

Holyoke Board of Health  
Thursday, April 28, 2022 at 6:30 P.M.  
Holyoke, MA 01040  
ZOOM

**Meeting Minutes**

Attendance: Patricia A. Mertes, Chair  
Dalila Hyry-Dermith, Clerk  
Sean Gonsalves, RS, Health Director  
Deborah Schaier, PHN  
Beatriz Colon, Head Clerk  
KC Dufour, MHOA Tobacco Control  
Sarib Nawaz, Shop N Go  
Ifran Kashif, Dairy Market

Ms. Patricia A. Mertes, Chair called the meeting to order at 6:34 p.m. Seconded by Ms. Hyry-Dermith and Dr. Esteban A. Del Pilar-Morales, MD.

Tobacco Non-Compliance violation fine hearing appeals. Ms. Mertes clarified that the role of the Board of Health is to listen to all the parties during the events. The purpose is to understand and verify a sale took place and make sure there is not deviation from the standard compliance check protocol. If a sale actually happened, the fine amount mandated by the state law is due and non-negotiable.

Shop N Go, 915 Main Street, Holyoke, Massachusetts-Ms. KC Dufour stated the details of the sale on February 19, 2022 @ 3:05 p.m. An MHOA underage buyer entered the store with a \$10.00 bill and purchased a Marlboro packet of cigarettes from a young adult male clerk for \$11.85. No questions asked, no ID was requested, and customer left the store.

Mr. Gonsalves showed the evidence with purchase date information. A 'Cease and Desist' letter was issued on February 24, 2022, with a detail of the event and a first-time violation of \$1,000.00. The letter was sent first class and certified mail to the business.

Mr. Sarib Nawaz, owner was not present at the establishment and cannot confirm nor deny the sale. He asked an employee about the event. Typically, employees don't remember who they sell cigarettes to because of the amount of customers they get. His only objection is that this is his first offense and has no previous problems with the Board of Health. He believes this happened because this is a young 21-22 year old new employee who does not know the law. He agrees the mistake was made by the employee but did not fire him. It is hard to find workers. In order to fix the issue and make sure this doesn't happen again, he ordered a machine to scan ID's and will train his employees to use it.

Ms. Dufour informed there is a free training video on the MHOA website for employees. The M.G.L. requires customers to show ID during the purchase of every Tobacco product. The BOH has no leeway in what the fine is. The \$1,000.00 fine is mandated from the state. There's usually a suspension of sales of up to 30 days attached to the

first offense. The BOH has power to impose or suspend said suspension. The department decided to not impose the 30-day suspension. but the state mandated fine will be upheld. Compliance checks were done by KC Dufour beginning February 22, 2022. The only way to revoke the fine is if there was substantial evidence the sale to a minor did not take place. Ms. Dufour was the inspector that conducted the compliance checks beginning in mid-February 2022. In November 2021 she went to all tobacco retail businesses in the city and dropped off educational packets. All the information was explained to the businesses, and they were made aware that compliance checks would be starting, and fines have increased. They were also told the first offense is a \$1,000.00; the second offense is \$2,000.00; and the third will be \$5,000.00. Any of the retailers that were not found in compliance and sold to an underage buyer will be checked again. It is very important the businesses have their employees check ID's for all Tobacco purchases. There was no contest nor evidence the sale did not take place.

A motion was made by Ms. Mertes to affirm the penalty at Shop N Go. 2<sup>nd</sup> by Ms. Hyry-Dermith. All in favor. 0 opposed. Mr. Gonsalves stated that if the sale didn't take place, then the fee would have been waived. A letter will be sent to Mr. Sarib of decision of his appeal and follow-up compliance checks.

Mr. Syed Mobeen, owner of C-Mart #1, 1500 Northampton Street, Holyoke, Massachusetts. The business has two locations side by side in order to comply with our regulation about the sale of flavored tobacco. One side is for adults only and the other is a typical convenience store location. Compliance checks took place at both locations. February 19, 2022 @ 11:41a.m. for \$11.45 and February 21, 2022 @ 12:48p.m. for \$12.45. Ms. Dufour explained what occurred. On 2/19/2022 an underage buyer entered C-Mart and requested a pack of Marlboro cigarettes. The cigarettes were sold with no questions asked. On 2/21/22 the underage buyer went into the Smoke-N-Pipe side of the store and requested a pack of cigarettes. The clerk told the buyer to go to the C-Mart section to make the purchase. No cigarettes are sold on that side of the store. She went to that side and completed the purchase. This is two purchases in less than a week in the same store. Mr. Mobeen cannot tell why this happened. The employee has been working at the store for about 5 months. Mr. Mobeen tries to train all of his employees the best he can and doesn't know why this happened. He stated he has not seen anyone sell cigarettes to minors nor intends to do so. He's owned the store for 22 years and is ready to pay the fee. Mr. Gonsalves explained that the BOH only assessed one fine for \$1,000.00. Suspension of the permit will not be imposed. Fee is still owed. Mr. Mobeen does not agree with compliance checks because customers look older than their age. He's also had physical altercations with customers when a customer was asked for ID. What does he do with angry customers? He also thinks employees that don't follow laws and make the sales should be penalized not only the business owners. Ms. Dufour informed him there is a free online training in the MHOA website for his clerk and that their agents are trained to not lie or hassle the clerks when requesting tobacco products. If the clerk asks for an ID they are to respond 'no' and that should be the end of it. Second compliance checks inspections will continue. If a 2<sup>nd</sup> offense occurs within 36-months from first infraction the fee goes up and the suspension period can go up. If an additional offense occurs within 36 months from that the fine goes up to \$5,000.00. This is a probationary period within which he should be extremely cautious and avoid another

offense. There will be second compliance checks following up to all non-compliance businesses. The fee will not affect the store's permit right now.

