

CHRISTINE McKIERNAN, M.D. - Chair
JESSICA COLLINS, Vice-Chair
KAREN WALSH PIO - Clerk
TONY JUDGE
STEPHEN FRANTZ

SHARON HART, Director of Public Health

NOTICE

**BOARD OF HEALTH MEETING
&
AGENDA**

April 9, 2024

6:00 p.m.

NOTE: Not all the topics listed in this notice may actually be reached for discussion. In addition, the topics listed are those which the Chair reasonably expects will be discussed as of the date of this notice.

To: Board of Health Members

From: Sharon D. Hart, Director of Public Health

Re: A Board of Health Meeting will be held on Tuesday, April 9, 2024 at 6:00 p.m. at the South Hadley Library.

- 1: Chair to Call the Meeting to Order**
- 2: Acceptance of the Minutes of the March 12, 2024 meeting.**
- 3: Announcements/Open Forum (10 Minutes)**
- 4: Board Reorganization**
- 5: Director's Report**
- 6: New Business:**
 - (a) Emergency Order to Vacate: 14 Tampa Street - Ratify**
 - (b): Opioid Mitigation Funds/Survey – Update**

(c): Public Health Excellence Grant - Update

7: Old Business:

(a): Update - South Hadley Drug & Alcohol Prevention Coalition – Karen Walsh Pio

(b): Pollinator Species Update

(c): Cannabis & Kratom

8: Set Next Meeting Date – (TBD) at 6:00 p.m. at South Hadley Public Library

9: 7:45 p.m. Executive Session – Pursuant to G.L. c.30A sec 21(a)(3), and subject to the Chair's declaration that the public discussion of meeting minutes will have a detrimental impact on the litigating position of the Board, the Board will go into Executive Session to discuss strategy with respect to litigation in the matter of Chicopee Concrete Service, Inc. v. Hutchinson et al. (South Hadley Planning Board and Board of Health) C.A. No. 2180CV00038;

a. Approval of February 12, 2024 executive session minutes

10: Adjourn meeting

CHRISTINE MCKIERNAN, M.D., Chair
JESSICA COLLINS, Vice-Chair
KAREN WALSH PIO, Clerk
TONY JUDGE
STEPHEN FRANTZ

SHARON D. HART, Public Health Director

Board of Health Minutes

March 12, 2024

Present: Christine McKiernan, M.D., Chair; Jessica Collins, Vice-Chair (joined at 6:48 p.m.); Karen Walsh Pio, Clerk; Stephen Frantz, Board of Health Member; Sharon Hart, Public Health Director; Jennifer Jernigan, Assistant Public Health Director; Lisa Wong, Town Administrator; Dr. Holly Perry, Pediatrician; Chad Lynch, Property Owner; James Rocca, Property Owner; Stanley Komack, Attorney; Tamara Gheit, Health Department Assistant; Absent: Tony Judge, Board of Health Member

- 1. The Board of Health Meeting was called to order at 6:06 p.m. by Chair McKiernan at the South Hadley Public Library.***

Stephen Frantz joined by Zoom

- 2. Acceptance of the Minutes of the February 26, 2024 Meeting:**

Chair McKiernan introduced the minutes from the February 26 meeting and asked for a motion to approve the minutes. Karen Walsh Pio had a comment about a run-on sentence in one of the paragraphs. The sentence was: "Karen Walsh Pio mentioned gathering information on how many kids are using drugs and at what grade level, will be looked at using the South Hadley prevention". Tamara said it would be corrected. Karen then made the motion to accept the minutes with that correction, Stephen Frantz seconded it. All members were in favor.

Roll Call Vote:

Karen Walsh Pio = Aye
Christine McKiernan = Aye
Stephen Frantz = Aye

Draft - Board of Health
Meeting Minutes
March 12, 2024

3. 6:05 p.m. -6:25 p.m. Creation of a Human Services Department-Lisa Wong

Lisa Wong provided an introduction regarding the creation of the Human Services Department and mentioned the concept is to create a department that initially focuses on a wide range of socioeconomic, cultural and other needs in the community. Lisa Wong states that all input is valuable and one of the initiatives is looking into departments that are a good fit and focus on a community service approach, which includes service programs and care management. She mentions the mission is for all residents to be able to connect to the community and the idea is community gatherings with a huge master plan connected to it. Wong mentioned it would take 12-18 months to get the department off the ground and is reviewing and finalizing job descriptions. Karen Walsh Pio requested to review a PowerPoint on the concept which Lisa Wong will send to Director Sharon Hart and forward to her.

