



# UTAH COUNTY BOARD OF HEALTH

151 SOUTH UNIVERSITY AVENUE  
PROVO, UTAH 84601

## MINUTES March 27, 2017

Members Present:			
Mayor Jeff Acerson, Chair	X	Teresa Tavares, Vice Chair	X
Gaye L. Ray, RN	X	Daril Magleby	excused
Superintendent Rick Nielsen	excused	Diane Lohner	X
Dianne C. Carr	excused	Commissioner Greg Graves	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 – 16

1. Welcome by Jeff Acerson
2. Approval of the Minutes from January 23, 2017

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

3. Recognition of retailers who have not sold tobacco to youth undercover buyers for five years – Linnea Fletcher

Linnea Fletcher, Health Promotion Program Manager, Utah County Health Department (UCHD) explained that each year UCHD recognizes retailers who have not sold tobacco or vape products to youth undercover buyers for five years and presents them a certificate. Nine stores were recognized for 2017. When youth are not able to access tobacco products, it means they aren't using the tobacco products. Katie Call, Health Educator, UCHD read the list of stores:

Holiday Oil in American Fork, Premium Oil Chevron in Orem, Holiday Oil in Eagle Mountain, Maverick in Orem, 7-11 in Provo, East Bay Phillips 66 in Provo, Will's Pit Stop in Provo, Maverick

in Provo and Bells Chevron in Provo. Katie also indicate there is one store who hasn't sold to youth for 14 years.

UCHD's Health Promotion division keeps a database of retailer's records. The database tracks retailers that have sold to youth, the date they sold, their hearing date, and what measures the store has put in place to prevent it. If a retailer sells three times in a year to minors, they lose their tobacco license for a month. If they sell four times in a year, they lose their tobacco license for a year. Most are first offenses. Usually the store realizes their business is in jeopardy, so they are vigilant about not selling to minors.

Katie indicated that often when stores sell to minors, the cashier mis-reads the date on the driver's license and the cashier isn't purposefully selling to youth. When a store has a violation, it gives the Health Department an opportunity to re-educate the store and employees. Our tobacco program has maintained a very good working relationship with retailers over the past decade. Our civil hearing process is more about educating the retailer.

4. Public Hearing to discuss the Proposed Regulation 17-01 for the hearing of administrative action

**MOTION:** Gaye Ray made the motion to move the meeting to a public hearing for today's date at this time and this location to consider the adoption of Proposed Regulation 17-01. The motion was seconded by Diane Lohner and passed by unanimous vote.

Carl Hollan, Utah County Deputy Attorney, explained to the Board members that proposed Regulation 17-01 would help individuals/companies who are under order, penalty or another form of action from the Health Department to have a form of recourse. This would give the Health Department stronger footing in enforcing rules that exist. It would also help the members of the public so that when there are issues with which they disagree on Health Department action, they have some recourse. This would allow appeal to an informal board rather than taking things to court. This would be an avenue for decisions and penalties. It would be similar to a "board of adjustments" or "equalization process" the County has for land use actions.

Proposed Regulation 17-01 would be the step of appeal before the topic was brought before the Board of Health. It is allowed for by state statute. Other counties have enacted it because it helps them to cut down on the number of issues that are going to court or that are going before a board of health directly.

Jeff Acerson - Are there any fees associated with the process?

Carl Hollan explained that right now, we would hope that we could run the board with volunteers. There are no fees being imposed on anybody as a part of this process. If someone was assessed a fee for violation of health standards or orders, they could appeal the fee to the Board of Health.

If this regulation is approved it could be utilized beginning April 1, 2017.

Henry Yeates - So all this really does is make it harder to enforce because they have another step they can go through.

Carl Hollan - If we issue a fine and their only recourse is to go to court, where is their due process in that? They need the opportunity to be heard. It will make it easier for us because we know we have a system to back that enforcement up. So, I think it makes it easier for enforcement. It makes it a little more legally defensible. Currently it is hard to determine if we can impose a fine.

