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Board of Health Minunte 12/11/2013



DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF THE BOARD OF HEALTH

Town of Arlington

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A P P R O V E D
Board of Health Meeting Minutes
Wednesday, December 11, 2013
Ground Floor Conference Room
Arlington Senior Center
5:30pm

Board Members in Attendance: Dr. Michael Fitzpatrick, Dr. Marie Walsh Condon

Staff in Attendance: Christine Bongiorno, Director of Health and Human Services, James Feeney, Health Compliance Officer, Natasha Waden, Health Compliance Officer, Mark Waksmonski, P/T Health Compliance Officer/COA Nurse

Absent: Kenneth Kohlberg, Board Member

Others in Attendance: Mr. Jian Gao (with 2 translators) (Goldenwater Bodywork); Ms. Andrea Kor, Mr. Terry Chen, Mr. Wu Chen, Mr. Huan HuanVon (Sono Asian Cuisine)

Recording Secretary: Laura Munsey, Health & Human Services Administrative Assistant

Meeting called to order by Dr. Michael Fitzpatrick at 5:30 pm.

A Motion was made by Dr. Michael Fitzpatrick, which was seconded by Dr. Marie Walsh Condon, to accept the September 11, 2013 Board of Health Meeting Minutes as submitted.

Vote: Approved (Unanimous)

Hearing: Violations of Bodywork Regulations – Goldenwater Bodywork

Mr. James Feeney, Health Compliance Officer for the Arlington Board of Health, informed the Board that inspectional compliance checks were conducted at Goldenwater Bodywork located at 400 Mass Ave B1 on 11/8/13 and 11/21/13. A Permit to Operate a Bodywork Establishment was issued to Goldenwater Bodywork on 10/23/13, and a Bodywork Therapist Permit was issued to Mr. Jian Gao on 10/31/13. Mr. Gao is the only person permitted to practice at this establishment.

Mr. Feeney reported that on 11/8/2013 he, along with a detective from the Arlington Police Department, an Investigator from the Division of Professional Licensure (DPL), two investigators from the Department of Industrial Accidents (DIA), and a translator from the Town's Information Technology Department, entered the establishment and found Ms. Chaun Mei Wei behind a closed door with a customer. The customer was wearing only a few towels. Chaun Mei Wei is not permitted to practice Bodywork. Mr. Feeney informed the Board that it was made clear to Mr. Gao and Ms. Chaun Mei Wei at the time of inspection that she could not be present in the establishment during operation unless she has been permitted as a Bodywork Therapist, and that her presence in a therapy room with a customer was a clear violation of the Town's Regulations.

Mr. Feeney reported the following: on 11/21/13 Mr. Mark Waksmonski entered the establishment and was greeted by Ms. Chaun Mei Wei. Mr. Waksmonski asked about the "special" and Chaun Mei Wei indicated the "special" cost \$45. Mark Waksmonski stated he wanted to receive a foot massage and asked if it could be done by a female. Chaun Wei Mei said yes, took him by the arm, and led him down the hall towards a room. Mr. Waksmonski asked again if a female would perform the therapy, and was told yes by both Chaun Mei Wei and by Mr. Gao, who had emerged from another room. Mr. Waksmonski asked if two of his friends came if they could get services provided as well and was told yes. Mr. Feeney then entered the establishment with a student from the COA/UMASS student nursing program.

Mr. Feeney informed the Board he is concerned about these violations and the disregard for the Regulations; he does not see this establishment complying with the Regulations and believes extreme actions should be taken. He further informed the Board that after the first violation on 11/8/13, it was clearly and unequivocally stated, through the use of a translator, that Ms. Chaun Mei Wei could not be on site during operating hours due to the Town's Regulations, and Mr. Gao is the only permitted Therapist at this establishment and no one else can perform Bodywork services at this establishment.

Dr. Michael Fitzpatrick inquired of Mr. Gao if Ms. Chaun Mei Wei was present at the meeting. Through his interpreters, Mr. Gao told the Board she was not present or able to attend because she was sick. Dr. Fitzpatrick asked Mr. Gao to provide his side of the story regarding the 2 incidents.