6:34 p.m. Lisa Wong left meeting

4. Update- South Hadley Drug & Alcohol Prevention Coalition-Karen Walsh Pio

Karen Walsh Pio mentioned the substance abuse meeting was postponed until next month. Karen Walsh Pio had a chance to meet with State Representative Dan Carey and Senator Jake Oliveira and states the medicinal use of psilocybin and other hallucinogenic products will not be moving forward.

5. New Business

6:36 p.m. Chad Lynch, James Rocca and Stanley Komack join the meeting at the library.

a) 6:45 p.m. Public Hearing- Appeal Request for Open Condemnation Order Regarding 24 Main Street, Rear

Christine McKiernan requested a motion to open the public hearing as a separate part of the meeting. Karen Walsh Pio made the motion and Stephen Frantz seconded it. All members were in favor.

Roll Call Vote:

Karen Walsh Pio = Aye
Christine McKiernan = Aye
Stephen Frantz = Aye

6:48 p.m. Jessica Collins joined by zoom

The hearing was for an appeal request made by South Hadley Properties LLC regarding the condemnation order on the property at 24 Main St Rear in South Hadley, which was issued on May 25th 2022. Jennifer Jernigan provided a statement and reviewed documentation with SH Properties LLC and explained rental properties fall under the state's sanitation code which is 105 CMR 410.000. It was recommended that once the minimum standards are met, an application of a new occupancy permit can be submitted. Christine McKiernan asked for a motion to continue to support the May 25th, 2022 condemnation as appropriate and valid. Karen Walsh Pio made a motion and Jessica Collins seconded it. All members were in favor.

Roll Call Vote:

Karen Walsh Pio = Aye
Christine McKiernan = Aye
Stephen Frantz = Aye
Jessica Collins = Aye

7:13 p.m. Chad Lynch, James Rocca and Stanley Komack left the meeting.

7:14 p.m. Christine McKiernan asked for a motion to close public hearing. Karen Walsh Pio made the motion and Jessica Collins seconded it. All members were in favor.

Roll Call Vote:

Karen Walsh Pio = Aye
Christine McKiernan = Aye
Stephen Frantz = Aye
Jessica Collins = Aye

7:15 p.m. Dr Holly Perry joined meeting

6. New Business (continued):

a): Kratom, Synthetically Derived Cannabinoids -Dr. Holly Perry

b): Psilocybin- Board Discussion

Dr. Holly Perry is a pediatric emergency medicine physician. She provided a PowerPoint presentation to address the terminology of synthetic and naturally derived cannabinoids. She also explained the difference between Delta 8 and Delta 9 compounds. Both compounds exhibit psychoactive properties, but their potency and possible side effects differ. Dr. Perry mentioned the

dangers of synthetic cannabinoids, also known as “Spice”, “K2”, which are unregulated and made in labs like Fentanyl. Dr. Perry asked if Kratom has been a drug of concern. Director Sharon Hart mentioned it can’t be enforced unless in food products. A health regulation has been put together which allows BOH inspectors to have those products removed. Although Kratom has been listed by NIDA as a drug of concern, Stephen Frantz noted there is no evidence that Kratom is hallucinogenic or addictive when in a pure form or unadulterated. He recommends looking up the Kratom Consumer Protection Act (KCPA), a bill created to protect consumers in the industry as it provides a better understanding of the congressional briefing on Kratom. Stephen Frantz suggests to review his email that was sent on January 13th referring to the congressional review, which has been currently the largest review. Christine McKiernan mentioned she would send the email to Director Sharon Hart. The Board will revisit this topic with more fact and data driven information.

7. Set next Meeting Date- April 9, 2024 @ 6:00pm:

All present members were in consensus with the next meeting date being April 9 at 6pm at the library.

8. Announcements and Open Forum (10 minutes)

Stephen Frantz requested for South Hadley BOH to join other neighboring towns like Northampton and Amherst to vote for a ceasefire in Gaza. He mentions it would be unethical for BOH members not to step in and stand by humanity. Stephen Frantz requested to put this in next months agenda and discuss it further.

