



Town of Arlington
Department of Health and Human Services
Office of the Board of Health
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**Board of Health Meeting Minutes
Wednesday, April 6, 2016
BOH Conference Room
Arlington Senior Center
5:30pm**

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

Staff in Attendance: Christine Bongiorno, Director, James Feeney, Health Compliance Officer, Natasha Waden, Health Compliance Officer

Others in Attendance: Alex Kushnirsky, Ranbir Rai, Tarsem Singh, Theresa Campbell, Robert Bongiorno, Chris Rozanitis, Jess Lawrence

Recording Secretary: Ivy Laplante, Arlington Youth Health & Safety Coalition Director

Meeting called to order by Dr. Marie Walsh Condon at 5:35 pm.

A **Motion** was made by Dr. Michael Fitzpatrick, which was seconded by Mr. Kenneth Kohlberg, to approve the February 3, 2016 meeting minutes as amended.

Vote: Motion approved unanimously (3-0)

Hearing: Boyles Market: Tobacco/Nicotine Delivery Product Sales Violation

Mr. James Feeney informed the Board that during a compliance check on March 16, 2016, a 19 year old male agent entered Boyles at 9:41am, and purchased a "Blu" e-cigarette (e-cig) from an adult female clerk who asked the agent for his identification. Mr. Feeney delivered a fine of \$100 to Boyles and presented a letter to appear at this hearing for violating the Arlington Regulation Restricting the Sale of Tobacco and Nicotine Delivery Products, which prohibit the sale of tobacco and nicotine delivery products to anyone under the age of 21.

Dr. Walsh-Condon asked the store's representative, Mr. Tarsem Singh, if he would like to speak to the Board and address the violations referenced. Mr. Tarsem Singh stated the female clerk who sold the product has worked at the Medford location for over 1 year, and was called in to work in the Arlington location on March 16. It is to be noted that the city of Medford has regulations restricting the sale of tobacco products to age 18. The adult female clerk, Ms. Theresa Campbell, was present at the meeting and apologized for her mistake.

Dr. Walsh-Condon then asked the manager what his plans were to prevent this from happening in the future. Mr. Tarsem Singh stated he would do better to inform all his workers about the local regulations in each community, and explore establishing a store policy to punish the clerks who violate regulations. Mr. Tarsem Singh stated since the law came into effect in March 2015, there have been no problems at the store. Dr. Walsh-Condon noted Boyles Market has had no prior violations. Dr. Fitzpatrick commented on the price of the device, noting it cost \$10.51 for the e-cig.

A Motion was made by Dr. Michael Fitzpatrick, which was seconded by Mr. Kohlberg, to approve the minimum penalty of a \$100 fine with a 7-day suspension of tobacco sales to be determined by the Health Compliance Officers.

Vote: Motion Approved Unanimously (3-0)

Hearing: Little Joe's Convenience: Tobacco/Nicotine Delivery Product Sales Violation

Mr. Feeney informed the Board that during a compliance check on March 16, 2016, a 19 year old male agent entered Little Joe's Convenience at 9:06am and purchased a "Blu" e-cigarette (e-cig) from an adult male clerk who asked the agent for his identification. Mr. Feeney delivered a fine of \$100 to Little Joe's and presented a letter to appear at this hearing for violating the Arlington Regulation Restricting the Sale of Tobacco and Nicotine Delivery Products, which prohibit the sale of tobacco and nicotine delivery products to anyone under the age of 21.

Dr. Walsh-Condon asked the store's representative, Mr. Ranbir Rai, if he would like to speak to the Board and address the violations referenced. Mr. Rai stated the male clerk made an error, and he has already addressed the issue with the clerk. Mr. Rai noted Little Joe's did have a prior violation in 2007.

Dr. Walsh-Condon then asked the owner what his plans were to prevent this from happening in the future. Mr. Rai stated he would discuss the Town regulations with his clerks again, and was not aware that the clerk who violated the regulation checked the agent's ID. Dr. Walsh-Condon reminded Mr. Rai it is his responsibility as the owner to ensure the clerks know the laws in Town.

