



UTAH COUNTY BOARD OF HEALTH

151 SOUTH UNIVERSITY AVENUE
PROVO, UTAH 84601

MINUTES March 28, 2016

Members Present:			
Clyde Nielsen, RPh, Chair	X	Teresa Tavares, Vice Chair	X
Gaye L. Ray, RN	excused	Mayor Jeff Acerson	X
Superintendent Keith Rittel	excused	Diane Lohner	X
Dianne C. Carr	X	Larry Ellertson	X
Henry M. Yeates, MD	X		

Others present:

Ralph L. Clegg, EHS, MPA UCHD Executive Director
Julie Dey UCHD Secretary

Number of people in attendance – 23

1. Welcome by Clyde Nielsen
2. Public Hearing to consider adoption of proposed Non-Public Water System Regulation

MOTION: Commissioner Ellertson made the motion to open the meeting to a Public Hearing to consider the adoption of proposed Non-Public Water System Regulation which was seconded by Mayor Acerson and passed by unanimous vote.

Jason Garrett, UCHD, Bureau of Water, Pools and Sanitation and Craig Bostock, UCHD, Water Quality gave an introduction to the regulation. The regulation formalizes the policy that is currently in place with the Utah County Health Department regarding Environmental Health and drinking water standards. The basis of the regulation is to have safe drinking water for new homes in areas with well water that does not meet primary drinking water standards and allows for water filtration systems with stipulations to meet the primary water drinking standards of the EPA.

Our goals with the regulation are: 1) to make sure the water is safe, 2) allow people to build in areas they aren't currently able to build because the water is compromised, and 3) make sure that future homeowners will be aware of the need to properly filter the water.

Carl Hollan, Utah County Attorney, answered questions regarding title reports, title insurance and title notices so that subsequent purchasers would be notified of the water filtration system. He said it would be fairly obvious there is a water filtration system on the property because the filtration system would be housed in a separate 8' x 10' shed.

Craig Bostock, UCHD Water Quality, pointed out that a property owner would need to have a three year maintenance agreement in place for the filtration system.

Carl Hollan brought to the board's attention that the regulation only includes unincorporated Utah County and generally will not be in effect in the incorporated areas and cities where they have community drinking water systems unless they have an unusual situation where there is a home with a need for well water. He also brought up 12.8 which is an important provision which keeps wells a safe distance away from septic tanks. Septic tanks will seep out nitrates and other compounds that shouldn't be in drinking water. There is a state rule which states a septic tank must be 100 feet from a drinking source. Part of the issue here is that people like to put both their well and their septic tank right on their property line. The problem this creates is the last building lot in a given area doesn't have a place for a septic system and a well and therefore it can't be built upon because they are blocked out by the neighbors who already have wells and septic tanks. What this regulation proposes is that all wells in Utah County (not just the wells that meet primary drinking standards) need to be 95 feet from the property line. We chose 95 feet for the regulation because a septic tank has to be 5 feet away from the property line giving 100 feet total. Forcing property owners to place their well 95 feet into their property may not make them happy because they want to use their property how they would like to use their property and place the well wherever they would like. This is the only way the Utah County Health Department has been able to enforce the 95 feet rule without creating unbuildable lots down the chain from neighbor borders.

Jason Garrett, Craig Bostock and Carl Hollan answered all questions posed by the board members.

Public Comment: Shelsey Barney, Utah County Resident, stated she currently owns 14 acres in Lake Shore and has an existing house on a well that is high in arsenic. Shelsey wants to subdivide and build a new home. They are being prevented from doing that because of the current law. The new regulation would allow them to subdivide, keep their current home on its well, add a filtration system to make the water levels safe and build a new home.

Vickie Barney, Utah County Resident, wanted to give the Board a different perspective of what Shelsey is going through in regards to owning the property but not being able to build on it. They would have to invest another \$30,000 into a different well for the existing house and then drill

another well for the new house. Vickie said the new regulation would help them by putting a filtration system on the existing well, and then they could move forward with building the new house.

MOTION: Teresa Tavares made the motion to close the Public Hearing which was seconded by Dianne Carr and passed by unanimous vote.