Ms. Mertes made a motion to affirm the \$1,000.00 fee. Seconded by Ms. Hry-Dermith. All in favor. A letter will be mailed out to C-Mart with the Board's decision.

Dairy Market, 160-162 Lyman Street called in from 413-375-9907 but call was disconnected. The business was called and emailed to appear at the meeting for their appeal. The BOH was not informed they would not be at meeting. A sale took place on February 19, 2022 @ 12:00p.m. A \$11.20 carton of cigarettes was purchased. Ms. Mertes made a motion to affirm the penalty. All in favor. 0 opposed. A letter of decision and due date for payment will be mailed out to business.

Attorney Frank Caruso, Mulberry Law Group sent an email representing Holyoke Discount Liquors, 209 South Street, Holyoke, Massachusetts. They are not contesting the sale nor appeal the fee. However, the business is struggling and are requesting the Board allow the \$1,000.00 fine be paid in four installments of \$250.00 each within the next four months. This would be an extension of 21-day deadline from issuance to pay fee. Mr. Gonsalves stated the if the fee is not paid a lien can be placed against their business or not allowed to renew their food permit in June 2022. Ms. Mertes made a motion to allow their request. Seconded by Ms. Hry-Dermith and thirded by Dr. Del Pilar. Mr. Gonsalves will inform Holyoke Discount Liquors and their lawyer of the Board's decision.

Pioneer Valley Mosquito Control District Fiscal Year 2022 Membership Renewal. The fee is \$5,000.00 annually. In 2019 City Council voted and approved the fee for Holyoke to be part of PVMC. There is an option for municipalities to opt-out but this requires certain conditions. These cities and towns must prepare a mosquito management plan that includes at least three educational and outreach activities and secure approval to opt-out via a certified a vote by local and city council. This means the city would have to do their own spraying. Mr. Gonsalves doesn't advise the city taking this route. He is not aware of any local community opting-out and doesn't see any interest from City Council in doing this. The city of Holyoke does not have an alternative to spray. Individual homeowners can choose to not have their properties not treated by going to the Department of Agricultural website. No motion from the Commissioners is needed. He sent out an email to City Council and there was no interest in opting the city out.

Updates from Deborah Schaier, PHN. As of 4/22/22 there were 139 reported Flu cases. From January to April 255. The state is not using Covid-19 case counts as a baseline anymore. They are filtering out deaths and hospitalizations. There are no increases in those. Two cases of Giardia; mother and son Afghanistan immigrants. Two hoarding cases. Ms. Schaier did ServSafe inspections in five long-term facilities.

COVID-19 Updates. 4/7/2022; 13.7%, 4/14/2022; 16.2%, 4/21/2022; 20.6% and 4/28/2022-21.1%. The data has slowly inched up but is not as robust because of the at-home tests. The Transformative testing sites have closed. Curative's testing site at the mall will be moving to Holyoke Community College where the Transformative previously was on April 30, 2022. This will continue to be free, and insurance will not be required. CVS and

pharmacies will remain open. Ms. Schaier hears from some daycare with questions, but numbers have decreased.

Vaccination rate numbers. First dose over 5 yrs. old 78.8%, fully vaccinated is 68.8%. The state is using two dose or one dose as fully vaccinated. Dr. Del Pilar clarified that in the hospital setting an individual is considered to be fully vaccinated when they receive their booster six months after the initial 2 vaccine dose or 1 vaccine dose. Mr. Gonsalves hasn't seen a booster chart from the state. Interest in the vaccine has gone down despite much of campaigning. Rates are going down monthly. We are waiting on vaccination requirements for eligibility for 5 years and under. Moderna's eligibility is 6 years and under. Dr. Del Pilar believes this could be sometime in June 2022.


Ms. Schaier asked what the period of protection and level of efficacy is between the first and second booster. There is no straight answer on that because we are dealing with a mutating virus with several variances. The boosters have been created to boost the levels of antibodies avoid severe illness, hospitalization, and death. If we get another variance maybe the levels of antibodies with the routine vaccine may not be enough. Dr. Del Pilar still suggests people get the booster. He is hoping that with the vaccine and natural immunity this will prevent a new variance.

The Law Department placed liens on FY 2021 VBR unpaid invoices and code violation citations from the past two years that have not been paid. This money can be used to clean up vacant properties, demolish buildings, etc. 27-29 Cabot Street/510 South Bridge Street had a fire over the weekend compromising its structure. The building has been vacant for about 5 years. It has no fire wall and might be partially or completely torn down.

Next meeting is scheduled for May 19, 2022.

Meeting adjourned at 7:30 p.m.

Respectfully submitted,

  
Dalila Hyry-Dermith, Clerk