

From: <>

To:

Date: 1/2/2025 10:51:17 AM

Subject:

Attachments: Ellen October.docx

Draft Meeting Minutes
Manchester Board of Health
Thursday, October 24, 2024
Town Hall Room #5 and Zoom Platform #1

Members present:

Peter Colarusso, Joan Cottler, Dr. Martin Hahn, Leah Peavey

Members absent:

None

Mr. Colarusso called the meeting to order at 6:35 p.m.

At 6:36 p.m. Dr Hahn made a motion to open the public hearing on the Boards tobacco regulations.

Ms. Cottler seconded the motion. Members by roll call vote were unanimous to approve the motion:

Mr. Colarusso, in favor

Ms. Cottler, in favor

Dr. Hahn, in favor

Ms. Peavey, in favor

Mr. Colarusso provided some background on how the Board got to this point. He explained that the State had notified the Board in the spring that they needed to update their tobacco regulations, which was done earlier in the year. He added that the State has come back suggesting separating out the sections of the regulation. The result is that two of the separated sections are the same and two of the separated sections have changes.

Mr. Colarusso said he would present each section separately for review and comment.

Section 1 – Smoking in Public Places

Section 1 Smoking in Public Places

Mr. Colarusso advises there are no changes to this section. Both Dr. Hahn and Wendy Hansbury note there was a change from sale to use. Specifically, that a definition change was adding comprehensive municipal properties to now include boats and launches. Mr. Colarusso asked if anyone had any questions regarding this section. There were no questions. Dr. Hahn made a motion to approve the workplace regulation with the section A changes. Ms. Peavey seconded the motion. Members, by roll call vote were unanimous to approve the motion:

Mr. Colarusso, in favor

Ms. Cottler, in favor

Dr. Hahn, in favor

Ms. Peavey, in favor

Section 2 Synthetics

Mr. Colarusso advised there were no changes. Mr. Colarusso asked if anyone present had any questions. There were none. Ms. Peavey made a motion to approve the synthetics regulation. Ms. Cottler seconded the motion. Members, by roll call vote were unanimous to approve the motion:

Mr. Colarusso, in favor

Ms. Cottler, in favor

Dr. Hahn, in favor

Ms. Peavey, in favor

Section 3 Marijuana Products

Mr. Colarusso advised there were no changes. Mr. Colarusso asked if anyone present had any questions. There were none. Ms. Peavey made a motion to approve the Marijuana regulation. Dr. Hahn seconded the motion. Members, by roll call vote were unanimous to approve the motion:

Mr. Colarusso, in favor

Ms. Cottler, in favor

Dr. Hahn, in favor

Ms. Peavey, in favor

Section 4 Tobacco Sales

Mr. Colarusso advised that spring amendments restricted sales to age 21 and over. The current proposal is to place a generational restriction, adding one year of age each year. Mr. Colarusso asked if anyone present had any questions or comments. Dr. Hahn said he was concerned, While understanding nicotine addiction starts young and in the 20's for the military, he was not sure that the generational restriction solves the problem. He noted that marijuana still has black market sales and was concerned about black market under the table sales including possibly laced products. He pointed out that raising the age more and more has always had the opposite effect, referencing Germany's drinking age of 16 vs. the United States drinking age of 21. He was no sure that aging out is helpful and not sure it would help with addiction.

Ms. Peavey replied that she saw what Dr. Hahn was saying but pointed out that the proposed regulation is not taking away from those prior able to purchase. She felt that the 2018 sales age going up to 21 has helped to decrease use and she feels the generational restriction will also help decrease use. She referenced an article in the Lancet. Dr. Hahn said the Lancet article references nicotine products only. He said in the perfect world there would be a public health benefit, that absolutely a nicotine free world is great but that the 2004 date will reduce access to people who are 21 years old. He also referenced alternative delivery models.