3. Approval of minutes from January 11, 2016

MOTION: Teresa Tavares made the motion to approve the minutes which was seconded by Diane Lohner and passed by unanimous vote.

4. Adopt Regulation of Non-Public Water Systems

Jason Garrett addressed the question from the Board (regarding inspections on the filtration systems every three or four years). If a private property owner who occupies the property has chosen not to maintain the system, would you evict them from their home or would you fine them heavily? For an inspection program every other year, the board would need to consider what to do with a homeowner at that point. Carl Hollan, speaking to that point from a legal perspective, indicated that if a homeowner is in the home and they have been issued a certificate of occupancy, we would not be able to revoke their certificate of occupancy unless we have some sort of housing regulation. Jason Garret made the point that if the property owner decided to run a business on the property, they are required to submit yearly sample results.

Mayor Acerson suggested offering a “service for a fee” which would cover the costs to sample and verify the water is within the standards, or have a group of qualified companies or firms who could do the sampling.

After the discussion, Jason Garrett said we would create a policy with recommendations for additional sampling, not a part of the regulation.

MOTION: Commissioner Ellertson made the motion to adopt Regulation 16-01 regarding Non-Public Water Systems with an understanding that a policy will be made relative to follow up. Teresa Tavares seconded the motion and was passed by unanimous vote.

5. Review and Discuss Household Hazardous Waste Regulation and set time date and location for Public Hearing

Ralph Clegg said one the purposes of the regulation is to allow for the collection of a fee to fund the annual “Take Back” Household Hazardous Waste program that we would like to do twice a year and also to establish permanent facilities where people can drop off their hazardous waste at no cost.

Steve Alder, UCHD Bureau Director – Environmental Health, said the regulation is proposed to put in place tonnage fees which will fund Household Hazardous Waste Day collection events and other drop off locations. The regulation is the mechanism of going forward with the Utah County Commissioners who voted a few months ago to change the County ordinance that would allow this tonnage fee to be assessed and collected to continue the program and provide the resource to the community.

Carl Hollan, for the sake of clarification for the minutes, the purpose of this regulation would be to create a permit system that will allow us to permit, regulate and control the collection, transfer and disposal of municipal solid waste as well as providing a framework where we can later control, permit and regulate other types of waste as necessary. Currently this will only be municipal solid waste. An ancillary benefit of it would be the permit fees will be used toward paying for the Household Hazardous Waste program, but the primary purpose is not to collect a fee, the primary purpose is to create a permit so we can regulate the collection, transfer and disposal of municipal solid waste. It is an important legal distinction I need to make: We are creating a permit so we can regulate municipal solid waste in the County and a part of it is accessing a fee. The fee would then go towards funding Household Hazardous Waste collection programs. It is not a tax. It is a service fee. The fee is passed by solid waste collection facilities who may pass it on to cities. The individual cities may pass the fee on to their citizens.

Bryce Larson, UCHD Director of Environmental Health said this program is extremely popular. Every year it grows in popularity, and so logistically it is very hard for us to manage. We have students from BYU and UVU who volunteer to help with the labor which is the biggest expense. With this fee, we will have enough funding to continue having the collection event as well as expanding to include another event in the north part of the county because of tremendous growth in that area.

MOTION: Commissioner Ellertson made the motion to set a date, time and location for Public Hearing to discuss possible regulation concerning Household Hazardous Waste Regulation on May 23, 2016 at 4:00 pm at this location 151 S. University Ave., Provo, UT 84601, Room 2500 at the next Board of Health Meeting. The motion was seconded by Dianne Carr and passed with unanimous vote.

