



CITY OF NEW BEDFORD

JONATHAN F. MITCHELL, MAYOR

HEALTH DEPARTMENT

BOARD OF HEALTH

KIMBERLY A. GRIFFITH, PSY.D.  
ELIZABETH M. BLANCHARD, M.D., FASCO  
ALEX J. WIENER, MPH, FNP-C

DIRECTOR OF HEALTH  
STEPHANIE SLOAN

***APPROVED MINUTES***

**Regular Board of Health Meeting**

**Wednesday, October 18, 2023 at 6:00 p.m.**

**Board to Convene Via Remote Participation**

**Alternative Means of Public Access Provided: Zoom Meeting/ Telephone Conference Call**

**To Join Zoom Meeting: <https://zoom.us/j/3966365159>**

**Dial-In: 1 646 558 8656 US Meeting ID: 396 636 5159**

**1. CALL TO ORDER**

Meeting was called to order at 6:02 p.m. Meeting held remotely via Zoom, per state allowance due to the pandemic. Meeting recorded.

**ROLL CALL OF MEMBERS**

**Present:** Kimberly A. Griffith, PSY.D.  
Elizabeth M. Blanchard, M.D., FASCO  
Alex J. Weiner, MPH, FNP-C

**2. APPROVAL OF MINUTES**

Dr. Griffith called for a motion to accept and place on file the minutes of the previous meeting, held via Zoom on September 7, 2023. **SECONDED** by Dr. Blanchard. **ROLL CALL** - Dr. Blanchard, **YES**. Dr. Griffith, **YES**. Mr. Weiner, **YES**. All in favor. **MOTION CARRIES**

**3. NEW BUSINESS**

**A. Request for Hearing: 127 Chestnut St., Seven Nomads Tattoo; For temporary Practitioner license for guest artist Holly Leung.**

**Invitees:** Sarah Seveney, Owner  
Sofia DaCosta, Sanitarian

Sofia DaCosta reviewed the application for guest artist Holly Leung. Leung intends to be a guest artist for no more than 14 days at Seven Nomads Tattoo. A reference check was done at one of the locations where she started her apprenticeship. The reference had nothing but good things to say about her. Holly has her current license with the Boston Public Health Commission and feels that she is in good standing with them, through frequent license approvals. Sofia feels that the only clarity needed involves the timeframe of when Holly will be in New Bedford.

Holly said she has been planning this guest spot for a while and sent the required forms to Sofia. There is a 3-year minimum (for professional experience) to get approved to do this guest spot. Holly has been tattooing for 3 years full-time and has a total of 6 years in the industry. A planned local client had to reschedule for medical reasons, though, meaning she will not be able to start her guest spot this weekend because she does not have enough clients.

Dr. Griffith asked her to clarify the dates that she intends to be a guest artist in New Bedford.

Holly intended to start this weekend, October 21-22, but now is hoping to reschedule.

Dr. Griffith asked if she intends to be a guest for a two-day period.

Holly said potentially in November, and she will talk with Sarah to arrange dates.

Dr. Griffith asked Sofia if she has spoken to Sarah about dates and duration, because we cannot grant a guest practitioner license without knowing when and for how long.

Sofia said her recommendation would be to grant Holly a license based on her credentials, and the dates would be TBD. But her guest spot must be a minimum of 5 days, which is why the fee is \$100, and then she would not be able to come back for more than 30 days with a one-year period, because that would make the fee \$200 and require an annual practitioner's license.

Dr. Griffith asked if the Board had any more questions. Board stated not at this time.