9. Adjourn the meeting:

Chair McKiernan mentioned she would accept a motion to adjourn the meeting. Karen Walsh Pio made the motion. Stephen Frantz seconded it and all members were in consensus.

The meeting was adjourned at 7:57 p.m.

Respectfully,
Tamara Gheit

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Meeting Minutes
March 12, 2024

ATTACHMENT A

RECORD LOCATION

BOH Meeting Minutes 2/26/24	BOH File
Jernigan's statement and review of documentation regarding the Condemnation order for 24 Main Street, Rear – Appeal	BOH File
Decision Letter regarding request of approval of condemnation at 24 Main St. Rear.	BOH File
Presentation provided by Dr. Holly Perry on Kratom and Synthetically Derived Cannabinoids	BOH File

Summary	November 2022	December 2022	January 2023	February 2023	March 2023	April 2023	May 2023	June 2023	July 2023	August 2023	September 2023	October 2023	November 2023	December 2023	January 2024	February 2024	March 2024	
Complaints Received																		
housing complaint	11	15	10	6	10	4	5	3	2	5	10	1	6	7	6	7	5	
food complaints/questions	2	5	6	1	3	5	5	4	2	0	5	4	4	2	5	5		
COVID inquiry/reporting	0	0	0	0		1	1	0	0	0	0	0						
animal control	3	2	3	3	3	4	5	3	3	2	5	0			2	3		
dumpster permit	2	0	0	0	2	0	0	5	2	2	0	0	1	4				
hauler permit	0	0	1	0	1	1	1	3	1	1	0	0						
septic permit	3	3	2	0	6	7	7	2	3	2	1	0		1	1	1		
property care complaint	2	1	0	2	2	1	1	5	4	5	3	1	3	3	1	2		
miscellaneous	7	8	4	3	3	6	6	0	0	0	0	0	1	1			1	
Total	30	34	26	15	30	29	31	25	17	17	24	6	14	18	15	18	6	
Notices Issued																		
housing orders	1	0	3	3	2	5	5	3	4	4	12	2	8	7	10	7	5	
condemnations	1	0	0	1	2	0	2	6	1	1		3	3				1	
property care notices	0	0	1	0	1	4	3	5	4	5	9	0	3	1	1	1	1	
compliance	1	0	5	2	4	1	0	4	2	2	2	2	5	1	1	4	4	
educational/best practice material	2	0	0	0	2	2	3	0	1	1	0	0	0	0				
dumpster violations	0	0	0	0	3	3	3	0	0	2	0	0	0	2				
Total	5	0	9	6	14	15	16	18	12	14	23	7	19	11	12	12	11	
Inspections Conducted																		
food inspections	0	0	7	9	13	17	14	3	2	3	6	1	4	2	2	9	10	
lodging/housing inspections	0	4	3	4	4	5	5	4	3	4	4	1	4	12	5	3	6	
site observations	0	0	0	2	4	5	7	2	1	1	2	0	8	2	3	5	14	
perc tests/septic installs									2	2	2	0	3	1	2	1	1	
Total	0	4	10	15	21	27	26	9	6	8	113	99	19	17	12	18	31	
Miscellaneous																		
records requests	18	9	1	1	2	3	1	1	2	1	3	3	1	2	9	5	9	
food plan reviews	1	2	2	1	1	1	2	2	0	0	0	0	1	1	1	1		
summer camp permits	0	0	0	1	1	3	2	0	2	0	0	2	9		2	2	5	
animal quarantines												3	3	6	8	1	5	
septic plan reviews															4	3	4	
title 5 reviews																	1	
pumping record reviews																		
Total	19	11	3	3	4	7	5	3	4	1	3	8	13	9	22	12	24	

REGULATION OF THE SOUTH HADLEY BOARD OF HEALTH

PROHIBITING THE MANUFACTURING, SALE, AND DISTRIBUTION OF SYNTHETICALLY DERIVED CANNABINOIDS AND KRATOM

A. Statement of Purpose and Authority:

Whereas, hemp is defined as “the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.”¹

Whereas, tetrahydrocannabinol (THC) is the chemical responsible for most of marijuana’s psychological effects.²

Whereas, adult-use marijuana can be distinguished from hemp because it contains more than 0.3 percent (0.3%) delta-9 THC concentration, which is a naturally occurring cannabinoid.