Through his interpreter, Mr. Gao informed the Board that on the first incident the customer had just arrived when the inspectors came in. His mother, Ms. Chaun Mei Wei, also just got there and was in the room cleaning and picking up towels. Dr. Fitzpatrick asked what clean-up was necessary if the customer had just arrived. Mr. Gao informed the Board that they misspoke and that the customer had already had his services provided by Mr. Gao, and he was just waiting there relaxing after his therapy. He stated his mother was there only to clean. Dr. Fitzpatrick asked for what reason was the door closed, and stated it is a violation for any unpermitted person to be behind closed doors with a client. They stated Mr. Gao had to leave the room to greet a customer and left the client in the room with Ms. Chaun Mei Wei, but the customer was the inspectors.

Dr. Fitzpatrick asked what happened during the second incident. Mr. Gao informed the Board, through the use of his interpreters, that Mr. Waksmonski entered the establishment and asked about the "advertised special" for him and his two friends. Mr. Gao stated that Ms. Chaun Mei Wei was not going to provide the service, but was just greeting the customer; he was going to call two part time therapists that he uses to come and provide the services. Mr. Gao stated his mother, Ms. Chaun Mei Wei, is the owner of the business and should be able to be there to greet customers and answer the phones, and that she has done nothing wrong. Dr. Fitzpatrick and Dr. Walsh Condon stated that the only person permitted to provide Bodywork services at this establishment is Mr. Gao, and anyone else providing services, including his mother or any part time therapists, is in clear violation of the Regulations.

Mr. Gao, through his interpreters, stated they have been in business for 4-5 years and Chaun Mei Wei is an owner and can be there. Dr. Fitzpatrick inquired how it has come to be "her business." Mr. Feeney indicated she was not listed as an owner, operator, or a person-in-charge on the establishment permit application. The permit was issued on 10/23/2013 and only Mr. Gao is listed as an owner. Mr. Gao provided the Board with a Business Permit from the Arlington Clerk's Office that listed Ms. Chaun Mei Wei as one of the owners. Dr. Fitzpatrick thanked them for providing this, but pointed out it was dated 11/15/13, which was after the permit was issued and after the first violation had taken place. He stated that nowhere else on any State business licenses or documents from the Commonwealth of Massachusetts have they shown Ms. Chaun Mei Wei is an owner of the business.

Mr. Gao, through his interpreter, stated Chaun Mei Wei is going to go to school to get the credentials necessary to get a permit, and he is looking for other part-time employees.

Ms. Marie Walsh Condon expressed concerns of the seriousness of these violations and that it is very clear that unpermitted individuals are performing Bodywork services at this establishment. She stated the events as described by Mr. Gao do not add up, or make sense. A second chance was granted after the first inspection, and two weeks later, they were again found in clear violation of the Town's Regulations, with total disregard to compliance.

A recommendation was made by Mr. Feeney to revoke the Permit to Operate a Bodywork Establishment held by Goldenwater Bodywork.

Motion: A motion was made by Dr. Marie Walsh Condon, which was seconded by Dr. Michael Fitzpatrick, to permanently revoke the Permit to Operate a Bodywork Establishment held by Goldenwater Bodywork due to the violations documented on 11/8/13 and 11/21/13 in accordance with the Regulations Governing the Practice of Bodywork.

Vote: Approved (Unanimous)

Ms. Christine Bongiorno informed Mr. Gao that staff would be in touch with him tomorrow regarding the revocation of his permit and the process to close the establishment.

Hearing: Variance Request – Sono Asian Cuisine (469 Summer Street)

Mr. Feeney informed the Board that Sono Asian Cuisine has applied for a variance in accordance with Food Code 3-502.11. Sono intends to use acidification, through the use of a vinegar solution, to render cooked rice a non-potentially hazardous food. The variance request was accompanied by the required hazard analysis and critical control points (HACCP) plan. A rice sample has been validated by a local food testing laboratory with a pH of 4.03, less than the target of 4.1

Representatives of Sono Asian Cuisine shared with the Board their collective experience in the food industry, as well as with this process, and notified the Board that a consultant will be used to provide training to all essential employees. Mr. James Feeney informed the Board that all documentation has been received, and that the BOH does not have any concerns at this time. They will monitor compliance with the approved plans during routine inspections.