Ms. Peavey said she was willing to accept the risk as there is no age where she wants kids to start smoking. She referenced addiction, saying that as an oncology nurse she thinks a gradual phase out is good and that 50% are in favor of the ban. Dr. Hahn said that local people can get around the restriction. Ms. Peavey pointed out the North Shore communities where the restriction is being passed or being reviewed. Ms. Cottler said she understands the difficulty with quitting smoking. She felt there was a need for more education for doctors, physicians, and families. She was not sure that the restriction was fair to local salespersons, felt it was difficult for retailers, and was ambivalent it would help. She would prefer an increase in tobacco education, and personal choice.

Dr. Hahn noted that smoking is a huge burden to healthcare, as is marijuana and alcohol.

Ms. Cottler felt that the Board of Health does not know enough and does not have to set the standard.

Mr. Colarusso acknowledged that smoking is not healthy, but he was averse to making health decisions based on financing. He referred to asbestos bans and their effects on businesses. He suggested that implementing the generational regulation would be one year at a time, giving retailers time to adjust. He also commented on high school students with fake i.d.'s drinking in Town. He repeated that he did not want to make decisions based on either finances or enforcement.

Stephen Helfer, Cambridge Citizens for Smokers Rights

Mr. Helfer pointed out that the Board was talking about youth, yet the regulations apply to those 21 years of age and over. He made reference to veterans not being able to purchase tobacco soon. Also that people could potentially be able to buy alcohol, marijuana, and possibly even

psychedelics but not tobacco. He felt the proposed regulation was unfair and unrealistic adding that the purchase age only needed to be set at 21 and over. He added that the 2024 CDC stats show vaping at a ten-year low, teen smoking at the lowest recorded, and that of every three adult smokers two have quit even though it is hard. Also, that alcohol and opioid withdrawal are so difficult compared to tobacco. He believes that most proponents of the generational restrictions are career anti-tobacco people and that most private citizens are opposed to the proposal. He pointed out that most convenience stores that will be affected are owned by immigrants, creating a power disparity. He pointed out that if the restriction was passed, those born on 12/31/2003 would be allowed to purchase tobacco while those born on 01/01/2004 would never be allowed to purchase tobacco. He called the proposal arbitrary and capricious, questioning equal treatment as date of birth is arbitrary. He again noted that vaping and teen smoking is low and that tobacco control has been successful and as such why does the Board have to push and push?

Kate Silbah, Citizen Sponsor of Brookline Regulation, Professor of law and Published Author.

Supports generational restriction as it will be a generational break. Notes tobacco as the leading cause of preventable death, that tobacco is addictive, and that the tobacco industry depends on addiction. Adds that for those who started smoking as teens and up to age 25, two thirds of those wish they had never started. Points out that underage smokers get tobacco thru their social network while those over 25 do not. Also, that Needham cut tobacco use in half and that therefore shows the local effect is significant. That retailers will not lose existing customers who can purchase tobacco today. Believes the method of breaking the knot is the generational restriction. And that there have been 60 years of knowing tobacco causes death. Board of Health adoption is the appropriate process as the court decided in March. She felt the proposal encourages consideration in a moderate way. She noted that since 2021 not one Brookline business has closed. Mr. Colarusso replied that Brookline businesses had a lot more time to adapt, that retailers care but tobacco is largest causes of death. Mr. Colarusso summarized that the financial impact is minimal. Ms. Cottler noted the restriction would phase out.

Attorney Mark Nestor, representing Seabreeze Variety

Attorney Nestor said he was a 25-year smoker and a veteran at age 21. He applauds what the Board wants to do. He noted that the pool of buyers to help is 300-400 people in Manchester. He pointed out that if restricted people want to purchase tobacco, they only need to drive 3.2 miles to Gloucester, 2.1 miles to Beverly Farms, or 4 miles to Essex. He felt that prohibiting here without surrounding communities adopting means kids here can drive to other Towns, picking and choosing which towns. Only effecting 300-400 and not effecting surrounding towns. Noted that vets can fight but not purchase tobacco. He questioned the effective date, saying if January 2025 that is only two months away and not enough time. Also, that Brookline passed the regulation ahead of its effective date of August of 2021 and enforced date of September of 2021. He asked if the effective date would be without enforcement or sanctions, saying that was too selective. He asked the Board to please push back the effective date.

