



**NOTICE OF REGULAR MEETING
OF THE WEBER-MORGAN HEALTH DEPARTMENT**

Notice is hereby given that the Weber-Morgan Board of Health will hold its regularly scheduled meeting at the Weber-Morgan Health Department **Annex Building**, 455 23rd St, 2nd Floor Auditorium, Ogden, Utah commencing at **4:00 p.m.** on **Monday, November 27, 2023.**

Agenda for the meeting will consist of the following:

Welcome	Ali Martinez
Information Items	
1) Introduction of New Employees and Promotions	Brian Cowan
Action Items	
2) Approval of September 2023 Meeting Minutes	Ali Martinez
3) Tobacco Appeal 1) Midland Market	Brandan Quinney
4) Tobacco Appeal 2) Cloud 9	Brandan Quinney
5) Tobacco Appeal 3) Vapor Vault	Brandan Quinney
Information Items	
6) ICAN Program Update	Brian Cowan
7) Director's Report	Brian Cowan
8) Chair's Report	Ali Martinez
Other Business	
9) Executive Closed Session Health Officer Evaluation and Compensation	Ali Martinez
10) Reconvene Public Meeting	Ali Martinez
11) Health Officer Action	Ali Martinez
12) Adjourn Regular Meeting	

*In compliance with the Americans with Disabilities Act, individuals needing auxiliary Communication aids or other services for this meeting should contact Elvira Odeh at eodeh@webercountyutah.gov giving at least three days' notice.
Dated this 24th November 2023.*

**Weber-Morgan Board of Health
Minutes of Meeting
September 25, 2023**

The Weber-Morgan Board of Health held its regular meeting on September 25, 2023, in the Health Department Annex conference room at 455 23rd Street. The meeting was called to order at 4:00 p.m. With Dr. Lee Schussman presiding.

BOARD MEMBERS PRESENT:

Lee Schussman	Cheryle Allen
Jason Boren	Sharon Bolos
Bonnie Wahlen	Leonard Call
Dr. Frank Brown	

BOARD MEMBERS ABSENT:

Kevin Eastman	Dr. Ken Johnson
Dr. Andy Jensen	Angela Choberka
Jared Andersen	Ali Martinez

STAFF MEMBERS PRESENT:

Brian Cowan	Summer Day	Kim Quintana
Michela Harris	Scott Braeden	Ryan Klinge
Bryce Sherwood	Jarelyn Cox	Sherrie Waters
Lekelsi Talbot	Sean Hansen	Rocio Carranza
Heidi Niedfeldt	Nicole Blanch	Lyndsey Winger

OTHERS PRESENT:

Brandan Quinney

Welcome and Introductions- Ali Martinez

Dr. Lee Schussman calls the meeting to order at 4:00 p.m. and welcomes those in attendance.

Introduction of New Employees and Promotions

Information Only

Brian Cowan introduces a new process the Weber-Morgan Health Department will start to do for all new employees and existing staff who received promotions within the health department. Hoping this will accomplish two things, one being the introduction to the Board, and staff to attend the board meeting to get a better sense of what the Board does for the health department. Brian continues with the introduction of new employees, in administration SaRene Brooks as an office specialist for our Morgan office, in the Community Health division Nichol Blanch as a health educator, and Rocio Carranza as an office specialist for the Nursing division. Brian states there have been promotions in the health department, Lyndsey Winger in the nursing division has been promoted to an immunization coordinator and in the Environmental Health division, Ryan Klinge has been promoted to a program

manager.

Approval of Board of Health Minutes of August 25, 2023 Motion Passes

A **MOTION** is made by **Jason Boren** and **SECONDED** by **Cheryle Allen** to approve the minutes with the correction in the motion on page 2. The change corrects the reevaluation time of the accreditation readiness assessment from one year to once the assessment is completed. At that time, it will be brought to the board and evaluated. The **MOTION** passes unanimously.