State Code allows for a county Board of Health to hear these sorts of things directly or to appoint someone to hear on their behalf.

Commissioner Graves - Why would we relinquish control from the Board of Health which by law has that authority?

Carl Hollan - The Board of Health meets once every other month, so it is a harder to get those things scheduled. The other purpose behind this is to have subject matter experts be on this board so they could hear things that specific to their subject matter.

The 17-01 regulation board would decide what they would then bring to the Board of Health. The determination by the regulation board is appealable to the Board of Health. The purpose of this lower administrative hearing board is only to determine whether a law was conformed with. There is no judicial activism with the hearing board. The Board of Health's responsibility is to determine if things are in concordance with the law. We all know you can read one law two ways, and so that is why they can then appeal to the Board of Health.

Another reason this would be a huge step forward for the Health Department is that in the past when we have had people who have had complaints, we never really had an established process. There were no rules in place to apply. Now there will be rules to be governed by in the hearing.

Commissioner Graves - I am concerned by one thing you said, "there is not judicial activism," but when you say, 'I can read a law two ways,' with risk to public health and determining whether to temporarily stay the action of the Health Department. If you are temporarily 'staying' that means you're allowing a procedure to go on.

17-01 5B is a provision which was added into the regulation to allow someone who wants to have a hearing, they can request the hearing from Ralph Clegg, Executive Director, UCHD. Ralph Clegg can permit a temporary stay. For instance, if the Health Department determines there is a violation and that someone needs to tear something down (or some irreversible action), Ralph can make the decision for a stay with the knowledge there is an appeal going on. For instance, when issuing a stay there isn't a great deal of risk to the public health if we let this stay for right now, but it would damage the business/owner/resident if they were required to tear it down before the hearing. Ralph would have the authority to stay it until the hearing was over. That way we are not forcing someone to take action before they have the opportunity to be heard.

**MOTION:** Gaye Ray made the motion to close the public hearing which was seconded by Teresa Tavares and passed by unanimous vote.

5. Consider adopting the proposed Regulation 17-01 for the hearing of administrative action

**MOTION:** Teresa Tavares made the motion to adopt Regulation 17-01 with the most recent changes which was seconded by Greg Graves and passed by unanimous vote.

6. National Diabetes Prevention Program – Carrie Bennett and Julieann Bowden Titmus

Carrie Bennett, Health Promotion Program Manager, UCHD explained the purpose of going before the Board of Health today is to request the Board to set a participation fee for the National Diabetes Prevention Program which addresses the prevention of type 2 diabetes. The program is for people who have been diagnosed with prediabetes. The fact is that 15-30% of people with prediabetes will develop type 2 diabetes within 5 years. The prevention program is a year-long program that can reduce and prevent type 2 diabetes. 33% of adults in Utah have prediabetes.

Julieanne Bowden Titmus, Health Educator, UCHD explained that the National Diabetes Prevention Program is a CDC recognized lifestyle change program and is evidence based. It is a support group of people who have the same goals and desires to have a lifestyle change. Weight loss of 5-7% decreases the chance of getting type 2 diabetes by 58%.

UCHD will partner with Intermountain Health Care (IHC) to provide glucose testing for those who cannot afford it or those who are underserved. Often times during annual preventative exams, the testing is included in the visit.

Starting the program off with a set fee will keep the program sustainable. The proposed fee is to be set at \$250. We have met with IHC to coordinate a partnership for the program. IHC will provide incentives for participants in the program. IHC will be able to offer scholarships for the program.

In 2018, Medicare will offer reimbursement for the program for adults 65 years and older. We would like to start the program in June 2017 because the program needs to be in place for at least one year for Medicare to reimburse for it. We will also offer the program in Spanish.

