

The Fayette County Board of Health met on Tuesday, November 12, 2002, in the Public Meeting Room in the Fayette County Administrative Complex, 140 Stonewall Avenue, Fayetteville, Georgia.

**Board of Health Members Present:**

Tom Bowman  
Dr. John DeCotis  
Lynette Peterson  
Lyn Redwood  
Dr. Michael Strain, Chair  
A. G. VanLandingham

**Staff Members Present:**

Laurie Cook  
Merle Crowe  
Rick Fehr  
Robert Kurbes  
Cynthia Grant  
Robert Morgan  
Dennis Davenport, Attorney

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**CALL TO ORDER:**

Dr. Strain called the meeting to order at 7:35 a.m.

**APPROVAL OF MINUTES FROM SEPTEMBER 10, 2002:**

Motion made by Ms. Peterson to approve the minutes with the heading date corrected to read September 10 and one name change, seconded by Mr. Bowman. The minutes were unanimously approved.

**OLD / UNFINISHED BUSINESS:**

Ms. Redwood asked if an issue from a previous meeting involving a septic system encroaching on neighboring property had been resolved.

Mr. Fehr replied that it had and that the original field line had been re-utilized.

**NEW BUSINESS / PUBLIC COMMENT:**

**JARRETT PRICE:** Mr. Price was not present. Mr. Fehr explained that Mr. Price's situation had been proposed for state review and that it was possible he would appear later.

Mr. Davenport presented the board with legal ramifications, facts and circumstances regarding this case. He described the property, referring to the diagram given the board, and said he had discussed the situation with Robert Kurbes. He said the drain field had been permitted in 1990 when the construction was new and open to inspection. He said all

was in order then. He mentioned that in 1999 the homeowner decided to put in a swimming pool and called the health department to see how to proceed. He said the homeowner wanted to know if another drain field was necessary. He said that Mr. Kurbes had given the homeowner instruction on how to modify the existing system to allow for the pool in 1999. He said a septic company was contacted and it was supposed to follow the drawing given by Mr. Kurbes. He said the work was done and the health department was then contacted to do the inspection. He said when the work was inspected it looked fine and was approved. He said three years later the system failed. He said it was found by probing that the problem was in an area close to the tank, which was saturated while the rest of the drain field was dry. He said excavation was done to determine where the blockage occurred, and it was found that when the rerouting modification was done in 1999 the system had been cut off a few feet from the tank, leaving the effluent no place to go, forcing it to pool in the saturated area. He said looking at the system with knowledge that it had failed made the error obvious, but that in 1999 the situation was different. He asked the board to put itself in the place of the inspector in 1999: who went out to inspect the work and found it to be correctly executed. He said the inspector found exactly what he was looking for: two trenches both over septic lines; elbows in the correct places. He could not see that the elbows were hooked to the wrong line(s), which made a big difference. He said from a liability standpoint the question came down to this: Is it reasonable for the county to know in 1999 that the work was done on incorrect lines, since it was not uncovered in 1999 as it was when the system was originally installed. He said the two trenches to show the elbow connections were all that was open. He said that was all the inspector saw; that was all he was looking for, and that was what he found. He said the septic company preformed a bad installation, and the resulting question became was that county responsibility.

Mr. Davenport said that Mr. Price might come back on this issue and that he did not know what the true answer should be regarding liability. He said he was ready to answer any questions.

Ms. Peterson asked why Mr. Price did not go to the septic company first.

Mr. Davenport said Mr. Price was not the homeowner who had the work done. He felt that Mr. Price probably did not know who did the modification. He said Mr. Price did know the previous homeowner.

Mr. DeCotis wanted to know if the inspection was to see if the job that was supposed to be done was actually done, or if it was to see if the job met specifications.

Mr. Davenport said that was the meat of the question. He said a new installation was inspected to see if it met specifications but provided no guarantee that the system would work. He said a new system was open to view where a modification was not; that all that could be inspected was what was open to full view. He mentioned that this was a brief inspection, not one that would take a day or two. He said a normal inspection would be a check to see if specifications were followed, all was in order and consistent with the proposed modification. He felt that requiring more than this would be for the board to decide.