2024 Budget Approval

Motion Passes

Michela Harris presents the 2024 tentative budget. For 2024 the health department thought we would anticipate pulling approximately \$97,000 from the fund balance but since then we received additional information from Weber County that has changed the projections. The projections now include additional expenses like, administration fees of \$58,000, UCIP Insurance fee of \$19,603.75, and health and dental increase of \$176,316.72. This will put the Health Department using \$271,437 of the fund balance. Every year the Weber-Morgan Health Department adds to the submitted budget for ongoing costs and one-time costs for repairs and improvements as Additional Requests. In addition, the county is planning a proposed COLAs and merit increases for staff which totals out to \$650,000 for the health department. With these additional expenses, we project using a little under \$1.2 million without additional tax from the county. Michela states Brian Cowan, Adriana Pruitt and herself attended the budget hearing meeting with the Commissioners and it went well. She states Brian Cowan presented how the health department is funded, they spoke about the fees, taxes, and grants breakdown. Presented to the commissioners were the county tax contributions to the Utah Public Health Departments and where WMHD sits compared to other counties. The other presentation is the tax contributions history that the health department has received from 2008 to 2024. The health department experienced a large tax decrease in 2009. From 2010-2014 we had around 4% growth in tax contribution. Tax was pulled out heavily again in 2015 and 2017 & 2019 the health department started to receive tax increases. In 2019, tax received was almost at the same rate as in 2008. Subsequent rows show different Tax Scenarios to project where we would be if we started at 2008's rate and increased every year without any decreases. The graph shows the tax rate history, it took 11 years to recover to the 2008 tax level. Based on the information provided \$2.9 million in tax would put the WMHD at \$11 per capita. Brian makes a comment about two things he wanted to highlight when speaking to the commissioners, the first being that our tax revenue has not grown at the same rate as the community has grown. This is part of the reason why the health department is coming up short with the revenue that is needed to support the activities and staff at the health department. The second part was how the other health departments are funded in other counties in our state. The message that was given to the commissioners is when they look at the deficit of this year being close to \$1.2 million dollars if the projected cost of living increases and merit increases are awarded at the amount they requested, this is not sustainable with the current sources of revenue. The health department will have to look at all the sources of revenue to help find the money to make up the difference which will include all of the contracts and grants, also recognizing there are some limitations there and the tax money. The amount of tax

money that is received by the county will need to be increased to help us cover that deficit. Brian states he felt that they were able to convey the message. Michela states that the health department is waiting to hear what the tax contribution will be for this year. A **MOTION** is made by **Leonard Call** with a recommendation to be sent to the county commission that we have established a 25 to 35 percent range for the fund balance and that this is not sustainable if we keep having a million-dollar deficit. The motion is **SECONDED** by **Bonnie Wahlen**. Roll call vote is taken and all were in favor. The **MOTION** passes.

COVID-19 Guidance Update

Information Only

Lekelsi Talbot informs the Board of the new Advisory Committee on Immunization Practices recommendations for the COVID-19 vaccine and the plan for billing. Historically we have seen an increase in COVID cases in the fall and winter months. Our numbers for COVID-19 hospitalizations have doubled from July to September, but keep in mind these numbers are still significantly lower than the initial omicron increase we had in the past. The hospitalization numbers are still very manageable now, which is good news. In the last two months, 32 cases of hospitalizations were reported and unfortunately, we have had one confirmed death. Lekelsi continues with the COVID-19 vaccine billing, she states after anticipating the COVID-19 vaccine would become commercialized and no longer be funded and supplied to the local health departments by the state. We are in the process of purchasing the updated COVID-19 vaccine using health department funds and it is time to transition to billing insurance for the COVID-19 vaccine. The plan for Covid-19 vaccine billing will be, if patients have insurance we will simply bill the insurance. Those without insurance will be provided a COVID-19 vaccine at no charge. We are able to make this happen due to having COVID-19 grant funding available until July 2024. After COVID-19 funding is depleted, clients without insurance will pay according to their income level based on the sliding scale fee, this is done for all other vaccines. Each shot is as little as \$5 to \$20 dollars. Those who are underinsured or have insurance that is not contracted with the WMHD will be referred to other facilities that accept their insurance. No one in Weber or Morgan County should be paying for covid-19 vaccine out of pocket at this time. Lekelsi introduces Kimberly Quintana COVID response nurse for the health department. Kimberly states on September 12, 2023, the CDC recommended the updated COVID-19 vaccine for everyone aged 6 months and older. This 2023-2024 updated vaccine is expected to provide protection against currently circulating variants. Kimberly mentions key points on the new vaccination requiring a one-dose vaccine and is recommended for anyone 5 years and older regardless of their vaccination history. Individuals may receive the updated vaccine 2 months after their last dose of any prior COVID-19 vaccine. It is also safe to give with flu and other routine vaccines. After reviewing the vaccine options with nursing leadership, Moderna is the WMHD manufacturer of choice and will be available after October 9, 2023. Health department nurses will not be taking the updated COVID-19 vaccine to the school flu clinics, but it will be offered at other outreach locations later such as the Weber Innovation Center and Weber School District.

