



CITY OF WORCESTER, MASSACHUSETTS
Department of Health & Human Services
Division of Public Health



Public Health
Prevent. Promote. Protect.

Matilde Castiel, MD
Health & Human Services
Commissioner

Karyn E. Clark
Public Health
Director

DATE: August 24, 2020
RE: WORCESTER BOARD OF HEALTH MEETING
START TIME: 6:30 PM
LOCATION: WEB EX CONFERENCE CALL

Welcome & Introductions:

Meeting was called to order at 6:30pm.

Members on call: Edith Claros, PhD, Chair, Jerry Gurwitz, MD, Vice Chair, Frances Anthes, Chareese Allen and David Fort WPDH Staff: Karyn Clark, Director of DPH, Michael Hirsh, MD, Medical Director of DPH, Matilde Castiel, MD, Commissioner of HHS and Patricia Bruchmann, RN, Chief Public Health Nurse, WPD Staff: Steve Sargent, Chief, Sean Fleming, Deputy Chief, Ed McGinn, Deputy Chief, Paul Saucier, Deputy Chief, Mark Roche, Deputy Chief, Sean Murtha, Lieutenant, Rick Cipro, Sargent, President of Police Official's Union

Approval of the July 13, 2020 Meeting Minutes:

Motion to approve the WBOH meeting minutes of July 13, 2020 made by Jerry Gurwitz, MD, Vice Chair, Second –David Fort – Approved

Vote on effective date for “Regulation of the Worcester Board of Health Restricting the Sale of Cigars, Electronic Nicotine Delivery Systems, and Flavored Tobacco Products”:

Frances Anthes made a motion for the regulations of new state tobacco laws at the local level restricting the sale of cigars, electronic nicotine delivery systems and flavored tobacco products, adopted on July 13, 2020, to be effective August 25, 2020 Seconded by Jerry Gurwitz, MD. Vice Chair BOH members: 5 – yes, 0- no The motion passed unanimously.

Discussion of transmittal sent to Worcester Police Department on the issues of racism, bias and discrimination:

Steve Sargent, Chief of WPD: Read through the 12 recommendations. Believes we should stand united against racism. Has not personally witnessed acts of racism by the WPD. We are the most diverse department in the city. Communication with different diverse groups is the best way to form relationships. We work with civil service rules and structure. Certifying police officers and enabling decertification for misconduct and abuse is at the state house now in the governor's office. It will decertify officers from choke holds, unwarranted excessive force and those who fail to intervene. Choke holds are not any part of this departments training. If any police officer is involved with excessive force, they would be disciplined and charged accordingly. We do extensive background checks for all our hires. If we see any racial social media posts, it would disqualify an individual of being a police officer or if a current police officer posted any racial remarks on social



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media he/she would be subject to discipline and/or up to firing. We investigate all complaints regardless of its nature. We have mandatory in service trainings every year. Briefed the BOH on the numerous programs within the WPD that engage with diverse communities and youth in the City of Worcester. Invited the BOH members to be part of their group discussions. Since 2016, we (including fire department and EMT's) have responded to 4,730 opioid overdoses, 329 deaths and saved 451 through Narcan. We have no control over recruitment or examinations that is under the Civil Service Department. Our officers attend extensive de-escalating training in the academy and thorough in service trainings, which takes place twice a year. We also have the Multiple Interactive Learning Objectives (MILO) trainings, which uses full digital scenarios to conduct fire arm drills and exercises. This puts officers in live action scenarios requiring them to make decisions and incorporate their trainings. Invited the BOH members to participate. We are happy to build relationships with all agencies. We felt ambushed by the BOH. If you reached out, we could have sat down in a professional atmosphere and discussed these 12 recommendations.

Edith Claros, PhD, Chair: Thanks the Chief and other's from the WPD for their response and important work you do to keep our City safe.

David Fort: Thanks the WPD for speaking tonight. These recommendations were developed by myself. Regarding the statement "being ambushed", I called this meeting to be held back in June 2020. The WPD was given ample time to attend one of our BOH meetings to discuss these recommendations. The numbers of black, brown or Asian police officers in the City of Worcester are very small. All the leadership here tonight from WPD are white.

Steve Sargent, Chief of WPD: We do have a Latino Lieutenant in the department. All promotions are done by civil service exams.