Whereas, delta-8, delta-10, and other forms of THC are isomers of delta-9 and, except for trace amounts, are not found naturally in the plant cannabis, but are instead synthetically produced in laboratories.³

Whereas, in Massachusetts, adult-use marijuana is legal, but products containing delta-8, delta-10, and other synthetically derived cannabinoids are not.⁴

Whereas, delta-8 and similar synthetically derived products are psychoactive.⁵

Whereas, Kratom, a tree-like plant indigenous to Southeast Asia, produces stimulant and sedative effects when orally ingested in tablet, capsule, or extract form. Kratom leaves can be chewed or dried and ingested as a tea. Use of Kratom can lead to psychotic symptoms, and psychological and physiological dependence because it contains mitragynine and 7-hydroxymitragynine, two major psychoactive ingredients.⁶

Whereas, neither synthetic, hemp-derived products like delta-8 nor Kratom are regulated by the federal government or in Massachusetts.

¹ Implementation of Agricultural Improvement Act of 2018, 85 Fed. Reg. 51,640 (Aug. 21, 2020).

² Alina Bradford, *What is THC?*, LIVESCIENCE (May 18, 2017), [available at https://www.livescience.com/24553-what-is-thc.html](https://www.livescience.com/24553-what-is-thc.html).

³ Kristina Etter, *I Stand Corrected: The Truth About Delta-8 THC*, MEDIUM (March 17, 2021), [available at https://medium.com/seed-stem/i-stand-corrected-the-truth-about-delta-8-thc-e8085725ed9e](https://medium.com/seed-stem/i-stand-corrected-the-truth-about-delta-8-thc-e8085725ed9e).

⁴ MASS. DEPT. OF AGRIC. RES., HEMP IN MASSACHUSETTS: FAQs, [available at https://www.mass.gov/guides/hemp-in-massachusetts-faqs#-is-it-legal-to-manufacture-delta-8-thc-from-hemp?-\(last visited Feb. 13, 2023\)](https://www.mass.gov/guides/hemp-in-massachusetts-faqs#-is-it-legal-to-manufacture-delta-8-thc-from-hemp?-(last%20visited%20Feb.%2013,%202023)).

⁵ See U.S. FOOD & DRUG ADMIN., 5 THINGS TO KNOW ABOUT DELTA-8 TETRAHYDROCANNABINOL – DELTA-8 THC, [available at https://www.fda.gov/consumers/consumer-updates/5-things-know-about-delta-8-tetrahydrocannabinol-delta-8-thc](https://www.fda.gov/consumers/consumer-updates/5-things-know-about-delta-8-tetrahydrocannabinol-delta-8-thc) (last visited February 13, 2023).

⁶ DRUG ENFORCEMENT ADMIN., GET SMART ABOUT DRUGS, [available at http://www.getsmartaboutdrugs.gov](http://www.getsmartaboutdrugs.gov) (last visited February 13, 2023).

Whereas, 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 public health by any rational means.”⁷

Therefore, in furtherance of its mission to protect, promote, and preserve the health and well-being of its residents, and pursuant to the authority granted to the South Hadley Board of Health pursuant to G. L. c. 111, §31, the Board of Health enacts this Regulation Prohibiting the Manufacturing, Sale, and Distribution of Synthetically Derived Cannabinoids and Kratom.

B. Definitions:

For the purposes of this regulation, the following words shall have the following meanings:

Board of Health: The South Hadley Board of Health and its designated board of health agent(s).

Board of Health Agent: The Director of Public Health and any town employee designated by the board of health, which may include but not limited to, South Hadley Health Department staff, law enforcement officers, and code enforcement officers.

Business Agent: An individual who has been designated by the owner or operator of any adult-use marijuana establishment to be the manager or otherwise in charge of said establishment.

Kratom: A tree-like plant indigenous to Southeast Asia.

Synthetically Derived Cannabinoid: Any cannabinoid that is altered by a chemical reaction that changes the molecular structure of any natural cannabinoid derived from the plant Cannabis to another cannabinoid found naturally in the plant Cannabis. Synthetically Derived Cannabinoids include but are not limited to delta-8 and delta-10.

Person: Any individual, firm, partnership, association, corporation, company, or organization of any kind, including, but not limited to an owner, operator, manager, proprietor, or person in charge of any establishment, business, cultivation property, or retail store.