**MOTION:** by Dr. Blanchard to approve Holly Leung for guest tattoo artist for a time to be determined but within the confines of the rules and regulations. **SECONDED:** Dr. Blanchard **ROLL CALL:** Mr. Weiner, **YES**, Dr. Blanchard, **YES**, Dr. Griffith, **YES**. All in favor. **MOTION CARRIES.**

**B. Discuss approval of a variance for a semi-public pool at Bristol Community College's National Offshore Wind Institute Training Center, at 198 Herman Melville Blvd. New Bedford.**

**Invitees:** Sofia DaCosta, Sanitarian  
Jo Ann Bentley, AVP Admin and Facilities  
Nicholas Stewart, Contractor-DF Pray  
Robert R. Freligh, Consultant for National Aquatic Consulting, Inc.  
Stephanie Sloan, Director of Health

Sofia: The reason we are here is a Bristol Community College training facility for offshore wind. We have never had a pool like this before. Sofia has been in communication with BCC, which has categorized this training facility as a semi-public pool. Robert Freligh provided documentation and supporting evidence on why there should be a variance for this pool. Sofia will be doing a dye test tomorrow morning to assess effectiveness of the pool's filtration system. We also requested that logs be kept for sanitation. Once the facility has been approved by MDPH it will then fall into place that the variance is approved. It needs to come before us first then the state and once it's approved then they can operate the pool.

Dr. Griffith asked for information about the difference between lifeguard-related pool variances as compared to this variance.

Sofia stated this is a new-construction pool and its design does not conform with the CMR Code, therefore it must be approved by MDPH and us.

Dr. Blanchard asked what makes it non-conforming.

Sofia: There are a couple of things; there is no main drain and no skimmers. Robert, a consultant for NAC who has been guiding offshore wind facilities, has advised us about why the main drain is not needed. That is why we are doing the dye test; no other way to test the filtration system.

Jo Ann Bentley said Donald Sullivan could speak about why we do not have a bottom drain.

Donald Sullivan said the tank is a training environment. Part of the training has a submerged helicopter simulator that is lowered into the pool and inverted. In that training, windows and doors are removed underwater to allow evacuation. Those windows and doors sink to the bottom – they're made to sink, so they don't hit divers / swimmers when rising to the surface – and can obstruct bottom drains.

Jo Ann said the "training tank" facility could be used by first responders. There is no lifeguard, however the instructors are trained in safety. When a helicopter is used there are trained divers who are in the water with the participants. The ratio is 3 instructors for 12 participants in the pool during training. It is not your average swimming pool; it is very different, and not open to the public.

Dr. Griffith asked if they could tell us about the building itself, for security concerns such as, for example, someone wandering in who does not belong there.

Jo Ann said the pre-engineered, metal building has areas for classroom instruction, such as first aid and CPR classes. There also is a conference room, medical suite, rest room, doctor's and nurse's offices, a commercial kitchen and café, chemical mixing room, a grinding room, and technical training room, and then another part of the building where the training tank is located. The site has a fence all the way around, with two gates. The gates are open during the day and while the building has 9 doors, there is only one main entry door. When you enter that main door there is an inner door that is buzzer-controlled, with access either by card or staff at the front desk. You cannot just walk into the building.

Mr. Weiner asked if the facility is designated as public, semi-public or special purpose.

Jo Ann: We are categorized as “other,” or special purpose.

Dr. Blanchard asked where the variances are listed, and if the board could get a concrete list of non-conformities including: the skimmer, a 36-inch underwater teaching platform, and lack of main bottom drain.

Dr. Blanchard asked what system is used to clean the water.

Don stated this is a standard filtration and testing system. Bather load has a capacity of 40 but no more than 10 people will be training at one time. Same as any other pool in terms of treatment and filtration; the skimmer and the bottom drain are part of the protrusion piping on the side of the tank.

Sofia clarified that the main purpose of the hearing is to ensure the pool filtration and turnover for proper sanitation are being met, that way anyone that is using the pool will not become ill. Making sure we have written procedures and providing documents over to MDPH. Documents include frequency of testing and anything deviating from standard swimming pool regulations. This variance is specific to the skimmer, protrusion/ ledge and bottom drain; the board would not cause manifest injustice by approving this pool.

Dr. Griffith asked if the Board had any additional questions. The Board stated they had none.