Waste Water Management Discussion

Information Only

Dr. Lee Schussman presents the wastewater management problem that is now being seen in Ogden Valley and unincorporated Weber County. Doctor Schussman

stated that he and Chair Martinez have recently met with Health Officer Brian Cowan, Deputy Director Michela Harris, Summer Day (Water Quality Program Manager), and Scott Braeden (Director of Environmental Health) to discuss wastewater management, and he stated that it is clear that WMHD is currently doing an excellent job of wastewater management.

Doctor Schussman shared some slides and information from the recent Utah Association of Local Boards of Health meeting showing that there are **future needs related to wastewater** that will soon have to be addressed. Among these are:

1. the many new contaminants in wastewater (including drugs, biologically active estrogens, microplastics, and toxic hydrocarbons) that end up in groundwater and streams,
2. the fact that the populations of Ogden Valley (and all of Weber and Morgan counties) are growing rapidly, and
3. A situation in which the current "default" for wastewater management in new developments is often to simply add more septic systems.

There is currently no overall coordination or county-wide plan for wastewater management.

Since no agency has authority over such planning, the idea was introduced that, as a BOH we could explore the feasibility of WMHD assuming a leadership role in the development of overall management strategies. Dr. Lee Schussman continues that the EPA is trying to put a policy in place and is requesting the Health Director come back to the Board with some ideas for overall management strategies and have an action item on the agenda for one of the future upcoming Board of Health meetings.

Directors Report

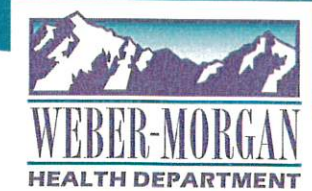
Brian Cowan announces Flu season is coming up, and the flu vaccinations have arrived and we are trying to get them out to the community. The WMHD will be hosting two drive-through clinics on September 29th and October 13th, starting at 10 a.m. and ending at 2 p.m. The WMHD is also hosting on October 20, 2023, the Clean Car Clinic starting at 11 am to 7 pm. Brian continues to inform the Board of November's upcoming Board of Health meeting and asks if the Board would like to have the meeting on November 27 or if they would like to reschedule it for an earlier date for Brian's evaluation. Michela reminds the board of health that Dr. Ken Johnson will be sending out the evaluation for Brian sometime at the beginning of October. Michela also extends the invitation to the Employee Appreciation Luncheon on December 8, 2023.

Information Only

Chairs Report-

Dr. Lee Schussman has no report
The meeting adjourns at 5:04 p.m.

Information Only



WEBER-MORGAN HEALTH DEPARTMENT

Weber-Morgan Health Department

NOTICE OF AGENCY ACTION

VS.