C. Synthetically Derived Cannabinoids and Kratom Products:

1. No person shall manufacture, distribute, or sell Synthetically Derived Cannabinoids including, but not limited to delta-8 and delta-10 products or Kratom products in the Town of South Hadley.

D. Enforcement and Penalties:

1. Any person or entity charged with violating this regulation shall receive a notice of violation from the South Hadley Board of Health or its designated agent(s).
2. It shall be the responsibility of the establishment owner and/or his or her manager or business agent to ensure compliance with this regulation. In the case of a violation, the violator shall receive:
 - i. In the case of a first violation, a fine of one thousand dollars (\$1000.00);

⁷ Druzik v. Bd. of Health of Haverhill, 324 Mass. 129, 139 (1949) (citing Lawrence v. Bd. of Registration in Med., 239 Mass. 424, 428 (1921)).

- ii. In the case of a second violation within 36 months of a previous violation, a fine of two thousand dollars (\$2000.00), and a suspension of any permit issued by the Board, including but not limited to a permit to sell tobacco products, for seven (7) consecutive business days; or not limited;
 - iii. In the case of three or more violations within a 36-month period, a fine of five thousand dollars (\$5000.00), and a suspension of any permit issued by the Board, including but not limited to a permit to sell tobacco products, for thirty (30) consecutive business days.
3. Every day that a violation exists shall be deemed to be a separate offense. Separate but simultaneous violations shall be treated as separate violations. Multiple permit suspensions may not be served concurrently.
4. Any person who receives notice of a violation of this regulation may request a hearing before the Board. The request must be made in writing and filed within seven (7) days of the date the violation was received.
5. The authority to inspect establishments for compliance and to enforce this regulation shall be held by the South Hadley Board of Health and its designee(s) and the South Hadley Police Department.
6. Any person may register a complaint pursuant to this regulation to initiate an investigation and enforcement with the South Hadley Board of Health and its designee(s).
7. Upon accrual of four (4) violations of this regulation within a thirty-six (36) month period, or upon the commission of two (2) or more egregious violations of this regulation within thirty-six (36) months as determined by the Board, the Board may issue a notice of intent to revoke and shall hold a hearing in accordance with this regulations and, after such hearing, may permanently revoke any permits held by the violator, including any permits to sell tobacco products in South Hadley.
8. Before suspending or revoking any permit issued by the Board, including a permit to sell tobacco products, the Board shall provide notice of the intent to suspend or revoke such permit, which notice shall contain the reasons therefor and shall establish a time and date for a hearing, to be held no earlier than seven (7) days from the date of the notice. The permit holder or their designee shall have the opportunity to be heard and shall be notified of the Board's decision and the reasons therefore in writing. If after hearing, the Board finds that a violation of this regulation occurred, the Board shall suspend or revoke the subject permit. For purposes of such suspensions or revocations, the Board shall make the determination notwithstanding any separate criminal or non-criminal proceedings concerning the same offense. Upon suspension or revocation of a permit, all permitted products must be removed from the retail establishment. Failure to remove such products shall constitute a separate violation of this regulation.
9. Failure to comply with the terms of a permit suspension imposed pursuant to this regulation may subject the permit holder to an additional suspension of all Board-issued permits for thirty (30) consecutive business days.

E. Severability:

If any provision of this regulation is declared invalid or unenforceable, all other provisions shall not be affected thereby but shall be in full force and effect.

F. Effective Date:

This regulation shall take effect on _____.

Dated: _____

DRAFT

Town of South Hadley, MA
Friday, April 5, 2024

Chapter 175. Marijuana

[HISTORY: Adopted by the Town Meeting of the Town of South Hadley as indicated in article histories. Amendments noted where applicable.]

Article I. Licensed and Other Related Establishments

[Adopted 1-10-2018 STM by Art. 6^[1]]

[1] *Editor's Note: This article required submission of the question to the Town at a Town Election. The question passed at the April 2018 Annual Town Election.*

§ 175-1. Establishment of ban.

The Town, consistent with MGL c. 94G, § 3(a)(2), bans all types of marijuana establishments as defined in MGL c. 94G, § 1(j), including commercial cultivation, retail sales, testing, manufacturing, packaging, distribution or any other type of licensed cannabis/marijuana related businesses.