**MOTION:** by Dr. Blanchard to approve the three listed non-conformities and to approve the project pending MDPH approval. **SECONDED:** by Dr. Griffith **ROLL CALL** – Mr. Weiner, **YES**, Dr. Blanchard, **YES**. Dr. Griffith, **YES**. All in favor. **MOTION CARRIES.**

**C. Discussion & Approval of Health Impact Assessment for Elevation Retail II, LLC, of 2121A Phillips Rd, New Bedford MA 02745**

**Invitees: Andre Arzumanyan, Owner**

**Paulo Gomes, H&HS Consulting Group**

**Ben Ethier, H&HS Consulting Group**

**Megan daCosta, Public Health Program Manager-Tobacco & Marijuana**

**Stephanie Sloan, Director of Health**

Megan DaCosta: We have Elevation Retail here they are a prospective adult use cannabis dispensary to be located on Phillips Road. We also have the consultants who completed the Health Impact Assessment on behalf of the facility. Stephanie and Megan looked over the assessment last week and they are here to see if we have any questions.

Ben Ethier: Stated that he helped prepare the assessment. Interviews were done and there were 2 community meetings, one in person and one virtually. The highlight of this HIA is how Elevation Retail is going to continually engage with the community. They have done this through signing a community pledge to continually engage with the residents of the nearby Southcoast Condominium complex, as well as other residents in the area. There is going to be continued communication with local public

safety departments to address any safety issues that should arise. Dispensary could lead to increased foot traffic in the area that could stimulate local businesses.

Dr. Blanchard: Generally, she has had 2 concerns with dispensaries: First is the potential for underage users to have access to marijuana and second is the potential for increased traffic accidents when there is more access to marijuana.

Ben: The current traffic data available is aggregated by the FBI and is available at the police department level. Currently the DUI data doesn't distinguish between drug and alcohol impairments. In the data you can see that has not been any increase in New Bedford. Underage user findings are mixed at this time. Some studies show no associations or small negative or positive associations. It is something that could be further examined as more data becomes available.

Dr. Blanchard: More data would be helpful but not sure if there is a way, scientifically, to identify someone who is impaired by marijuana at a traffic stop.

Mr. Weiner did not have any questions but was impressed with the assessment.

**MOTION:** by Dr. Blanchard to accept the assessment as distributed. **SECONDED:** by **ROLL CALL** – Mr. Weiner, **YES**, Dr. Blanchard, **YES**. Dr. Griffith, **YES**. All in favor. **MOTION CARRIES.**

Megan: This concludes the Health Department's role initially; we will issue the certificate of compliance letter to the Licensing Board and will also send a copy to Elevation Retail II, LLC.

**D. Request for Hearing: Discussion on Granting of Tobacco Permit to New Lessees of Keno Corner Store, 251 Orchard St. New Bedford, MA 02740**

**Invitees: Muhammed Arshad Khan, President  
Mohammed Zameer Uddin, Manager  
Megan daCosta, Public Health Program Manager-Tobacco & Marijuana  
Stephanie Sloan, Director of Health  
Nicholas DeMarco, Associate City Solicitor**

Megan stated we have the new owners/lessees from Keno Corner here before the Board to discuss granting them a Tobacco Permit. A sale to a minor was made on August 2, however. Following the sale, Megan called the phone number on file for the store manager. He expressed understanding and paid the fine of \$5,000 on August 25. The store was referred to the Board for a revocation hearing, which was scheduled for the Board's September meeting. Just prior to that meeting, we were presented with a lease agreement dated August 1<sup>st</sup>, 2023, from the new owners of Keno Corner store. According to the lease agreement, they would be the responsible party for the sale that took place on August 2, however the fine for the sale was paid by the previous owner. We just want the board to be aware since the sale occurred without them being permitted as they had not applied for a permit yet.

Dr. Griffith said the question is, will we consider granting a tobacco sales permit to the entity named now leasing the Keno Corner store. Megan said that is correct.

