

Meeting Minutes of the Chelsea Board of Health  
April 11, 2023

**Attendance: Names of members and participants**

Board members, guests & City of Chelsea staff were introduced.

Board Members:

- Corinna Culler
- Ola Bayode
- Allen Jackson
- Joshua Merson
- Dr. Dean Xerras

City of Chelsea Staff:

- Flor Amaya, Director of Public Health
- Paula McHatton, Public Health Nurse
- Strephon Treadway, Assistant City Solicitor

Guests:

- Chris Banthin, Northeastern University Public Health Advocacy Institute
- Bonnie Carroll, Six City Tobacco Initiative
- Victor Castillo, Sabor Especial
- Cheryl Sbarra, Massachusetts Association of Health Boards (MAHB)

**Approval of the February 2023 Minutes**

The Board unanimously approved the minutes of the February 2023 meeting.

**Tobacco Sales Violation – Sabor Especial**

On 3/7/2023, a pack of Newport cigarettes was sold to an underage person. The penalty for this violation is a three-day suspension of tobacco sales and a \$1,000 fine.

Through translation by Flor Amaya, Victor Castillo told the Board that the sale might have occurred during a busy sales period. He noted that he has been in business for five years, and he has never previously had a tobacco violation. He expected a warning, not an automatic fine and suspension. Strephon Treadway clarified that this fine/suspension structure complies with State tobacco control regulations, and that the fine is the minimum allowed under the regulations.

Corinna Culler expressed appreciation for Castillo's appearance before the Board. Castillo stated through translation that he recognizes the Board's action was correct in this situation. Bonnie Carroll added that the best practice is to ask everybody that wants to purchase tobacco for identification.

The Board unanimously approved a motion uphold the fine and three-day suspension. Afterward, Strephon Treadway explained that Castillo could appeal the Board's decision by filing a complaint against the Board in court. Treadway advised that Castillo, if he intended to appeal, could ask the Board of Health for a stay today.

Castillo chose to pay the fine and agreed to suspend tobacco sales from April 17 – April 19, and will cover the cigarettes with cardboard on those days.

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### ***New Tobacco Product***

Cheryl Sbarra of the Massachusetts Association of Health Boards reviewed MA tobacco law, which states that flavored tobacco products cannot be sold outside of certain tobacco bars. Flavored tobacco products are defined as those products that have a taste or aroma other than tobacco. The industry had been developing flavored products (ex. Cherry or pineapple) but recently has developed new names for cigarette products (ex. Jazz or Tropic) where the flavor isn't clearly named or identified except by opening the product and smelling the aroma.

Philip Morris' Jazz was at the center of a lawsuit resulting from a violation at Cumberland Farms in Yarmouth. After the case was returned to the Yarmouth Board of Health, they opened the product and determined that it did have a smell of something other than tobacco. During the appeal, the Superior Court found that the Board's process (looking at online reviews, reviewing marketing materials etc.) was correct and upheld the violation. An appeals court also found that the Board's review process was correct, upholding what is called the "sniff test" which focuses on whether the product smells or tastes like something other than tobacco.

Sbarra continued that a new product being marketed in CA and MA (the only states that ban flavored tobacco products). This product is called non-menthol cigarettes and the packaging looks similar to the Newport menthol packaging. MAHB was suspicious of its marketing, noting that these RJ Reynolds products describe that a "non-menthol capsule" is placed in the cigarette to give it flavor. MAHB had menthol smokers taste the new product, and most reported tasting menthol flavor.

Sbarra noted that menthol has a taste more than a smell and noted that the RJ Reynolds added a chemical called WS3 to mimic the menthol taste. MAHB brought this issue to the attention of the Attorney General and Dept. of Public Health, believing that the company is using deceptive marketing practices to target menthol smokers. She noted that MA retailers are questioning whether the product is legal to sell. DPH is telling retailers to speak to their local boards of health for clarification.

She suggested the Chelsea Board of Health inform retailers that these products are flavored products according to State law and that they should remove these products from store shelves.

Sbarra has spoken with David Mancuso, a public relations strategist working with RJ Reynolds who has been calling local boards of health telling them that these products are legal to sell in MA. While he offered to send Sbarra information on the products, she has yet to receive it. Corinna Culler asked whose responsibility it was to confirm whether a product was flavored or not. Sbarra responded that manufacturers must certify that their products provided to retailers are not flavored. She has also heard from Bonnie Carrol that these products are not selling very well. She added that the sale of these products may open the Board to legal action. Strephon Treadway added that once a retailer has been cited for selling these flavored products, the Board will have to decide whether they violated the ban on selling flavored tobacco. The Board may need to get experienced smokers to confirm whether the product has the "taste or smell" of menthol. Treadway noted that if the decision gets appealed, a judge will look at whether the Board acted arbitrarily or abused its discretion, but they usually defer to the judgment of the Board of Health in these types of cases.

Chris Banthin added that his organization is made up of lawyers who defend communities in tobacco-related lawsuits and would support Chelsea should retailers sue the City.

Dr. Xerras asked if there were other cities ready to proceed in classifying these products as flavored tobacco. Sbarra replied that there are some cities in central MA that may be ready, but that Chelsea is uniquely positioned to ban these products due to having a solicitor's office that understands the issue, history of strong public health policymaking, strong tobacco control laws, competent staff and cohesive Board of Health.

Banthin added that RJ Reynolds is subverting a successful public health intervention in banning menthol products. Cheryl Sbarra added that RJ Reynolds will likely file motions for injunctions in the cases, so that they could continue to sell the products.