Motion: A Motion was made by Dr. Marie Walsh Condon, which was seconded by Dr. Michael Fitzpatrick to grant the approval of a Variance for Sono Asian Cuisine (469 Summer Street) to use acidification through the use of vinegar solution to render cooked rice a non-potentially hazardous food.

Vote: Approved (Unanimous)

Discussion: Regulations Restricting the Sale of Marijuana

In November of 2012 the citizens of Massachusetts voted to declare there should be no punishment under State law for Qualifying Patients and Health Care Professionals, Personal Caregivers for Patients or Registered Marijuana Dispensary Agents for the medical use of marijuana.

This Regulation is promulgated pursuant to the authority granted by the Board of Health by Massachusetts General Laws Chapter 111, Section 31 that "Boards of Health may make reasonable health regulations".

Thoughts regarding jurisdictional authority, regulations, permits, enforcement, and zoning were discussed and shared, as well as experience in States such as California and Colorado that have similar Laws.

Christine Bongiorno, Director of Health and Human Services, will be having meetings with other Town leaders regarding a plan of action for the Town of Arlington regarding Regulations Restricting the Sale of Marijuana, and recommends a small working group be established to work on the Draft Regulations, and will report back to the Board at the February 5, 2014 Meeting. This subcommittee will review other Towns Regulations, and look to the Arlington Tobacco Regulations as guidelines. It is the desire of the Board to have something sensible and enforceable.

Motion: A motion was made by Dr. Marie Walsh Condon, which was seconded by Dr. Michael Fitzpatrick, to establish a

working group to include: Christine Bongiorno (H&HS Director), James Feeney (Health Compliance Officer), and Kenneth Kohlberg (Board of Health Member) to work on Draft Regulations Restricting the Sale of Marijuana in Arlington, MA.

Vote: Approved (Unanimous)

Discussion: 2014 Board of Health meeting Schedule

Wednesdays 5:30 pm

Pending final approval of all Board members, the tentative schedule for 2014 Board of Health Meetings is as follows:

February 5, 2014
April 2, 2014
May 21, 2014
June 25, 2014
September 3, 2014
October 22, 2014
December 3, 2014

Correspondence Received: DEP – Manganese in Drinking water

It was reported through this correspondence from the Department of Environmental Protection that recent studies have identified public health risks associated with the ingestion of elevated levels of manganese, especially among infants and young children. Inquiries among the Board regarding specific health risks was also discussed. It was reported that based on the most recent MWRA report for Arlington, levels are well within range for the Town of Arlington public drinking water.

Environmental Updates

Mr. Feeney informed the Board:

- A round of inter-agency compliance checks/inspections was conducted at Bodywork Establishments on 11/8/13. Present for the checks were James Feeney of the Arlington BOH, a Detective from the APD, an Investigator from the Division of Professional Licensure (DPS), two investigators from the Department of Industrial Accidents (DIA), and Li-Hsin Wu of the Arlington Information Technology Department who served as a translator. At this time, Beijing Bodywork in the heights has closed down, La Dolce Spa and Blue Sky Spa are not open for business as they are trying to determine which direction they want to take. Reliable Bodyworks was closed down, but reopened as a massage-only establishment under State jurisdiction.
- Natasha Waden facilitated the annual mandatory tobacco training program on 12/04/13 and 12/05/13. Five (5) Applicants did not show up for the training. It was recommended by the Board that next year, the Tobacco Regulations be amended to include penalties for failure to attend the mandatory training program.
- A preliminary inspection of the Pool (post-construction) located at Arlington 360 (Former Symmes Site) was conducted.

Restaurant Updates

Mr. Feeney informed the Board:

A Plan Review has been approved for:

- Sono Asian Cuisine (opening soon) as well as
- Bagelville (former Panera site)

Kickstand Café has received a permit and is open for business.

Other:

It was reported that AHS may be slated for renovations over the summer, and if so, the Board of Health should keep apprised of the situation to ensure consideration is given to public health matters.

Public Comment: None

Meeting was adjourned at 7:05 pm.

Next Scheduled Meeting: February 5, 2014