Mohammed Zameer Uddin stated he is the manager of the new store. They got the lease and the next day the violation happened, but they are taking responsibility for what happened. They are putting in the new sales system and cleaning the store. They are not entirely familiar with Massachusetts regulations as they come from Rhode Island, but this time they are getting a computer that will scan IDs and a violation will not happen again.

Mr. Weiner said he was concerned that they sold tobacco without a license. Additionally, what does the verification system actually look like, that reads IDs?

Mohammed Zameer Uddin stated it is a computer that scans.

Mr. Weiner asked if they would train their employees and make it clear that they cannot do this in the city. Mr. Uddin said they would. Mr. Weiner asked, with that in mind, do they know enough to operate this store in New Bedford. Mr. Uddin said yes, they have learned many things and are continuing to work on and learn regulations for compliance.

Dr. Blanchard asked if someone does not bring their ID, can the clerk override the system? Mr. Uddin stated no, they cannot.

Dr. Blanchard asked if the owner or manager has ever had a tobacco violation in New Bedford or elsewhere in MA? Mr. Uddin stated no because they are from Rhode Island.

**MOTION:** by Dr. Blanchard to continue with the permitting process for the Keno Corner Store and proceed with granting the tobacco application. **SECONDED:** by **ROLL CALL** – Mr. Weiner, **YES**, Dr. Blanchard, **YES**. Dr. Griffith, **NO**. **MOTION CARRIES 2-1.**

**E. Request for Hearing: Discussing the Correction/Cease and Desist Order for 2<sup>nd</sup> Violation in 36-month period, \$2000 fine issued & 7-day suspension of sales permit at Royal Fuel, 1194 Kempton St. New Bedford, MA 02740**

**Invitees: Haji Ahmad, Owner**

**Umar Iffikhar, Manager**

**Megan daCosta, Public Health Program Manager-Tobacco & Marijuana**

**Stephanie Sloan, Director of Health**

Megan stated this item was tabled at the last meeting and the owner of Royal Fuel and his attorney are here tonight to appeal the 7-day suspension. A sale to a minor occurred on August 15, 2023; it was the second sale to a minor in a three-year period, following the first on May 9, 2022. The owner was notified following the latest sale and paid the \$2,000 fine on September 19, 2023, but is here requesting an appeal of the 7-day suspension.

Atty Edward Grouke is representing Royal Fuel and present with Mr. Iffikhar, who is the manager of the store. Grouke said they are asking for a waiver of the 7-day suspension. The second

violation resulted from an unfortunate incident involving an employee. Mr. Iffikhar makes a great effort to train employees and make sure they do the right thing. At the time of the violation they were equipped with an ID scanner, but for some reason it was overridden and that is why the incident took place. Ms. DaCosta told them there was a way to disable the override function, but that has since been removed. He will not have this happen again. It has an extreme effect on the business to suspend the right to sell tobacco products for 7 days. If there is another option, such as to increase the fine, they would definitely be willing to do that. They would be interested in any other possible means that the Board might want to consider.

Mr. Iffikhar: He recently met with Megan and explained that they did not do this on purpose. The employee that sold to a minor is still working for Royal Fuel. He is a good employee and it was an honest mistake. It will not happen again. In the computer system they do have to check ID, but the problem was that they could override it to enable a sale.

Ms. DaCosta said you have to talk to your software provider so that the override does not happen. Mr. Iffikhar stated they did speak to the provider to resolve the problem and now it does not happen. He added that overall, personally, he felt the penalties after a 3<sup>rd</sup> suspension – including revoking the permit – are too strict; maybe increase the fines to \$10,000 or \$20,000.

Dr. Griffith: We understand your frustration with employees and that owners do not intend to sell to minors and have to depend on employees. You have followed Megan's recommendation and spoken with your software program and removed the override function, correct?

Mr. Iffikhar: It is difficult because our system isn't like for a convenience store because we have gas pumps, we only have two options (Gilbarco and Verifone) and can't change our software. We have Gilbarco and spoke with them and they are going to send an upgrade to the software that will block the override.