David Fort: In the last 60 days, we have had a couple of different issues in the City with people of color. These are public health issues. In order for any organization to improve, you have to acknowledge that there is white supremacy, privilege, racism and discrimination in all organizations. Do you think that racism, discrimination, implicit bias and white supremacy exists in your organization?

Steve Sargent, Chief of WPD: I do not.

David Fort: I can see why you say that because you're not a public health expert nor a race relation expert. If you don't have those understandings and build those relationships to understand culture, you would say that. That's why we are here to help you to see a different light and have you understand something that you cannot see.

Steve Sargent, Chief of WPD: Complaints were 24% below the seven year average. There were 53 complaints against police officers last year. The number of complaints over the past seven years has averaged 70. The number of complaints filed in 2019 is a low .04 of all incidents that the officers respond to. 4.76% of these allegations were sustained. We sustained almost 5% of the allegations. Less than .5% of our arrests encountered resulted in unnecessary use of force allegations. 26 allegations are unnecessary force, broken down by ethnicity: 15 Caucasian, 10 Black and 1 Hispanic, (reports are from Bureau of Professional Standards). We invite you to come see the hard work that our police officers that are on the streets do every day.

Chareese Allen: What do the certifications trainings require and how long are they affective?

Ed McGinn, Deputy Chief, WPD: Our officers undergo 40 hours of training each year to recertify in various disciplines. That's a requirement of the State Training Council.

Chareese Allen: Do any of their trainings include diversity?

Steve Sargent, Chief of WPD: Yes. We could send you a narrative of all our courses.

Frances Anthes: The partnership is important as we go forward. When we talk about a community police misconduct review board, I appreciate you wanting to keep it within the police department, but perhaps as more of us go through the Citizens Academy Training that would be an opportunity to think about the partnership including people from the community, as well as from the police department.

Steve Sargent, Chief of WPD: Looking forward to the BOH members coming. It's a great program.

Rick Cipro, Sargent, President of Police Official's Union: Objects to the inflammatory comments and remarks that were in the June 2, 2020 Telegram. Felt it was an ambush. Systemic racism is wide spread within the State and that the declaration that the members of the WPD are racist, bigoted and discriminatory, that's outlined in your Power Point (12 recommendations), is really an affront to the hard working men and women, who provide safety and security to the second largest City in New England. Even recent comments continue. You're using arbitrary and disputed information as a guide when really this Board is charged with using data driven and evidence based practices and policies to promote Public Health, which you're probably trying to do here but I don't agree with how you are doing it. Based on those recommendations, you have no idea how the WPD operates. I have worked with the WPD for 27 years and we have been actively involved with all citizens in this great City. We have developed policies, procedures and trainings based on a community policing model that has given results. Due to our efforts, Worcester's crime rates and gun violence has been one of the lowest for a City our size. The Chief has given you the numbers. We have been working with Human Rights Commission since 2003. We've developed a curriculum on the hate and bias as well as racism and discrimination for all our members. We have trainings every year. Regarding questions on hiring: It's an eight to ten month process for someone to get hired. It's a three step process. The Chief has to approve, then Human Resources, then Civil Service. It's a six month academy and then six month field training and probationary period to make sure that our individuals are the right people for the WPD. We have many programs thought out the WPD. Welcomes the BOH to the Citizens Academy.

Discussion of COVID19 response:

Michael Hirsh, MD, Medical Director of DPH: We have been blessed with the medical community in terms of making available locations that would serve as pop off valves for the hospitals so they would not become overwhelmed and unable to take care of new patients. With the collaboration between the State, City, Saint Vincent Hospital and UMass Memorial Hospital we were able to stock up on PPE and were very creative on how we took over patient care areas that have not been used as ICU areas and converted them over to ICU's. We had opened the DCU Center, to accept and care for patients, with surge capabilities and to take the Beaumont Nursing Home facility and use as a place to keep some elderly with COVID19 that need a higher level of care. We had North High and Worcester Tech High School as a site for 25 homeless people. Worcester Tech High School was going to have COVID19 patients and North High was going to negative patients. In addition, we also had Ascension Church and St. John's Church to hold 25 (each) of COVID negative patients. All these, together with SMOC Shelter, kept roughly 230 people that were in our homeless population safe. Stop the Spread have set up free COVID testing sites around Worcester. We have followed the governor's guidelines for re-opening. There was an uptick the beginning of July as summer started. With that, the Governor didn't open so quickly in order to monitor the situation. Briefed the BOH of the different ideas that schools and colleges have in reopening. Our fear now moving forward is if the flu season is a bad one and COVID makes a second wave comeback in the fall, we could be seeing both of them peak at the same time, early November or December. Encourages individuals to get their flu shot.