A Motion was made by Mr. Kenneth Kohlberg, which was seconded by Dr. Michael Fitzpatrick, to approve the minimum penalty of a \$100 fine with a 7-day suspension of tobacco sales to be determined by the Health Compliance Officers.

Vote: Motion Approved Unanimously (3-0)

Hearing: Arlington Liquors: Tobacco/Nicotine Delivery Product Sales Violation

Mr. Feeney informed the Board that during a compliance check on March 16, 2016, a 19 year old male agent entered Arlington Liquors at 9:14am and purchased "Marlboro" cigarettes from an adult female clerk who did not

ask the agent for his identification. Mr. Feeney delivered a fine of \$100 to Arlington Liquors and presented a letter to appear at this hearing for violating the Arlington Regulation Restricting the Sale of Tobacco and Nicotine Delivery Products, which prohibit the sale of tobacco and nicotine delivery products to anyone under the age of 21.

Dr. Walsh-Condon asked the store's representative (the owner), Mr. Alex Kushnirsky, if he would like to speak to the Board and address the violations referenced. Mr. Kushnirsky stated he was not aware the Town regulations were to prohibit sales under 21, and thought it was only 18+.

Dr. Walsh-Condon then asked the owner what his plans are to prevent this from happening in the future. Mr. Kushnirsky stated he will conduct a new training of staff and check to see if it was an isolated incident. Dr. Fitzpatrick commented with a concern that the owner does not know about Town tobacco regulations. Mr. Kushnirsky informed the Board his manager went to the Tobacco Retailer Training, and he needed to speak to the manager about the new regulations.

A Motion was made by Dr. Michael Fitzpatrick, which was seconded by Mr. Kenneth Kohlberg, to approve the minimum penalty of a \$100 fine with a 7-day suspension of tobacco sales to be determined by the Health Compliance Officers.

Vote: Motion Approved Unanimously (3-0)

Hearing: Christo's Market: Tobacco/Nicotine Delivery Product Sales Violation

Mr. Feeney informed the Board that on March 16, 2016, during a tobacco compliance check, a 19 year old male agent entered Christo's Market at 9:59am and purchased "Marlboro" cigarettes from an adult male clerk who asked the agent for his identification. Mr. Feeney delivered a fine of \$100 to Christo's Market and presented a letter to appear at this hearing for their violation of Arlington regulations to prohibit the sale of tobacco to anyone under the age of 21.

Dr. Walsh-Condon asked the store's representative, Mr. Chris Rozanitis, if he would like to speak to the Board and address the violations referenced. Mr. Rozanitis stated at the time he sold to the agent, his mother was sick in the hospital and he was not thinking clearly.

Dr. Walsh-Condon then asked the owner what his plans are to prevent this from happening in the future. Mr. Rozanitis promised to be more careful, especially when dealing with young customers.

A Motion was made by Dr. Michael Fitzpatrick, which was seconded by Mr. Kenneth Kohlberg, to approve the minimum penalty of a \$100 fine with a 7-day suspension of tobacco sales to be determined by the Health Compliance Officers.

Vote: Motion Approved Unanimously (3-0)

Hearing: Keeping of Hens - 18 Brattle St. #1

Mr. Feeney informed the Board of Ms. Jess Lawrence's application to keep hens on her property. He noted the plans as submitted in the application are compliant with the hen keeping bylaw, and comments from abutters were supportive of the application. Mr. Feeney questioned the current location of the coop, and noted, according to Town bylaws, the coop must be 6ft. from the property line. Ms. Lawrence informed the Board she has been unable to determine the exact location of the property line due to the brook. Dr. Walsh-Condon recommended Ms. Lawrence check with other Town departments to determine her exact property line.

A Motion was made by Mr. Kenneth Kohlberg, which was seconded by Dr. Michael Fitzpatrick, to approve the application for keeping of hens with the condition the coop is located 6 feet from the property line.

Vote: Motion Approved Unanimously (3-0)

Hearing: Variance Request: Minimum Standards for Swimming Pools: Float Tonic LLC.