UNLAWFUL TO AN INDIVIDUAL
UNDER 21 YEARS OLD

The Vapor Vault
The Vapor Vault
Defendant

FILE Number: 2023-0809-003

Pursuant to the provisions of Title 26B, Chapter 7, Part 5, you are hereby given notice that the Weber-Morgan Health Department intends to impose a civil penalty as allowed by Section 26B-7-518. This penalty is because your employee, L Jacob Phillips, sold tobacco to an individual under 21 years old in violation of Sections 76-10-104 and 76-10-114, August 09, 2023. A hearing to determine whether you violated this law and to fix a penalty for violation will be held **Tuesday, 03 October 2023 at 10:10**, at the **Weber-Morgan Health Department Annex, located on 455 23rd Street in room 203 on the second floor**. Parking is located on the south side of the building.

You do not need to provide a written response prior to the hearing, but will be given an opportunity at the hearing to testify, present evidence, and comment on the issues in question. **Please be prepared to share documentation that proves an employee training has been implemented and the employee who sold completed that training within 30 days after commencing the duties of selling tobacco products.**

If you do not contest the violation and choose not to appear, you may pay penalty amount-\$5,000 and receive a 30-day suspension of your tobacco permit for a first offense within rolling 12 months as penalty for the violation at least 48 hours prior to the hearing, in which case the hearing will be canceled.

Summer Finch will be representing the Weber-Morgan Health Department in this proceeding. **Please direct your questions or correspondence to her at the Weber-Morgan Health Department, Division of Community Health, (801) 399-7194.** Unless otherwise designated, the hearing officer for this hearing is: **George Garwood Jr.**

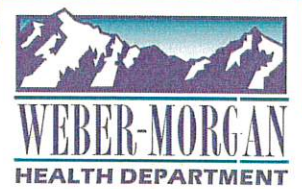
This proceeding is conducted under the authority of § 26-62-302 of the Utah Health Code. It will be conducted as an informal proceeding pursuant to the Utah Administrative Procedures Act.

Dated September 13, 2023

BRIAN COWAN, MPH, LEHS
Health Officer/Executive Director



Summer Finch
Compliance Check Officer
Weber-Morgan Health Department
455 23rd Street, Ogden, Utah 84401
(801) 399-7194



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phone: 801-399-7100 | fax: 801-399-7110 | 477 23rd Street, Ogden, UT 84401 | www.webermorganhealth.org



WEBER-MORGAN HEALTH DEPARTMENT

Weber-Morgan Health Department

NOTICE OF AGENCY ACTION

Vs.

UNLAWFUL SALE TO AN INDIVIDUAL UNDER 21
YEARS OLD

The Vapor Vault
Defendant

FILE Number: 2023-0809-003

A hearing to determine whether a civil penalty should be imposed under the provisions of Title 26, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products was held at 10:10 on October 03, 2023, at the Health Department Annex located at 455 23rd Street, Ogden, room 203.

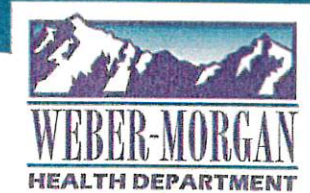
- Defendant mailed or paid in person the fine outlined in the notice of agency action prior to scheduled hearing.
- Defendant did not request a hearing date.
- Defendant mailed, emailed or otherwise provided documentation to be considered.
- Defendant appeared at the hearing and was given an opportunity at the hearing to testify, present evidence, and comment on the issues in question.
- Defendant has a documented training program. (See Utah Code 26B-7-519)
 - The tobacco retailer provided documentation of their employee training program which includes written policies, training manual or curriculum, and information about Utah laws and legal age for sale of tobacco, e-cigarette, and nicotine products; AND
 - The tobacco retailer provided documentation that employees completed the training within 30 days after the day on which the employee commenced duties of selling a tobacco product, an electronic cigarette product, or a nicotine product.
- Defendant has no training program. (The following is applicable for first offense only. See Utah Code 26B-7-519(2)).
 - Agrees to initiate a training program for employees which includes written policies, training manual or curriculum, and information about Utah laws and legal age for sale of tobacco, e-cigarette, and nicotine products; AND
 - Begins training program within 30 days after the hearing officer makes a determination of this violation. (Verified by providing copy of curriculum/training program and dated proof of employees trained.)
Documentation is due by: November 02, 2023.
- Defendant did not provide all the necessary documentation of a training program and employee training.
- Defendant failed to appear and was held in default.