Mr. Weiner: We hear what your concerns are but at the end of the day, regardless, you have to figure out a solution. We urge you to take it seriously, have employees check IDs and get the right software.

**MOTION:** by Dr. Blanchard to continue the 7-day suspension and not waive it. **SECONDED:** by **ROLL CALL** – Mr. Weiner, **YES**, Dr. Blanchard, **YES**. Dr. Griffith, **YES**. **MOTION CARRIES.**

**F. Request for Hearing: Discussing the Correction/Cease and Desist Order for 2<sup>nd</sup> Violation in 36-month period, \$2000 fine issued & 7-day suspension of sales permit at D&S Mini Mart, 158 Liberty St., New Bedford, MA 02740**

**Invitees: Juan Arias, Owner, D&S Mini Mart**

**Megan daCosta, Public Health Program Manager-Tobacco & Marijuana**

**Stephanie Sloan, Director of Health**

Megan: We have the owner here following the 2<sup>nd</sup> violation in a 36-month period. On Sept. 6, 2023, a routine inspection was conducted and 25 packs of Newport menthol cigarettes with New

Hampshire tax stamps were found in a black shopping bag hanging behind the counter at the register. All products were photographed and boxed up in accordance with MTCP policy. The store owner was notified of the violation the day of and the fine was paid on September 18, 2023. They served their suspension from Sept 19 through Sept 25. Previous violation was sale to a minor on May 9, 2022.

Aramis the owner's son said he learned a lot while listening to previous hearings tonight; he never knew there was a scanning system for IDs and will definitely make sure they implement that and make sure a violation never happens again.

Dr. Griffith: Glad to hear that; make sure to be connected to Megan, as she can give you guidance and advice about further prevention systems and methods. Rest of the Board agreed and appreciated Aramis' openness.

### **G. Southcoast Renewables Hearing Briefing and Discussion**

**Invitees: Arthur Kreiger, Anderson & Kreiger LLP**

**Thomas Mackie, Burns & Levinson LLP**

**Peter Durning, Burns & Levinson LLP**

**Adam Brodsky, DROHAN TOCCHIO & MORGAN, P.C.**

**Stephanie Sloan, Director of Health**

Stephanie: In our South Coast Renewables process, currently we are waiting for MassDEP's determination, which is due Nov. 1. In the meantime, we have been preparing a potential location and dates for public hearings, because if the timeline stays Nov. 1 we will have to move quickly to get everything posted and then start the hearing process. Tonight's board meeting is a good opportunity to start having a conversation about what that hearing process will look like. We have Arthur Kreiger here, who will be the hearing officer for the South Coast Renewables process. He has offered to brief the board on how this process will occur.

Atty. Kreiger: Based on Stephanie's discussion, it sounds like you know about the process. A site assignment is required for any expansion modification or siting of solid waste facility under general law chapter 111 and DEP's regulations. The regulations contain site assignment criteria, some of which are cut and dry and some more subjective. It is a 2-step process. (To move forward,) DEP has to issue a positive site suitability report; if not, the process stops. But if they do, then you have 30 days to open your own hearing under the same criteria and make your own decision. DEP's decision that a site is suitable is not binding on you, the Board. As Stephanie said, DEP'S deadline is Nov. 1, which will run into the holidays. DEP has received a lot of comments, so they are not likely to move that date up at all. You have to start your hearing within 30 days, which would be Dec. 1, and then decide within 45 days thereafter.

My role is specified by the DEP regulations. I am hired by the Board, paid for by the applicant and neutral. I have no stake in the outcome of the hearing. My job is to run the hearing, take in evidence or make rulings on evidence, make other procedural rulings along the way or at the outset, and then compile the record, consisting of documentary evidence that is put in at the hearing and the oral testimony at the hearing. The public comment is not sworn evidence. I will run the hearing, compile the record and then turn it over to you. The Board does nothing but listen and ask questions. The board will have the opportunity to ask questions either itself or through counsel.



