18.6 – Bell-Gate Mobile Home Park, T-Enfield, Violations of Subpart 5-1 and Part 17 of the New York State Sanitary Code (Water & Mobile Home Park):** Ms. Cameron reported the enforcement action regarding the mobile home park and its water system was brought before the Board in April 2012. Gregory Carman, owner/operator, has been unresponsive. He was sent a Notice of Violation for water system sampling violations and failure to submit reports. Staff also observed the electrical box had exposed live wires. Mr. Carman did not respond to the Notice of Violation or the Stipulation Agreement. As a result, the matter went to hearing but he did not appear to present his case. From his findings, the Hearing Officer has supported the resolution. It is now before the Board for consideration.

Mr. McLaughlin moved to accept the resolution as written; seconded by Dr. Koppel.

Responding to questions from Board members, Mr. Parr said there are six units in the mobile home park. There is one family with children; the other units are primarily adults. He estimated 15 to 20 people are affected. A Boil Water Notice reminder is issued to tenants on a monthly basis. If the tenants are home, staff members speak to them directly.

Mr. Kruppa advised the strongest hammer available is to close the mobile home park which is a drawn out process. The challenge lies in achieving some resolution that protects people without having to take that final step of closing the mobile home park. It can put people

in a situation where they no longer have a place to live. From an enforcement standpoint, this went through an administrative hearing and there is a significant fine.

Despite the owner/operator not maintaining the chlorine residual in the water, Mr. Parr reported an unchlorinated water sample was collected by staff and the sample came back negative for total coliform. At this time, there is no indication of a contaminated water supply. By not maintaining the chlorine residual, an added layer of protection is taken away.

When water or sewage systems are not being maintained by landlords, Ms. Cameron said staff members routinely refer tenants to the code enforcement officer. On all enforcement actions, town supervisors and code enforcement officers are copied so they are aware of the situation. Mr. Parr noted the Town of Enfield Code Enforcement Officer knows of the violations and offered to speak with Mr. Carman. This case is unique because the owner/operator is not responding.

Ms. Cameron remarked there is no easy answer. When an owner/operator does not sign the Stipulation Agreement, there is a hearing. During the administrative hearing, Mr. Wood explained witnesses testify, evidence is presented and the hearing officer makes a determination. Ms. Cameron stated the final action may be to close the park. It is a long-term process; this is the first step.

The vote on the resolution, as written, carried unanimously.

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