Based on the facts appearing in the local health department files and on the facts presented in evidence at the hearing:

- Defendant is found to have violated the Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit. The Defendant was ordered to remit to the Weber-Morgan Health Department a penalty in the amount of \$ 2500 and receive a 30-day suspension of their tobacco permit. The 30-day suspension will begin on 10-04-2023 and end on 11-02-2023. Invoice enclosed.

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BRIAN COWAN, MPH, LEHS
Health Officer/Executive Director



The reason for this decision is as follows:

Summer read the report written by the underage buyer. The Vapor Vault representative, Warren Braegger, agreed with the underage buyer statment. He stated that Vapor Vault has been opened since 2012 and has only had one prior violtion. He said they go above and beyond to follow the law. Proof of training was provided. George reduced the fine by 50% and upheld the 30-day suspension as written in Utah Code 26B-7-118. Summer reviewed the process to appeal the hearing officer's decision. Warren filed an appeal.

This order is the final decision of the Weber-Morgan Health Department. You may seek an appeal of this order by submitting a written request to the director of the Weber-Morgan Health Department within 10 days of the issuance of this order. For further questions call Summer Jacobson (801) 399-7194.

Dated October 11, 2023

A handwritten signature in black ink, appearing to read 'George Garwood', is positioned above the printed name.

George Garwood
Hearing Officer

In the Matter of:)	
)	Case Number: 2023-0809-003
The Vapor Vault)	
The Vapor Vault)	Notice of Violation
Warren Braegger)	and
)	Order For Compliance

This Notice of Violation and Order of Compliance is issued by the Weber-Morgan Health Department (hereinafter the Department) pursuant to the authority contained in Title 26A Chapter 1, Utah Code Annotated, 1953 as amended. Furthermore, based on the authority contained in Utah Code Annotated, Sections 26A-1-114, and 26A-1-121 the Health Department has the authority to enforce state laws, local ordinances, department rules and local health department standards and regulations.

STATEMENT OF LAW

Utah Code Annotated § 26B-7-514. Permit Violation.

A person is in violation of the permit issued under this chapter if the person violates:
 (3) a provision of Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical Insolvents

Utah Code Annotated § 76-10-114(2). Unlawful sale of a tobacco product, electronic cigarette product, or nicotine product.

It is unlawful for an employee to knowingly or intentionally sell or give a tobacco product, an electronic cigarette product, or a nicotine product in the course of business to an individual who is under 21 years old.

Utah Code Annotated § 26B-7-518(4)

If a violation is found in an investigation of a retail tobacco specialty business by a law enforcement agency under Section 77-39-101 for the sale of a tobacco product, an electronic cigarette product, or a nicotine product to an individual under 21 years old, the enforcing agency shall:

(a) on the first violation: (i) impose a fine of \$5,000; and (ii) immediately suspend the permit for 30 consecutive days;

FINDINGS OF FACT

1. Your employee, L Jacob Phillips, sold tobacco to an individual under 21 years old on August 09, 2023.

DETERMINATION OF VIOLATIONS

Based on the foregoing Findings of Fact, The Vapor Vault is in violation of § 26B-7-514.

ORDER

Based on the foregoing Findings of Fact and Determination of Violations, The Department hereby orders The Vapor Vault as follows:

1. The Vapor Vault shall pay \$5,000.00 (1st offense within rolling 24 months) as penalty for the violation in accordance with Utah Code 26B-7-518.

For RTSBs on their FIRST violation only:

2. The Vapor Vault shall, after 10 calendar days 8/28/2023 of receiving this notice, cease giving, distributing, selling, offering to sell (aka advertising), or furnishing tobacco products or paraphernalia (defined in Utah Code 76-10-101(18)) for 30 calendar days upon receiving this Notice of Violation in accordance to Utah Code 26B-7-518 and 26B-7-507. 8/28/2023 is day one of the 30 day tobacco permit suspension of The Vapor Vault.