6. Non Service Animals in Food Establishments

Leilani and Burt Garfield, Utah County Residents, brought to the Board's attention that they have noticed a big increase in the number of people who bring animals in to public places and particularly in places they are legally prohibited. It is against the law for animals to be in restaurants and food establishments, and they are seeing a willful dismissal of the law. They think the law needs to be more strictly enforced. They think there is a lack of awareness on the part of the restaurants and the public on what the law requires. Leilani suggested that the

Health Department take steps to educate and inform the food establishments and the public regarding the following points:

- Animals can spread diseases to humans and non-service animals pose health and safety risk to employees and customers and to trained service animals.
- Education on what the ADA (Americans with Disabilities Act) states is the definition of service animals. Comfort animals are not the same as service animals. Comfort animals are not protected by the ADA. By Utah Law, comfort animals are not allowed in restaurants. Trained service animals in a restaurant need to remain on the ground and not be on the chairs or tables.
- Food establishments and the public need to be aware there are questions they can legally ask according to the ADA about service animals without the risk of being sued.
- The public needs to be made aware that falsely representing an animal as a trained service animal is a Class B misdemeanor. They need to be educated on how to report violations.

Leilani suggested ways to educate the community such as public service announcements and ads, billboards, educational websites, an official source to receive correct answers, toll-free numbers they can call to get information and report violations, websites to report violations and websites which show food establishment violations. It should also be taught in the food handlers permit class along with better signage on the fronts of restaurants and food establishments stating that pets and comfort animals are prohibited. Employees at food establishments need to be informed and trained on the laws. Sting operations could be conducted in food establishments to see if they are asked about the animal and what the response is if it is not a trained service animal.

Burt Garfield, Utah County Resident, is concerned that he has not received correct information regarding animals in food establishments from the Health Department and would like the Health Department to take a proactive approach on it.

Todd Bergeson, Utah County Resident, has seen an increase in animals in food establishments in the past two years and it seems to be expanding. Todd started working with Utah State Senator Dayton to clarify the law. People are buying pet vests on the internet to pass their animals off as service animals. It is highly offensive for ADA members who use legitimate service animals.

Todd went on to say that non service animals can attack service animals. Service animals will not fight back because they are trained that way. Two questions can legally be asked: 1) Is that a service animal? and 2) What service does it provide? Todd asked the Health Department to get the proper information to the restaurant owners. As consumers in the community the only action that can be taken is to report incidents to the Health Department.

Ralph Clegg, Executive Director, UCHD pointed out that the Department of Agriculture regulates grocery stores.

Tyler Plewe, UCHD Bureau of Food Safety, distributed a draft letter to be sent to restaurant owners. He talked about restaurant inspections as well as the education of UCHD staff to be able to answer questions correctly and take reports on violations.

Carl Hollan (in regards to the letter Tyler Plewe has put together for restaurant owners and what considerations had to be made in the future in reporting to the Health Department) the first concept we need to understand as a Board of Health and as the County Attorney's office is that we can't get in the business of being everyone else's attorney. We can educate restaurant owners and give them general guidelines. We can't go too far in telling them exactly what to say and exactly what to do in every situation because we do not represent these people's legal interests, and they should have their own attorneys if they have issues. We are limited in the legal guidance we can give to the public. We have put together this letter which is educational and should help managers understand questions they can legally ask and what questions they should be asking to ensure that people are obeying the law and only allowing service animals into eating establishments. One of the issues that will be faced is that disabled people do not have to carry proof of disability and a service animal is not required to have certification or proof with the owner.

We can inform food establishments what questions they can ask and then inform them of the law. UCHD will accept reports of violations; however, fines for violations pose a problem with the burden of proof the law has been violated.

Teresa Tavares suggested getting the support of city mayors to educate the public through city newsletters.

Dr. Henry Yeates asked for signage to be made available to food establishments to help them enforce the law.

7. 2016 Legislative Bills of Importance

Ralph Clegg highlighted house bills from the recent legislative session.

- HB 157S2 Age Limit for Tobacco and Related Products – Did not pass
- HB 192S3 Opiate Overdose Response Act - Passed
- HB 221S10 Immunization of Students Amendments – Did not pass
- HB 236S3 Charitable Prescription Drug Recycling Program - Passed
- HB 308 Disease Prevention and Substance Abuse Reduction Amendments - Passed
- HB 333 Electronic Cigarette Products, Nicotine Inhalers – Did not pass
- SB 61 Smoking in Public Places – Did not pass
- SB 73S3 Medical Cannabis Act – Did not pass
- SB 89S5 Medical Cannabidiol Amendments – Did not pass

8. Utah Public Health Association Annual Conference

The 2016 Utah Conference for Public Health will be April 12-13, 2016. Registration for Board of Health Members will be paid for by UCHD. Please contact Julie Dey by March 31, 2016 if you would like to attend.