Matilde Castiel, MD, Commissioner of HHS: What we are doing with the COVID19 Equity Task Force between the City of Worcester and UMass Memorial is going out into the community and looking at the areas that have the highest positivity rates and the lowest testing and going to those sites and

making sure that we get everyone tested. We've had testing at various sites and also offering a flu shot. We are looking into shelters for this winter trying to plan for a possible surge of COVID. The COVID rate for the Black and Latino community is three times higher. Those occur in a younger population. In the White community the age is 70 and above, so the number of people dying is higher for the White community.

Patricia Bruchmann, RN, Chief Public Health Nurse: Has been speaking individually with many of the colleges reviewing their plans and discussing how contact tracing will occur on each of their campuses. We are planning on a shared model. Will be speaking with the case and the contacts but most certainly the school health services, as the ordering provider, will get that result before we will. It is very important they reach out to the positive student or staff and notify them of the result, their need to isolate, and identify the immediate contacts on their campuses. This will ensure that these persons can be quarantined properly to contain it on campus.

Motion to adjourn; Chareese Allen - seconded by Frances Anthes

Adjourn: 8:32pm

Next Meeting -- September 14, 2020 at 6:30pm

Potential Future Meeting Topics:

Continued discussion on the recommendations for the WPD

Update on Health Equity Task Force

Updates on COVID19

Updates on school re-openings

Regulation of the Worcester Board of Health
Restricting the Sale of Cigars, Electronic Nicotine Delivery Systems, and Flavored Tobacco
Products

A. Statement of Purpose:

Whereas, the City of Worcester Board of Health makes the following findings:

1. There exists conclusive and voluminous evidence that tobacco causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose and throat;
 2. The U.S. Department of Health and Human Services has concluded that nicotine is as addictive as cocaine or heroin and the Surgeon General found that nicotine exposure during adolescence, a critical window for brain development, may have lasting adverse consequences for brain development, and that it is addiction to nicotine that keeps youth smoking past adolescence;
 3. There are an estimated 31,488 smokers who reside in the city of Worcester;
 4. 18.1% of adults in the city of Worcester over 18 years of age smoke, a level which is 21 % higher than the statewide average of 15%;
 5. Lung cancer incidence is higher among males in Worcester compared to the state level — The age-adjusted lung cancer incidence (per 100,000) for males is 97.6 in Worcester and 82.2 in Massachusetts;
 6. Lung cancer incidence is 19% higher among females in Worcester compared to the state level - The age-adjusted lung cancer incidence (per 100,000) for females is 70.8 in Worcester and 665.5 in Massachusetts;
 7. Mortality from lung cancer is 17% higher in Worcester compared to Massachusetts;
 8. Tobacco causes an estimated 438,000 deaths annually in the United States and over 8,000 deaths annually in the commonwealth of Massachusetts;
 9. The death rate of Worcester residents from tobacco on a per capita basis is approximately 250 individuals annually, or five human lives lost per week.
- I O. At least one-half of all smokers begin smoking before the age of eighteen and an estimated 3,000 minors begin smoking every day in the United States;
- I 1. The sale of tobacco products is incompatible with the mission of health care institutions because it is detrimental to the public health and undermines efforts to educate patients on the safe and effective use of medication;
 12. There are certain tobacco products such as blunt wraps that are frequently marketed and sold to the youth and are also known to be used as drug paraphernalia;
 13. Among the 15.7% of students nationwide who currently smoke cigarettes and were less than 18 years old, 14.1% usually obtained them by buying them in a store (i.e. convenience store, supermarket, or discount store) or gas station;