Four life-style coaches (Health Educators from UCHD) will be trained. This year the start-up costs have been covered and will cover the cost of training the four life-style coaches. The \$250 fee will cover future costs and keep the program sustainable.

Carrie Bennet has also been meeting with SelectHealth to discuss the worksite wellness platform to partner for an on-line platform for the course.

7. Consider setting a fee for the Health Department Pre-diabetes classes – proposed fee \$250

**MOTION:** Gaye Ray made the motion to set the fee at \$250 with a \$100 refund for those who successfully complete the National Diabetes Prevention Program which was seconded by Greg Graves and passed by unanimous vote.

8. Report on the State Performance Review for the Utah County Health Department’s Minimum Performance Standards

The Office of Internal Audit of the Utah Department of Health performed a review of the Utah County Health Department for the minimum performance standards. Ralph Clegg reviewed the memorandum and results from the Office of Internal Audit with the Board. Utah County Health Department performance was concluded to be above the standards as set in the audit. The audit report concludes that Utah County Health Department has successfully established policies, procedures and controls to meet the minimum performance standards required of a local health department listed in Utah Code Section 26A-1-114 and Utah Administrative Rule R380-40.

9. Update on 2017 Legislation

Ralph Clegg reviewed the 2017 Legislative Report with the board.

HB 300S1	Trampoline Gym Licensing Act	Failed
HB 308S2	Public Health Education Module, Public Health in Schools	Passed
HB 310	Utah Statewide Immunization Information System Program	Failed
HB 333	Utah Indoor Clean Air Act Amendments	Failed
HB 370S2	Amendments to Tobacco Regulations	Failed
HB 406	Tobacco Age Restriction Amendments	Failed
HB 439	Electronic Cigarette and Other Nicotine Products Amendments	Failed
SB 250S1	Food Truck Licensing and Regulation	Passed

SB 250S1 - The food truck licensing regulation will go into force within 60 days of the end legislature which does not give us time to meet as a Board and adopt fees to administer the requirements. Local health departments are proposing to set standardized fees which we will implement and will then ask the board to ratify the local health fees at the next Board of Health meeting on May 22, 2017.

The bill for food truck licensing regulation requires counties and municipalities to only charge business licensing fees that cover the cost of licensing fees that cover the cost of licensing for all municipalities or counties beyond the original licensing agency. The bill allows local health departments to charge a fee covering costs for a permit to operate in the local health department area, just as cities are allowed to do.

Before cities give food trucks a business license, they need to make sure the food truck has a health permit issued by their local health department.

10. Discussion regarding vaulted privies – Commissioner Greg Graves

Commissioner Graves explained that years ago Utah County established an ordinance where vaulted privies were outlawed. Vaulted privies are basically outhouses. Vaults are either cement lined with tar around it, fiber glass with tar around it, or steel with tar around it making them an impermeable holding tank. In the 1980's the State Department of Environmental Quality adopted a state rule which allowed local health departments to regulate privies if they find a 'health need.' This is coming to an issue because the County and another city need to put in a vaulted privy and would then be violating a County ordinance.

As a Commissioner, I am not ready to get rid of our law that says "none" yet. What we want to do is send the issue to the Board of Health and have it ready for the next Board of Health meeting on May 22, 2017. We would like to see that the County allows the privy to be vaulted so we are protected. If the Board of Health approves it, then the County can strike the County Code.

American Fork City has a leaky privy right now and the County and Public Works are getting ready to publicize the best beach we have in Utah County (Sandy Beach) and will need a privy there.

This would occur in areas where a septic tank type system cannot be installed, basically areas where there is no running water or areas having high water tables. A vaulted privy is like a holding tank without water. It is similar to what you would see at a Boy Scout camp or a forest service camp. It is contained and pumped out.

Ralph Clegg said the Health Department would need to permit vaulted privies and charge a fee to inspect them.

