

Tompkins County Board of Health
May 23, 2023
12:00 Noon
Rice Conference Room and via Zoom

Approved
7/25/2023

Present: Christina Moylan, Ph.D., President; Melissa Dhundale, MD, Vice-President; Susan Merkel; Samara Touchton; Ravinder Kingra; and Andreia De Lima, MD

Staff: Elizabeth Cameron, Director of Environmental Health; Brenda Grinnell Crosby, Public Health Administrator; Rachel Buckwalter, Director of Community Health; Samantha Hillson, Director of Health Promotion Program; Dr. William Klepack, Medical Director; Deb Thomas, Director of Children with Special Care Needs; Holly Mosher, Deputy County Attorney; Zoe Lincoln, Whole Health Planner; and Karan Palazzo, LGU Administrative Assistant.

Excused: Edward Koppel, MD; and Shawna Black.

Guests: Attorney Aubrey Hetznecker representing C&C Chucks aka C&C Tobacco

Call to Order: Dr. Moylan called the regular meeting of the Board of Health (BOH) to order at noon.

Privilege of the Floor: Ms. Hetznecker referred to the enforcement action against C&C where the Tompkins County Health Department alleged that her client sold tobacco products to a minor on October 18, 2022. She stated that no documentary evidence of identity was presented at the hearing to verify that the individual was underage. The hearing officer recommended the allocation of one more point which means C&C Chucks aka C&C Tobacco will be suspended for a year and will more than likely go out of business after twenty years in business.

Ms. Hetznecker asks that the BOH take into consideration and not find C&C Chucks aka C&C Tobacco in violation based on no verified evidence of the individual being underage, draft resolution wording discrepancies, in-store signage and age verification, re-training employees, and submitted documentation. She will immediately file an Article 78 if the BOH is unable to do such.

Ms. Merkel asked about previous violations of C&C Chucks aka C&C Tobacco selling to underage individuals. Ms. Hetznecker confirmed that there was an alleged sale to a minor in February 2022 when she was not representing C&C Chucks aka C&C Tobacco. C&C Chucks aka C&C Tobacco signed a stipulation which resulted in the assignment of two points. She stated that the addition of any more points will put C&C Chucks aka C&C Tobacco out of business.

Approval of April 25, 2023, Minutes: Ms. Merkel moved to approve April 25, 2023, minutes; second by Mr. Kingra; all were in favor as written.

Financial Summary: Ms. Grinnell Crosby referred to the April financial report included in the packet. The report is 33.3 % of the year and included payroll through April 15th. The April report included recruitment for a number of positions or provisional staff waiting for civil service exams. The administrative staff worked on first-quarter grant claims in the first-quarter state aid.

Administration Report: Mr. Kruppa was not available.

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Health Promotion Program Report: Ms. Hillson had nothing to add to her report included in the packet. They continue the redesigning of the BOH agenda packet. An All-Staff meeting is planned for June 22, 2023, at Brown Road. May was Mental Health Awareness Month and held a successful event called “Better Together” on May 6th at Stewart Park.

Medical Director’s Report and Discussion: Dr. Klepack reported that there has been an uptick in influenza with the absolute number of cases being much lower than earlier in the season. He announced that an article by Dr. Kaser of Cornell University was accepted for publication in the “Journal of Public Health Research” on work initiated at the Tompkins County Public Health Department of COVID illness surveillance during the early stages of the pandemic with data analyzed from reporting primary care practices. He will forward a copy to all when it becomes available.

Division for Community Health (DCH) Report: Ms. Buckwalter had nothing to add to her written report included in the packet. They are looking to hire an informational aid in the immunization clinic and posting for a nursing position.

Children with Special Care Needs Report: Ms. Thomas reported that the budget passed with no rate increase. Some non-mandated early childhood programs were included in the budget.

County Attorney’s Report: Ms. Mosher, Deputy County Attorney reported meeting with Assistant Attorney Generals to get a clearer picture as to what can be enforced, what assistance is needed from the State, how to get the State’s assistance and to improve the overall aspect of enforcement of prohibited vapor products in Tompkins County. Ms. Cameron added that Ms. Shawn Black’s initiative was very helpful in coordinating the conversations and the Legislative Board is very supportive.

Environmental Health Report: Ms. Cameron reported that the flavored vapor product ban did not make the State budget. There still exists a vacancy for a Senior Environmental Health Specialist due to complications of the Civil Service process and a temporary Environmental Health Specialist will be hired.

Grass Roots’ deadline for when their mass gathering permit application must be submitted is June 4, 2023. There have been difficulties in the past between the plan and implementation. This year there have been problems with their water systems not being installed according to plan and concerns with their new plan for laying out campsites using GPS markers. EH is in communication with GrassRoots and their representatives to get these issues resolved.