14. The U.S. Surgeon General recognized in his 2014 report that a complementary strategy to assist in eradicating tobacco related death and disease is for local governments to ban categories of products from retail sale;
15. The U.S. Food and Drug Administration and the Tobacco Products Scientific Advisory Committee concluded that menthol flavored tobacco products increased nicotine dependence, and decreased success in smoking cessation;
16. Menthol makes it easier to youth to initiate tobacco use;
17. The use of electronic cigarettes among students in Massachusetts is 20.1 0/0, representing a 78% increase for high schoolers and a 48% increase for middle schoolers from 2017 to 2018;
18. Nicotine solutions, which are consumed via electronic or battery-operated delivery smoking devices such as electronic cigarettes, are sold in dozens of flavors that appeal to youth, such as cotton candy and bubble gum;
19. The Massachusetts Department of Environmental Protection has classified liquid nicotine in any amount as an "acutely hazardous waste" (3 10 CMR 30.136);
20. In a lab analysis conducted by the FDA, electronic cigarette cartridges that were labeled as containing no nicotine actually had low levels of nicotine present in all cartridges tested, except for one;
21. According to the CDC's youth risk behavior surveillance system, the percentage of high school students in Massachusetts who reported the use of cigars within the past 30 days was 10.8% in 2013;
22. In Massachusetts, youth use of cigars and smokeless tobacco (12.3%) is higher than the rate of current cigarette use (10.7%) for 2013 and has remained elevated since 2009;
23. The Massachusetts Supreme Judicial Court has held that ' [t]he right to engage in business must yield to the paramount right of government to protect the public health by any rational means."

Whereas, the City Council of the City of Worcester has enacted Chapter 8, §3 of the Revised Ordinances of the City of Worcester, the Tobacco Products Control Ordinance to protect and promote the public health through regulation of the sale of tobacco products; and

Whereas, the Worcester Board of Health has determined that additional regulations are necessary and appropriate in order to realize the protection and promotion of the public health contemplated;

Now therefore, the Worcester Board of Health is compelled to further regulate the sale of tobacco products.

B. Authority:

This regulation is promulgated pursuant to the authority granted to the Worcester Board of Health by Chapter 120 of the Acts of 2014 and Article Six of the Home Rule Charter.

C. Definitions:

For the purpose of this regulation, the definitions found in Chapter 8, § 3 (b) of the Revised Ordinances of the City of Worcester shall apply; and additionally the following words shall have the following meanings:

Characterizing flavor: A distinguishable taste or aroma, other than the taste or aroma of tobacco, menthol, mint or wintergreen, imparted or detectable either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product.

Component part: Any element of a tobacco product, including, but not limited to, the tobacco, filter and paper, but not including any constituent.

Constituent: Any ingredient, substance, chemical or compound, other than tobacco, water or reconstituted tobacco sheet, that is added by the manufacturer to a tobacco product during the processing, manufacturing or packaging of the tobacco product. Such term shall include a smoke constituent.

Distinguishable: Perceivable by either the sense of smell or taste.

Electronic Nicotine Delivery System: An electronic device, whether for I-time use or reusable, that can be used to deliver nicotine or another substance to a person inhaling from the device including, but not limited to, electronic cigarettes, electronic cigars, electronic cigarillos, electronic pipes, vaping pens, hookah pens and other similar systems that rely on vaporization or aerosolization. "Electronic nicotine delivery system" shall also include any noncombustible liquid or gel that is manufactured into a finished product for use in such electronic device. "Electronic nicotine delivery system" shall also include any component, part, or accessory of a device used during the operation of the device even if the part or accessory was sold separately. "Electronic nicotine delivery system" shall not include a product that has been approved by the United States Food and Drug Administration for sale or use as a tobacco cessation product or for other medical purposes and that is marketed and sold or prescribed exclusively for that approved purpose.

Flavored tobacco product: Any tobacco product or component part thereof that contains a constituent that has or produces a characterizing flavor. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a flavored tobacco product.

Tobacco Product Flavor Enhancer: Any product designed, manufactured, produced, marketed, or sold to produce a characterizing flavor when added to any tobacco product.

D. Cigar Sales Regulated:

I. No person shall sell or distribute or cause to be sold or distributed a single cigar unless such cigar is priced for retail sale at two dollars and fifty cents (\$2.50) or more.

2. No person shall sell or distribute or cause to be sold or distributed any original factory-wrapped package of two or more cigars, unless such package is priced for retail sale at five dollars (\$5.00) or more.

3. This Section shall not apply to a person or entity engaged in the business of selling or distributing cigars for commercial purposes to another person or entity engaged in the business of selling or distributing cigars for commercial purposes with the intent to sell or distribute outside the boundaries of Worcester.

4. The Worcester Board of Health may adjust from time to time the amounts specified in this Section to reflect changes in the applicable Consumer Price Index by amendment of this regulation.