Mr. Feeney informed the Board that Mr. Stephen Tomadakis was ill and was unable to attend the hearing. The Board discussed the history of float tanks and examined other communities' current regulation of these therapeutic pools. Dr. Walsh-Condon reaffirmed the notion that float tanks should not be exempt from the pool code. Dr. Fitzpatrick noted that the Board has previously set new regulations without precedent. Dr. Walsh-Condon reminded the Board this was a discussion only, not a hearing.

Discussion: Regulation Restricting the Sale of Medical Marijuana

Mr. Feeney informed the Board of additional regulations provided for review by Natick. The Board discussed having Mr. Feeney amend the current draft Regulation to include the following: requiring fire extinguishers at home cultivation sites, allowing violations of the State regulation to also be considered violations of the local Regulation, requiring the dispensary to notify the Board of any Department of Public Health visit within 24 hours, signage prohibiting entrance to the dispensary to anyone without a valid Registration Card, and requiring a dispensary to deliver products to those with a verified hardship.

The Board discussed comments made during the public hearing on the draft Regulation at the previous Board of Health meeting. Mr. Kohlberg reminded the Board of the comments made by a resident who believed limiting the supply of marijuana to 30 days could create a hardship for those who will have difficulty accessing the dispensary more frequently. Dr. Walsh-Condon stated the restriction of medical marijuana to a 30-day supply is warranted because prescriptions for controlled substances have historically been limited to 30 days. Dr. Walsh-Condon also noted the requirement for a dispensary to deliver to any patients who are unable to physically access the dispensary.

A comment was made at the public hearing regarding the possibility of disallowing a dispensary from engaging in the future sale of recreational marijuana. Mr. Feeney reminded the Board this Regulation pertained only to the sale of medical marijuana, and they would not be able to disallow an activity that is considered legal.

Mr. Kohlberg suggested the word "medical" be added throughout the Arlington Regulation to alleviate any confusion between medical marijuana regulations and recreational marijuana.

Dr. Walsh-Condon asked how the Board will regulate "edible" medical marijuana products. Mr. Feeney noted that the FDA states marijuana is not a food and therefore cannot be regulated under FDA code, but the Board can still ensure the food preparation is safe and sanitary. Dr. Walsh-Condon suggested the Board adds a provision that references the minimum standards of food preparation when preparing medical marijuana edibles.

Dr. Walsh-Condon noted due to no substantial changes in the Regulation, the next Board meeting on May 18th will be a hearing to adopt the Regulation Restricting the Sale of Medical Marijuana.

Discussion: 2013/2015 FDA Model Food Code

Mrs. Waden informed the Board that Ms. Maureen Lee, a contracted health compliance officer, plans to facilitate the purchase and use of electronic software for Arlington inspections. Mrs. Waden proposed Arlington should adopt the 2013 food code with 2015 addendums, similar to Newton and Cohasset. Mr. Feeney noted Arlington currently enforces the 1999 food code, which does not cover the specialized procedures being used today. Mr. Kohlberg commended Mrs. Waden on her proactive approach to adopting these new regulations.

Discussion: Food Establishment Plan Review Policy

Mrs. Waden discussed formalizing the current policy requiring food establishments that are changing ownership to undergo a plan review. This policy would require new owners to submit plan documents, procedures, menus, operations, etc. to the health compliance officers before officially re-opening establishment.

Environmental Updates

No environmental updates at this time.

Restaurant Updates

Mrs. Waden informed the Board that Fashion Cake Boutique has closed, and the food establishment formerly known as Zocalo will reopen as The Commune Kitchen.

Public Health Nurse Updates

Mrs. Waden informed the Board:

- An 8 year old boy recently passed away. The boy had been diagnosed with influenza but also had underlying medical conditions.
- There has been a flu spike in Arlington - 57 confirmed cases since September 2015.

- Arlington still has state supplied flu vaccine and the Public Health Nurse, Mrs. Kara Katz, has been contacting local physician's offices for distribution.
- 3 confirmed cases of mumps in Arlington.

Public Comment

None

Other:

A Motion was made by Mr. Kohlberg, which was seconded by Dr. Fitzpatrick, to adjourn the meeting at 8:06 pm.

Vote: Motion approved unanimously (3-0)

Meeting was adjourned at 8:06 pm.