Community Mental Health Services Board (CSB) Report: Ms. Ayers-Friedlander was not available, and Ms. Grinnel-Crosby reported on her behalf. The CSB met on May 1st and completed the review of all the agencies that receive local and state funding through the mental hygiene system. One common theme was a reduction in access to services due to ongoing workforce shortages for all types of programming for adults and children. The next meeting is Monday, June 5, 2023, from 5:30 – 7 pm with Liddy Bargar, Director of Housing Initiatives presenting on the publication “Home Together: Tompkins”.

Resolution #EH-ENF-22-0052 – C&C Chuck’s, C-Ithaca, Violations of Board of Health Orders and Article 13-F of NYS Public Health Law (ATUPA) – Ms. Merkel moved to accept the motion as written; seconded by Mr. Kingra.

Ms. Cameron explained that this is a violation of BOH orders. A previous violation - an observed sale to an underaged individual of a tobacco-flavored vapor product in February 2022 - resulted in an assignment of two points. Adoption of the draft resolution following a repeat sale on October 18, 2022, to

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an underage individual would lead to an assignment of one more point, a recommendation to the Department of Taxation and Finance for a one-year license suspension in addition to the penalty and surcharge. At the hearing, the hearing officer reviewed the objections presented and concluded that a violation occurred and the BOH must cite C&C Chuck's, under the law for a repeat sale to an underaged individual. The revised penalty differs from the policy the BOH had adopted and is based on the hearing officer's recommendation and incorporated into the order.

In response to a question from Board members:

- Ms. Cameron stated that the hearing officer's report identified that staff members, Becky Sims, Program Manager, and Skip Parr, Program Supervisor, verified the underaged individual's birth certificate and worked with the individual on multiple occasions.
- The process does not require the birth certificate to be introduced nor the name of the individual released to respect the privacy of the underage youth. This information is kept on file at the Department. In this case, C&C Chuck's employee asked the individual if they were 21 but the individual did not respond and they were not asked to provide proof of their age.
- In response to the discussion during Privilege of the Floor, Deputy County Attorney, Holly Mosher stated that Article 78 is a motion brought to the NYS Supreme Court requesting the review of a decision or action of an agency of a NYS or local government. An Article 78 is similar to an appeal.

The vote to approve the resolution as written was unanimous.

Resolution #EH-ENF-23-0005 – Chili's Grill & Bar, C-Ithaca, Repeat Critical Violations of Subpart 14-1 of New York State Sanitary Code (Food) – Dr. Dhundale moved to accept the motion as written; seconded by Ms. Touchton.

Ms. Cameron reported that this is a cold holding violation from inspections on February 6th and February 28th related to inadequate equipment. EH proposes a fine of \$200.

No discussion.

The vote to approve the resolution as written was unanimous.

Resolution #EH-ENF-23-0006 – Chipotle Mexican Grill, C-Ithaca, Repeat Critical Violations of Subpart 14-1 of New York State Sanitary Code (Food) – Mr. Kingra moved to accept the motion as written; seconded by Ms. Touchton.

Ms. Cameron reported that this is a hot and cold holding violation from inspections on February 6th and February 28th related to inadequate equipment. EH proposes a fine of \$200.

No discussion.

The vote to approve the resolution as written was unanimous.

Resolution #EH-ENF-23-0007 – Authentic Jerk, C-Ithaca, Repeat Critical Violations of Subpart 14-1 of New York State Sanitary Code (Food) – Ms. Merkel moved to withdraw the first motion and accept a friendly amendment; seconded by Dr. Dhundale. All were in favor.

Ms. Merkel moved to accept the friendly amendment as written; seconded by Dr. DeLima.

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Ms. Cameron explained the friendly amendment was made due to the orders not being transcribed successfully from the stipulation agreement to the draft resolution. It was modified to address the cold and hot holding violations in the temporary food service establishment which operate under a different sanitary code than a full-service food establishment. Ms. Cameron reported that this is a temperature violation from inspections on February 24th and March 10th. EH proposes a penalty of \$200.

In response to a question. Ms. Cameron stated that this establishment currently operates out of a mobile unit on the Commons.

The vote to approve the resolution as written was unanimous.

Review of Proposed 2024 Environment Health Division Fees: Ms. Cameron referred to the documents of the proposed Health Division Fees for 2024 which are provided in advance of the Department budget so the Board may review them in more detail. Below are highlights of some of the proposed fee changes.

- Existing and new mass gathering fees are being combined into a \$4,100 operating permit fee for both new and existing mass gathering events.
- The mass gathering plan review fee (permit review) increased to \$7,500 with a limit of two rounds of review of applications. If additional rounds of review are needed, an additional fee equal to half of the \$7,500 or \$3,750 will be assessed for each additional review.
- The Onsite Wastewater Treatment System (OWTS) fee increased to \$450 from \$425 for new sewage systems.
- We have added a permit redesign fee of \$100 for changes requested by the owner or due to changes the owner made at the site.

This was for review only.

The next meeting is Tuesday, July 25th, 2023 @ Noon.

Adjournment: Adjourned at 12: 52 p.m.