REGULATION OF THE BELCHERTOWN BOARD OF HEALTH
PROHIBITING THE MANUFACTURING, SALE, AND DISTRIBUTION OF
SYNTHETICALLY DERIVED CANNABINOIDS AND KRATOM

A. Statement of Purpose and Authority:

Whereas, hemp is defined as “the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.”¹

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Whereas, delta-8, delta-10, and other forms of THC are isomers of delta-9 and, except for trace amounts, are not found naturally in the plant cannabis, but are instead synthetically produced in laboratories.³

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Whereas, delta-8 and similar synthetically derived products are psychoactive.⁵

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⁵ See U.S. FOOD & DRUG ADMIN., 5 THINGS TO KNOW ABOUT DELTA-8 TETRAHYDROCANNABINOL – DELTA-8 THC, [available at https://www.fda.gov/consumers/consumer-updates/5-things-know-about-delta-8-tetrahydrocannabinol-delta-8-thc](https://www.fda.gov/consumers/consumer-updates/5-things-know-about-delta-8-tetrahydrocannabinol-delta-8-thc) (last visited February 13, 2023).

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Whereas, 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 public health by any rational means.”⁷

Therefore, in furtherance of its mission to protect, promote, and preserve the health and well-being of its residents, and pursuant to the authority granted to the Belchertown Board of Health pursuant to G. L. c. 111, §31, the Board of Health enacts this Regulation Prohibiting the Manufacturing, Sale, and Distribution of Synthetically Derived Cannabinoids and Kratom.

B. Definitions:

For the purposes of this regulation, the following words shall have the following meanings:

Board of Health: The Belchertown Board of Health and its designated board of health agents.

Board of Health Agent: The Director of Public Health and any town employee designated by the board of health, which may include board of health and health department staff, law enforcement officers, and code enforcement officers.

Business Agent: An individual who has been designated by the owner or operator of any adult-use marijuana establishment to be the manager or otherwise in charge of said establishment.

Kratom: A tree-like plant indigenous to Southeast Asia.

Synthetically Derived Cannabinoid: Any cannabinoid that is altered by a chemical reaction that changes the molecular structure of any natural cannabinoid derived from the plant Cannabis to another cannabinoid found naturally in the plant Cannabis. Synthetically Derived Cannabinoids include but are not limited to delta-8 and delta-10.

Person: Any individual, firm, partnership, association, corporation, company, or organization of any kind, including, but not limited to an owner, operator, manager, proprietor, or person in charge of any establishment, business, cultivation property, or retail store.

C. Synthetically Derived Cannabinoids and Kratom Products:

1. No person shall manufacture, distribute, or sell Synthetically Derived Cannabinoids including, but not limited to delta-8 and delta-10 products or Kratom products in the Town of Belchertown.

D. Enforcement and Penalties:

1. Any person or entity charged with violating this regulation shall receive a notice of violation from the Belchertown Board of Health or its designated agent.
2. It shall be the responsibility of the establishment owner and/or his or her manager or business agent to ensure compliance with this regulation. In the case of a violation, the violator shall receive:
 - i. In the case of a first violation, a fine of one thousand dollars (\$1000.00);

⁷ Druzik v. Bd. of Health of Haverhill, 324 Mass. 129, 139 (1949) (citing Lawrence v. Bd. of Registration in Med., 239 Mass. 424, 428 (1921)).