E. Sale of Flavored Tobacco Products Prohibited:

No person shall sell or distribute or cause to be sold or distributed any flavored tobacco product, as defined herein, or any flavored tobacco product enhancer, as defined herein, except in smoking bars for on-site consumption only.

F. Nicotine Content in Electronic Nicotine Delivery Systems:

No person shall sell an electronic nicotine delivery system with nicotine content greater than 35 milligrams per milliliter; provided, however, that this subsection shall not apply to retail tobacco stores or smoking bars.

G. Incorporation of State Laws and State Regulations:

The sale or distribution of the products defined herein, must comply with those provisions found at General Laws, Chapter 270, §§28 and 29, and General Laws Chapter 112, §61A.

H. Violations:

1. Fines, Penalties and Enforcement Authority.

(a) This regulation may be enforced by civil process, criminal process or by non-criminal disposition as provided in General Laws, Chapter 40, § 21 D, and further, where applicable, as set forth in General Laws, Chapter 270, and 29.

(b) The provisions of this regulation may be enforced by any authorized agent or officer of the city of Worcester on any public property, on any private property which is subject to any permit required by this regulation or any private property which is open to public use.

(c) Every day or part thereof in which any person is in violation of these provisions shall constitute a single and separate offense.

(d) Any person who violates any provision in any of the following subsection of this regulation:

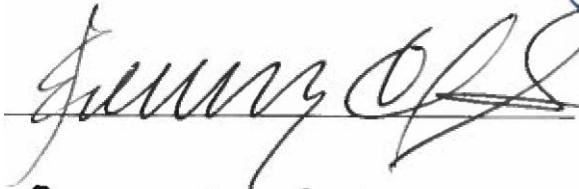
(D) Cigar Sales Regulated shall be punished with a civil penalty of \$300 or a criminal fine of \$300.

- (e) Any person who violates any provision in any of the following subsections of this regulation:
- (E) Sale of Flavored Tobacco Products Prohibited
 - (F) Nicotine Content in Electronic Nicotine Delivery Systems shall be punished with the following penalties as imposed by state laws and state regulations:
 - a. In the case of a first violation, a fine of one thousand dollars (\$1,000.00).
 - b. In the case of a second violation within thirty six months of the date of the current violation, a fine of two thousand dollars (\$2,000.00) shall be issued.
 - c. In the case of three or more violations within a thirty-six month period, a fine of five thousand dollars (\$5,000.00) shall be issued.
- (9) In addition to the monetary fines and penalties described above, any person who violates any of the provisions of subsections (D) (E) or (F) of this regulation shall be subject to the suspension or revocation of any permit issued under authority of those subsections by the board of health as further provided herein.
- (g) Refusal to cooperate with inspections pursuant to this regulation shall result in the suspension of the permit for up to thirty consecutive business days.
- (h) In addition to the fines and penalties set forth above, any permit holder who engages in the sale or distribution of tobacco products while his or her permit is suspended or revoked shall be subject to the suspension or revocation of all board of health issued permits for thirty consecutive business days.
- (i) The director shall provide notice of the intent of the board of health to suspend or revoke any permit, which notice shall contain the reasons therefor together with documentation of the alleged violations. The notice shall establish a time and date for a hearing which date shall be no earlier than seven days after the date of said notice. The hearing shall be conducted by the board of health, or its designee, as the board in its sole discretion may determine. The alleged violator, permit holder or its business agent and legal counsel shall have an opportunity to be heard at such hearing. The alleged violator or permit holder shall be notified of the decision and the reasons therefore in writing. For purposes of any such suspension or revocation, the board of health, or its designee, shall make the determination notwithstanding any separate criminal or non-criminal proceedings brought in court hereunder or under the General Laws for the same offense, All tobacco products shall be removed immediately from the retail establishment upon suspension or revocation of any tobacco sales permit. Failure to remove all tobacco products shall constitute a separate violation of this regulation with each day constituting a separate offense punishable by a fine or penalty of \$300 or by injunctive relief.

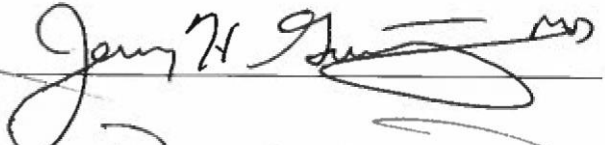
I. Effective Date:

Date of Adoption: July 13, 2020

This regulation shall take effect on AUGUST 25, 2020.



James M. Cantler



James H. [unclear]