Bonnie Carroll noted that advertisements for one of these products included language that said, "Menthol smokers, we've got your back." She noted that she is finding these products in Chelsea and found them in about 1/3rd of stores. Many retailers had letters from RJ Reynolds stating that the products were not flavored tobacco products. Those that had the letter were allowed to keep selling the products, those that did not have the letter were told to remove the products until they heard back from her on the Board's decision, or they were able to produce the letter.

Joshua Merson asked whether the Board needed to have a public hearing on whether to classify these products as flavored.

Treadway also suggested that Bonnie Carroll go out and speak to retailers, telling them that these products are flavored tobacco products and should not be sold. After the first citation on this issue is issued, the retailer will likely appeal. He continued that the Board should have a full hearing, being open to all information from experienced smokers, retailers and other interested parties.

This presentation was to inform the Board of a new product, not to request that the Board classify these products as "flavored." The Board took no action on this at the meeting and will not classify this product as flavored until it hears from all opposing sides in a public hearing.

### ***Housing Code Changes***

Flor Amaya reported on recent changes to the Chelsea housing code:

- Requirements for a second egress: In previous versions of the housing code, if a building had an adequate sprinkler system, the requirement for a second form of egress could be waived. Decisions related to this may come to the Board of Health for input.
- Heating season: The Board of Health can change the timeframe when heating must be provided in residential buildings. Given changes in the climate, the Board may need to consider this. For example, last May was unseasonably cold, but the weather changed, and we had a heatwave. Under current regulations, the Board could have changed the heating season to end earlier. The Board may be asked to act on this.

### ***Public Health Updates***

Paula McHatton reported that there were 7 enteric diseases and 2 bacterial infections reported in March:

- There was a case of norovirus in a one-year-old child whose mother reported similar symptoms. The child was admitted to the hospital overnight for observation and was discharged home.
- There was a case of campylobacter in a 67-year-old male. He denied eating anything unusual, does not handle food and had no recent history of travel.

- Two cases of giardia were found in people who were recent arrivals - one was from Ethiopia, the other was from Nicaragua. Neither had any symptoms.
- There was one case of yersinia in a person who identified in screening for a stool donation program. McHatton has been unsuccessful in attempts to follow up with this person.
- Two cases of salmonella were diagnosed:
  - One case was seen in an infant that developed symptoms after transitioning from formula to cow's milk. The infant was born prematurely and was not able to tolerate the milk. Food was also suspected, and McHatton alerted inspectional services and identified where the family shopped. She followed up with education on handwashing and avoiding cross-contamination.
  - The second case was identified in a local restaurant patron who shopped at the same grocery stores as the other case. She alerted Inspectional Services and completed a food-borne illness worksheet and spoke with the Food Protection Bureau at MA Dept. of Public Health. An inspection at the restaurant found multiple violations. The owner will receive an educational visit from a Food Inspector. After Salmonella Typhi was identified, the MA Dept of Public Health took over the case. The person who was infected had recently travelled.
- Group A strep was identified in a person complaining of arm pain and drainage, with a history of IV drug use and mental health issues. The person was uncooperative when medical staff were trying to do further evaluation.
- A second case of strep was identified in a person with an infection and drainage in their right foot. The patient underwent a debridement and was treated with antibiotics.

There are two active cases of tuberculosis:

- One case is doing well and tolerating the medicine. The estimated date of treatment completion is 8/28/2023.
- The second case is still at Lemuel Shattuck Hospital. There is a court hearing on Friday on their continued commitment. The patient is being uncooperative. The estimated date of completion is 6/6/2023. McHatton along with a community outreach worker and DPH TB nurse visited the patients home, where their brother was unaware of how bad the infection had gotten.

There were 8 reported cases of flu in March, down from 14 cases in February.

COVID-19:

- Chelsea has 17,759 confirmed cases since the start of the pandemic.
- Positivity rate: 2.33%, down from 5.97% in February.
- Incidence rate: 4/100,000, down from 9.8/100,000 in February.
- Community transmission level: Low.

The Senior Center will continue providing vaccination on weekends through 4/30/2023. The vaccination clinic will run through the end of the fiscal year (6/30/2023). \$25 gift cards will be available while supplies last.

Flor Amaya added that:

- The COVID-19 vaccine will remain free until Fall 2023. After that point, it will be available commercially. COVID-19 will become part of routine childhood vaccination.
- The City has received allocations of Naloxone and is working with the Downtown Taskforce on overdoses. Navigators do home wellness visits with people who have overdosed, leaving Naloxone behind.

- The City has completed the application to become a pediatric vaccine provider and will undergo an inspection on 5/8/2023. Lori Fulghum, Regional Public Health Nurse, will administer the vaccines, and frequency and other details are still being finalized.
- The current body art regulations were distributed to Board members. Chelsea has three body art establishment and one that performs micro blading. The regulations do not provide guidance for the licensure of foreign trained practitioners. It was determined that updates are needed and to revisit this issue at the next BOH meeting.

**Items for Discussion:**

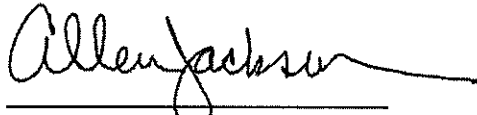
- Josh Merson requested further information on the issue of Lead paint resulting from the Tobin Bridge.

**Next steps:**

- Bonnie Carroll will draft a letter to retailers and begin informing them that Chelsea Health Department staff and technical assistance providers have decided that these products are flavored tobacco.

**Next Meeting**

The meeting adjourned at 7:15 pm.



Allen Jackson, Clerk

5/10/2023

Date

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CITY CLERK'S OFFICE  
CHELSEA, MA