The privies will need odor control. The Health Department's feeling is that we can certainly deal with vaulted privies if it is with a government entity who we believe would be responsible for maintaining and pumping it. We need to realize, if we do not install the privies, the people are going into the trees.

Ralph Clegg said the goal will be to bring proposed regulation to the Board of Health at the May meeting and have a public hearing in July to adopt the regulation. In the meantime, Ralph will have the Environmental Health staff work with American Fork City to correct the leaking privy situation until the Board of Health meets again.

Carl Hollan pointed out the legal stance on the vaulted privies. We have a County Code that has been in existence since the 1950's that outlaws all privies. Then the state put a rule in place in the 1980's that would allow both vaulted and earth privies, and so the County code was grandfathered in and it can continue. The Board of Health has the ability, under state law, to pass a rule that is more restrictive than state law if the Board of Health makes findings that are necessary for health. The proposal is that the Board would make a finding that earthen privies are not appropriate for health and that vaulted privies are appropriate which would then allow us to take basically half of the state rule (half is the vaulted privy part) and say 'no' to earthen privies.

Carl Hollan will create a proposed regulation for the next Board of Health meeting that will set the requirements for vaulted privies. Requirements such as minimum distance away from water sources will be addressed. We will create standards that will minimize the use of vaulted privies in the County. Then we will create the inspection regulation schedule for them so that we can make sure they are maintained.

**MOTION:** Diane Lohner made motion to ask Utah County staff to prepare proposed regulations for vaulted privies which was seconded by Henry Yeates and passed by unanimous vote.

11. NALBOH Annual Conference – August 2-4, 2017

NALBOH conference gives Board of Health members opportunities to meet with other board of health members from around the country to see how their boards handle issues and problems. There is also education on board of health member's responsibilities. If Board members would like to attend the NALBOH conference, there is opportunity for scholarship. Please contact Ralph Clegg.

12. UALBH Steering Committee Report

Diane Lohner reported that UALBH is working on amending and updating the by-laws. Currently they are working on the agenda for the UALBH conference which will be September 7-8, 2017 at Daniels Summit Lodge. UALBH would like input and ideas from local boards of health to let them know topics they would like discussed at the conference and will then put the items on the agenda. Please give topics to Diane Lohner. Each local board of health nominates a member to sit on UALBH. This group facilitates conversation and collaboration for all local boards of health statewide. UALBH advocates for public health.

13. Constituent Feedback

Jeff Acerson reported that Lindon is in the process of putting in a chlorination system for its drinking water system.

14. Employee Changes

Employee changes were reviewed, and the changes are standard.

15. Other Business

Carl Hollan pointed out that this Administrative Hearing Regulation 17-01 which was passed today creates an administrative hearing board. The Board of Health is responsible for appointing members to this board. We ask the Board of Health members to look at individuals who are available for the board. The administration hearing board should consist of: a medical professional, an attorney, a member of the board of health, an academic professional who specializes in public health, and a member of the public at large as well as the special communities we regulate such as a tobacco shop owner, a tattoo shop owner, a restaurant

owner. Carl asked the Board members to consider people they know who can serve on the board so they can get them appointed at the next Board of Health meeting on May 22, 2017. UCHD's Environmental Health Division will also come up with suggestions of individuals to serve on the board.

The responsibilities of serving on the administrative hearing regulation board would be to meet on an "as needed" basis. It would be a minimal commitment. The members will be appointed until they resign. The Board of Health can appoint them for as long as they are willing to serve.

Ralph Clegg then reviewed the County Health Rankings and Roadmaps. Utah County Health Department moved from number 5 to number 3 in the rankings in the State of Utah. We will review them more at the May Board meeting.

**MOTION:** Gaye Ray made the motion to adjourn which was seconded by Greg Graves and passed by unanimous vote.

Meeting was adjourned at 5:50 pm.



Ralph Clegg, EHS MPA  
Director  
Utah County Health Department



Jeff Anderson  
Chair  
Utah County Board of Health