- ii. In the case of a second violation within 36 months of a previous violation, a fine of two thousand dollars (\$2000.00), and a suspension of any permit issued by the Board, including but not limited to a permit to sell tobacco products, for seven (7) consecutive business days; or not limited;
 - iii. In the case of three or more violations within a 36-month period, a fine of five thousand dollars (\$5000.00), and a suspension of any permit issued by the Board, including but not limited to a permit to sell tobacco products, for thirty (30) consecutive business days.
3. Every day that a violation exists shall be deemed to be a separate offense. Separate but simultaneous violations shall be treated as separate violations. Multiple permit suspensions may not be served concurrently.
4. Any person who receives notice of a violation of this regulation may request a hearing before the Board. The request must be made in writing and filed within seven (7) days of the date the violation was received.
5. The authority to inspect establishments for compliance and to enforce this regulation shall be held by the Belchertown Board of Health and its designees and the Belchertown Police Department.
6. Any person may register a complaint pursuant to this regulation to initiate an investigation and enforcement with the Belchertown Board of Health and its designees.
7. Upon accrual of four (4) violations of this regulation within a thirty-six (36) month period, or upon the commission of two (2) or more egregious violations of this regulation within thirty-six (36) months as determined by the Board, the Board may issue a notice of intent to revoke and shall hold a hearing in accordance with this regulations and, after such hearing, may permanently revoke any permits held by the violator, including any permits to sell tobacco products in Belchertown.
8. Before suspending or revoking any permit issued by the Board, including a permit to sell tobacco products, the Board shall provide notice of the intent to suspend or revoke such permit, which notice shall contain the reasons therefor and shall establish a time and date for a hearing, to be held no earlier than seven (7) days from the date of the notice. The permit holder or their designee shall have the opportunity to be heard and shall be notified of the Board's decision and the reasons therefore in writing. If after hearing, the Board finds that a violation of this regulation occurred, the Board shall suspend or revoke the subject permit. For purposes of such suspensions or revocations, the Board shall make the determination notwithstanding any separate criminal or non-criminal proceedings concerning the same offense. Upon suspension or revocation of a permit, all permitted products must be removed from the retail establishment. Failure to remove such products shall constitute a separate violation of this regulation.
9. Failure to comply with the terms of a permit suspension imposed pursuant to this regulation may subject the permit holder to an additional suspension of all Board-issued permits for thirty (30) consecutive business days.

E. Severability:

If any provision of this regulation is declared invalid or unenforceable, all other provisions shall not be affected thereby but shall be in full force and effect.

F. Effective Date:

This regulation shall take effect on _____.

Dated: _____



Bulletin

BUL-2023-7

G.L. c. 44, § 53 Clause 4: Opioid Settlement Receipts

TO: Local Officials
FROM: Deborah A. Wagner, Director of Accounts
DATE: December 2023

This guidance supersedes BUL-2023-6 and the July 7, 2022 edition of *City and Town, Ask DLS: Treatment of Opioid Settlement Payments*.

On December 4, 2023, Governor Healey signed [Chapter 77 of the Acts of 2023](#), Section 9 of which provides, in part, for the following exception to the general rule that all receipts are to be recorded as general fund revenue per [G.L. c. 44, § 53](#):

"(4) non-recurring, unanticipated sums received by multiple cities, towns or districts and not otherwise provided for by general or special law, may, upon the approval of the director of accounts, be expended at the direction of the chief executive officer without further appropriation only for the singular purpose for which the monies were received" (emphasis added)

The Director of Accounts has determined that cities and towns that have received or will receive funds in Fiscal Year 2024, or thereafter, pursuant to settlement agreements entered into by the Commonwealth with opioid distributors and opioid-makers for prevention, harm reduction, treatment, and recovery, may place said funds into a special revenue fund. The proceeds can then be expended, without further appropriation, at the direction of the chief executive officer only for the purpose identified in said settlement agreements.

Section 197 of the Act further allows a community to consolidate all monies previously received for this purpose into the special revenue fund, mentioned above, in the following ways.

1. If prior year settlement funds have not otherwise been reserved (i.e., dedicated to a stabilization fund) or become part of certified free cash, then those funds may be placed directly into the special revenue fund.
2. If already dedicated to a stabilization fund, said dedication can be revoked at any time by vote of the legislative body. Upon revocation, all statewide opioid settlement receipts previously received may be placed in the special revenue fund.
3. If a community has settlement funds in a stabilization fund but did not dedicate future settlement receipts, the money currently in stabilization can be placed directly into the special revenue fund.

In the case of #2 or #3 above, once funds are moved from the stabilization fund, by virtue of having no remaining balance the stabilization fund can be removed from the balance sheet.

4. Settlement funds that have become part of free cash may be appropriated into the special revenue fund by vote of the community's legislative body.

Once placed in the special revenue fund, monies can be spent without further appropriation for purpose identified in the settlement agreements. Any interest belongs to the general fund.

The transfers of funds, noted in #1-#4 above, represent a limited ability to consolidate previously received opioid settlement monies into the newly allowed special revenue fund. These transfers are permitted only for this express purpose and should not be considered a general change to how monies are otherwise accounted for under the General Laws.

If you have any further questions, please contact your BOA field representative.