The schedule mentioned that we spoke to counsel on Sept. 27 about preliminary preparation for this hearing. We came up with a tentative schedule of Tuesdays and Thursdays starting at the end of November and stretching up until December 20. Hoping we do not need 8 nights of hearings. We can discuss now and nail down the dates for the hearing at this meeting.

Peter Durning: Had a question for Stephanie, if the location has been set?

Stephanie: We have not finalized the location. Reached out to a couple of the schools in the area and reached out to all of our Board members with the dates that Atty Brodsky and Atty Kreiger had suggested might work, so: Nov. 28, Nov. 30, Dec. 5, Dec. 7 and Dec. 12. Thinking 6-9 p.m. if that full time would be needed.

Atty Kreiger: The timing, of 6-9 p.m. It is up to the Board whether they can get there and how late they would like to stay. From my perspective, once we are all there I would like to get as much done as possible in an evening. I would rather go an extra hour than go an extra night. It is up to the Board, but we'll start whenever you want and end as late as you want.

Gregg: We have the first date as being Nov. 28, so we need (public notification) 21 days prior, so that means everything including our translations needs to be translated in the newspaper prior to the 7<sup>th</sup>. Also, if we could talk about as soon as we get a location, we need to translate it into Creole, Portuguese and Spanish. That does take a little time. Peter, if you have questions about advertising with Atty Kreiger.

Peter Durning: We can discuss this or follow up but one thing to make everyone aware of is Gregg has emphasized that it is important to get the notices out 21 days in advance. We are concerned about the frequency of publications that are in foreign language newspapers. One of the ways to address that is getting the notices in those languages but published in those languages in a daily English language newspaper – the Standard-Times. But there is a time constraint.

Atty Kreiger: We can discuss that tomorrow.

Dr. Blanchard asked if we will have access to hearing transcripts and siting criteria.

Atty Kreiger stated yes, you will have access shortly after the hearings close and also criteria will be available, too.

The Board agreed with longer meetings and fewer days.

Dr. Griffith: asked Stephanie, is 6 pm a good time for this?

Stephanie: 6 pm is a good time.

Dr. Griffith: can we do 6-9, then at 9 pm, whoever is speaking they stop and continue to next date?

Atty Kreiger: We should give people more notice. Recommending going 6-10 pm to give people that extra hour.

Dr. Griffith any other discussions?

Peter Durning: Suggested to start November 30<sup>th</sup> rather than on Tuesday Nov. 28<sup>th</sup> that will give us the opportunity to get to Thursday Nov. 9<sup>th</sup> for potential publication date rather than Tuesday Nov 7<sup>th</sup>. It would give us more room to get out appropriate notices at the beginning of November.

Stephanie: We will get the location as soon as we have it.

**5. NEXT MEETING DATE**

**6. HEALTH DIRECTOR'S REPORT**

A. General Updates

Stephanie said her most exciting update is that Nikita Viera, who is on the call with us today, has joined our team as our assistant director. She comes to us from BCC with a lot of experience, with all of her work being focused from a public health lens. Wanted to introduce her to everyone tonight.

Nikita: Really excited to join the team and focus on helping the Health Department move forward with all the meaningful work. I look forward to working with the Board in various different fun initiatives.

Stephanie said she also wanted to take this opportunity to praise Health Department staff, who over the past three weeks have been asked to speak in a number of different capacities. One of our community health workers (Joana Goncalves) spoke on a panel about community health work we are doing in New Bedford. Joe (Carvalho) and I will be speaking at the Mass Health Officials Conference about health equity, food permitting, and inspections, and Rachel (Eckenreiter) also will be speaking about accreditation. Megan has put in a proposal to speak at a nationwide conference for tobacco to talk about our strict regulations around our descending cap.

**7. NEW BUSINESS NOT REASONABLY ANTICIPATED AT TIME OF POSTING**

**8. ADJOURN**

Dr. Griffith **adjourned** the meeting at **8:11 p.m.**

A true record attest:

  
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Health Department Chairperson

**BOH Meeting Minutes Approved 11 / 16 / 23**