9/17/2023 is the day that The Vapor Vault can begin selling tobacco products again. If you request a hearing, these dates will be set at the hearing. Please wait until the hearing date to receive an official decision from the hearing officer to start the 30 day suspension. If you cease giving, distributing, selling, offering to sell (aka advertising) before your hearing date, it will NOT be included in the 30 days if the hearing officer decides to uphold the order in this notice.

3. If The Vapor Vault continues to give, distribute, sell, offer for sale, or furnish tobacco products or paraphernalia after 10 calendar days 8/28/2023 of receiving this notice The Vapor Vault may be subject to a \$10,000 fine and a revocation of The Vapor Vault's tobacco specialty permit according to Utah Code 26B-7-518.

COMPLIANCE, OPPORTUNITY FOR HEARING

This Order shall become final without further notice unless you request a hearing within ten (10) calendar days August 28, 2023 from receipt of the Notice of Violation. The request for a hearing must be filed in writing with the Division of Community Health, 455 23rd Street, Ogden, Utah 84401. Email dfinch@co.weber.ut.us if you choose to request a hearing. If a conference or hearing is not requested in writing and received within ten (10) calendar days August 28, 2023 from the date of receipt of this Notice of Violation, the forgoing Findings of Fact and Determination of Violations will be deemed true and not subject to challenge and any right to proceed with an administrative or judicial appeal will be forfeited. Failure to comply with this Order may result in civil action, penalties and criminal sanctions as provided by law.

Recognition of Tobacco Retailer Training Program

In accordance with Utah Code 26B-7-519, a hearing officer shall reduce the civil penalty by at least 50% if the hearing officer determines that:

- (a) The tobacco retailer has implemented a documented employee training program with written curriculum regarding compliance with Utah Code Title 26B, Chapter 7; and
- (b) The employees have completed that training program within 30 days after the day on which each employee commences the duties of selling a tobacco product, an electronic cigarette product, or a nicotine product.

If you are requesting a hearing, please have documentation at the hearing proving that you have implemented the training program and your employees have completed it within the 30-day timeframe described above. If you are not requesting a hearing, please send documentation to Summer Finch at dfinch@co.weber.ut.us for a final determination of penalty fee within the next 30 calendar days.

Dated August 18, 2023



Brian Cowan, Executive Director
Weber-Morgan Health Department

WEBER-MORGAN HEALTH DEPARTMENT
REQUEST FOR DEPARTMENTAL APPEAL

Name UNAREN BRAGGER Phone _____
Mailing Address _____
City OGDEN State UTAH Zip Code 94405
Statement of the relief of action sought 30 DAY SHUTDOWN

Statement of the disputed facts and reasons forming the basis for relief of action
(additional pages may be attached) WE HAVE BEEN OPEN SINCE
2012 AND GO ABOVE & BEYOND TO FOLLOW EXPECTATIONS
AND RULES. 30 DAY SHUTDOWN WOULD BE DETRIMENTAL
TO EMPLOYEES AND THEIR FAMILIES.

A departmental appeal may be requested within ten days of completion of a
departmental conference or receipt of a notice of agency action. A departmental appeal
will be scheduled before a Hearing Officer within thirty (30) days from the receipt of the
request for appeal, unless the parties agree to a later date, not to exceed sixty (60) days
from the receipt of the request for appeal.

You may request a copy of the Weber-Morgan Health Department Administrative
Procedure Policy. This policy outlines the procedures followed for departmental appeals.
All appeals are open to the public. The department will not provide legal counsel and all
costs for legal counsel will be the sole responsibility of the parties.

Requests can be sent to ajones@webercountyutah.gov or dfmch@webercountyutah.gov

Signature [Handwritten Signature] Date 10-3-23

Date request received _____ Time _____

Departmental Appeal Date _____ Time _____

Attendees _____

Action _____