9. Information on the Trampoline Gyms (as requested at the last Board Meeting)

Carrie Bennett, UCHD Injury Prevention Program Educator, prepared two documents of information for the Board of Health Members. The first document contained trampoline policy scans of other state and local governments. The second document contained information on trampoline injury rates vs other activities or sports. The data gathered was from the Consumer Product Safety Commission Data for 2014, specifically their national electronic injury surveillance system which compiles information received from hospitals.

Adam Phillips, UVRMC Trauma team sent a letter which was distributed Board of Health Members. Changes are being made at the trampoline facilities, but they are being made after the fact. So what happens when a new trampoline gym opens? How many injuries will occur as they are learning the business? When we brought the issue up three years ago, there were three gyms in the state of Utah and all three of them in Utah County. One has subsequently gone out of business. Now there are 12 gyms in the state from Logan to St. George. Injuries went down for a while because of educational effort to the community which affected injury rates, now injury rates are double what they were. It is a trend and we are headed in the wrong direction.

Spencer Merrill, Utah County citizen, addressed the board. After two years of reviewing this, is this a matter that is going to be taken up and have a resolution? There doesn't seem to be a clear course of action or direction.

Ralph Clegg felt that the issue is better taken up at the state wide level so that everyone is using the same standards so that a trampoline jump gym in American Fork and one in Draper are on the same playing field for regulation. He thinks Arizona's approach is good and sights the standards trampoline facilities hold themselves too.

Spencer Merrill agreed that the best approach would be a state legislative matter such as Arizona HB 2179, but the problem, in the meantime, is what you (the Board) need to do. It is within this Board's function to pass regulations and work with the foam pit owners to pass it at this level and then work at a state level. The regulation was tabled at the last meeting. The point is, that it doesn't take a lot of changes to the proposed regulation that you initially had. What I suggest moving forward is that this Board look at the regulation and bring it back to the table and have discussions with the owners to draft a regulation that is in everyone's best interest. We now have three years of objective data to work with.

Jere Reneer, Attorney, Reneer and Associates representing Aaron Cobabe with Get Air Hang Time said the expert on injury statistics at my client's gym is the owner. They had 10 injuries in 2014 and 6 in 2015. Looking at the statistics presented today, clearly most of the injuries are

happening at homes. My client wants all who come to his gym to be safe and the statistics prove they are.

Carl Hollan made a comment on this discussion for the Board's information. I will advise the Board on whether things are legal or not and whether things are enforceable. I will advise the Board on liabilities that may expose the County or the Board of Health to litigation. Please address questions of this nature to him. The agenda for today is an informational discussion. No action can be taken. You are welcome to put actionable items on future agendas. Board members can contact Ralph Clegg and negotiate what is on the agenda for the next meeting. If you were to want to move forward, the first step is to have an item on the agenda to set a date, time and location for a public hearing on this issue. This process would need to be followed before anything could be adopted.

10. Board Constituent Feedback/UALBH Steering Committee Report

11. Employee Changes

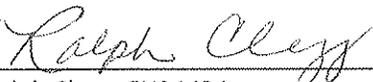
Employee changes have been routine. Doreen Radford – WIC Director has retired after 28 years. Kohar Oshier is now the WIC Director. Patty Cross is the new Health Promotion Director. Nancy Flake is the new Immunization Coordinator. Dr. David Flinders has been contracted as the Medical Director for the Health Department.

12. Other Business

Aislynn Tolman-Hill, UCHD PIO, will make arrangements for BOH members to be photographed for the UCHD Annual Report.

MOTION: Diane Lohner made the motion to adjourn which was seconded by Dr. Henry Yeates and passed by unanimous vote.

Meeting was adjourned at 6:30 pm.



Ralph Clegg, EHS MPA
Director
Utah County Health Department



Clyde Nielsen
Chair
Utah County Board of Health