Kevin Johnson, Richdale's

Mr. Johnson said that he bought Richdale's in 1998. In 1998 he said he sold 200 cartons a week. In 2024 he said he sold 30-35 cartons a week. He felt that raising the purchase age to 21 has helped. He shared that he used to smoke, was in military, and that he quit as did others. He sees people

who have smoked and stopped. He said a ban on citizens who might go to war and die is wrong and it is not a good approach to ban adult purchase.

Brenda Johnson, Richdales

Ms. Johnson said the retailers are the first line of defense, they check i.d.'s, they are trying, it is not about the money or revenue, but the retailers need a chance to react to regulation changes.

Cathy Bilotta, 21 Pine Street Unit #9

Ms. Bilotta noted she was speaking as a private citizen not as a Board of Selectmen member. She expressed discomfort with the sheer number of nonresidents speaking at the meeting. Adding that there are still nonresidents waiting to speak. She asked the Board to please wait for Manchester residents to give comments as she is concerned not hearing from residents. She personally feels there is merit at State or National level. She repeated her request that the Board please hear from residents.

Anthony Ishak, Co petitioner on Brookline Article

In 2019 a flavored ban was imposed. He pointed out that Brookline decided to be proactive. He is the son of an immigrant smoker. And noted that addicts say that tobacco is the hardest to quit. He suggests the smoother approach to help the non-addicted. He is worried about the reference to veterans and smoking as he has VA experience. Notes that Manchester has diminished number of 300 affected where Brookline had thousands. Informs the Board that no Brookline business has closed after the four-year time period.

Jeanne MacDonald, Mass General Physician and mother of three

Ms. MacDonald said she has a family member who died of smoking and COPD. That that person spent decades trying to stop smoking. Felt that those currently addictive cannot stop. Said the Board had an opportunity for their Town, like planting a protective tree. She added that there is peer pressure to vape which is then hard to turn back from.

Emily Wieja from Cambridge, Professional Tobacco Control Activist

Professional tobacco control activist who worked in a coordinated effort. Notes confusing policy and prohibition of adults to make choices. Feels it is o.k. to dictate adult choices. Feels asbestos comparison is a non sequitur.

Dr. Tamu Green

Substance abuse specialist (not paid by anyone) and Robert Woods Johnson fellow in early 2000's. Notes tobacco is the number one killer. Says that C. Everitt Coop said if tobacco were a new

product the FDA would not put it on the market. But addicts would riot in the streets if already addicted to tobacco. Thinks creativity is needed to break the generational curse. As a mom of sons, she asks how can she protect them. She encouraged the board to show that they value the population while allowing retailers to phase in the sale of other products.

Ms. Cottler asked if any of the speakers waiting to speak were from Manchester. It was noted that those who want to speak are not from our Town.

Chris Bostic, Action on Smoking and Health

New product that is addictive and kills when used as directed would not be allowed

References those responsible for peanut butter and salmonella case that resulted in nine deaths are in jail. Responding to comments that a generational restriction is radical says that radical is that tobacco sales continue. Suggests a moderate approach. Notes that in 964 Surgeon General approach was to place the notice out on a Saturday. Feels the power is at the local level to percolate up, giving the example of tobacco smoke restrictions where the regulations were passed town to town and then up to the State level. Shares that England, E.U., all of Australia and 2 Canadian provinces already have restrictions.

Board members discussed the merits of having an additional public hearing. They were not sure that presenting the information again would increase participation. Ms. Cottler felt that while the updating of the regulation is important that she is not sure that now is the time to do so. Both Dr. Hahn and Ms. Peavey shared that other communities are enacting the generational restriction. Dr. Hahn felt that there were drawbacks to prohibitionist actions and advised to taking it slowly. Mr. Colarusso said that he also had relatives who had died from smoking and if the restriction prevented one kid from smoking that was enough. He did agree to a longer adjustment time, suggesting a date of birth of 01/01/2006.

Attorney Mark Nestor

Understands the age to purchase going from 18 up to 21 years of age. But pointed out to the members that they are talking about adding age 21 forward (as they age) effectively telling adults what they can do. He said that the effective date can be moved while agreeing that some birthdate is important.

Mr. Colarusso felt that an effective date change could result in people being able to purchase and later banned from purchasing.

Kevin Johnson of Richdale's expressed concern that the Board had not heard from enough Manchester residents regarding the regulations.

Mr. Colarusso for the record acknowledged correspondence from the following persons:

- 1.) Peter Brennan, Executive Director of the New England Convenience Store Association
- 2.) Emily Wieja, Cambridge resident
- 3.) Mark Gottlieb, Executive Director of Public Health Advocacy Institute at Northeastern

Ms. Cottler expressed interest that Town residents were not speaking. She questioned the regulation notices asking the Board what they had done to know that they had successfully notified residents. Mr. Colarusso replied that a minimum number of affected persons does not matter, that it was an option to give a start date that would allow establishments time, and that the only affected persons are teenagers who do not come to meetings. Ms. Hansbury said there were two residents and Selectperson Bilotta on the hearing. She made the following suggestions:

- Separate out the sales and generational portion of the regulations
- Not adopt the entire regulation and come back to discuss sales draft
- Approve the regulation without one piece

Dr. Hahn said that the regulation affects few people resulting in low participation.

Ms. Peavey said the Board had used the proper channels and that she herself had brought the proposal to the Board. She said she volunteered for the Board because she wanted to have meaningful impact on the community. She noted that a tobacco related family death combined with her medical work experience has her feeling strongly to enact the regulation.

Mr. Johnson said his establishment had done significant work on tobacco access with positive results. He did not feel that a generational ban would help and was concerned about the black market of tobacco sales.

Mr. Colarusso felt the options were to keep tobacco sales at age 21, adopt the generational rules or continue the public hearing to a future date. He added that he believed that the public hearing advertising was adequate.

Attorney Mark Nestor pointed out that Brookline adopted in 2000 and suggested the Board could choose any date that they wanted.

Mr. Colarusso suggested a delay of one year. Dr. Hahn said that would help. Mr. Colarusso suggested adopting the generational policy with amended dates. Ms. Hansbury said if there were a one year wait, she would recommend using that year to go out to children and residents. Dr. Hahn suggesting keeping the delayed implementation to January of 2026, with February of 2026 enforcement. There was discussion on the January 1, 2004 birthdate for the generational ban and on the implementation date.

Ms. Peavey expressed concern about special interest groups. Ms. Hansbury asked the Board to please think about an adjustment time for the Board of Health staff. Mr. Colarusso, noting that State compliance checks are random asked staff to be sure to notify the tobacco control program of any changes.

Dr. Hahn said he is still conflicted but more willing to pass the restriction.

Dr. Hahn made a motion to pass the regulation with NFG section E with a January 1, 2004 date of birth and implementation on April 1, 2025. Ms. Peavey seconded the motion. Members, by roll call vote approved the motion:

Ms. Cottler, opposed

Mr. Colarusso, in favor

Dr. Hahn, in favor

Ms. Peavey, in favor

Mr. Colarusso made a motion to close the public hearing. Ms. Cottler seconded the motion. Members, by roll call vote were unanimous to close the public hearing:

Ms. Cottler, in favor

Mr. Colarusso, in favor

Dr. Hahn, in favor

Ms. Peavey, in favor

At 8:15 p.m. Mr. Colarusso made a motion to adjourn the meeting. Dr. Hahn seconded the motion. Members, by roll call vote were unanimous to close the public hearing:

Ms. Cottler, in favor

Mr. Colarusso, in favor

Dr. Hahn, in favor

Ms. Peavey, in favor

As submitted,

Ellen Lufkin

Administrative Assistant