Mr. VanLandingham said he had a concern about the tank location. He said the company would have pumped out the tank to be able to make the modification, and that they would have probed to find the field line. He said he felt that staff had done what they were supposed to do. He said staff's job was to inspect the work to see if it met specifications, not to locate the lines and make sure that the septic company had the right one, nor should they be required to do so. He said his greater concern regarded the insurance company already having a claim on this modification without any notification to the board. He requested that the board be notified prior to any insurance claim being filed, saying that if there was not a procedure in place there should be. He felt that a declaration about an insurance company payment should not be made without bringing such an issue before the board, as Mr. Kurbes had done in this case. He felt that Mr. Price would have one more step to pursue payment should he have knowledge of state insurance.

Mr. Davenport asked Mr. Kurbes if the tank was pumped in 1999; Mr. Kurbes did not know.

Ms. Redwood said her impression was that the homeowner's insurance was the one in question, not state insurance.

Mr. Morgan asked to clarify procedure in cases such as this one. He said that the insurance company is actually the state liability insurance that is provided to employees and to individual board members, but not to the board of health as a whole. He said it is normal procedure, when there is an incident—not necessarily a claim—that the district send notification to the state liability division. He said sometimes a risk manager is immediately assigned, sometimes they wait to see if legal action is taken. He said district had followed procedure in notifying the state within the required ten-day period once an incident becomes known. He said he felt that the state would probably assign a risk manager in this case, because Mr. Price had filed a claim. He said if they did, the risk manager will review the case, inspect the site, and settle the claim if it was felt the claim was justified. He said if it was felt that the claim is unjustified then they will defend staff. He said this has been procedure for at least thirty years.

Mr. VanLandingham said he thought it was a claim.

Mr. Morgan replied that it was just an incident at this point and did not mean that a claim would be paid.

Dr. DeCotis asked if this case was reported so that the insurance company was made aware of it, in case of future litigation.

Mr. Morgan replied yes, that was the case.

Dr. DeCotis asked if it was necessary for the board to take a stand on this issue.

Mr. Davenport said he was present to arm the board with as much information as possible, since he felt that Mr. Price would be appearing before the board at some point in the future.

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He said he wanted the board to be prepared and able to make the best decision for the county.

Mr. Bowman asked if this claim was paid if it would set a precedent.

Mr. Davenport replied that it would.

Mr. Bowman wanted to know if the board had any policymaking ability to intervene in the insurance company's decision.

Mr. Davenport said in his experience there was good interface of information between counties and insurance risk agencies representing counties and cities, and therefore he presumed that would be the case here. He said the prudent course for the risk management company to take would be to ascertain the board's position prior to making a decision. He said they would want to get the best information available. He said it sounded like an individual errors and omissions issue rather than a liability claim to the board, from the information given by Mr. Morgan. He said they would look to see if the inspector made a mistake; if an error was made by staff it would raise the bar. He asked if the modification was inspected to see if specifications were followed, or was the effectiveness of the modification guaranteed? He said if a claim was paid in this case, the latter was the case.

Mr. Morgan agreed and said in his experience, if a risk manager was assigned s/he would contact him; he would then confer with Mr. Davenport and Mr. Fehr. He said the risk issue would be discussed between all entities and a recommendation would then be made to the insurance company. He clarified that the insurance covered the staff member who did the inspection or any individual board member who might be sued, not the board as a whole.

Ms. Cook shared district policy regarding inspections. She said it is expected that employees see the big picture during an inspection, even though that may be difficult. She said overall functioning of the system is a part of the inspection, not just checking for the correct pipe or gravel. She said staff is expected to consider the effect of the modification on the overall system.

Dr. Strain called for any other discussion on the current item; there was none.

**PROTOCOL UPDATE:**

Ms. Grant brought the new Biological Protocol Manual to the board's attention. She said there had been much discussion regarding biological and chemical agents and how the health department would deal with such agents. She mentioned that public health nurses operate under protocol; meaning they would not be able to give medication or treat patients unless it falls within protocol. She said the new manual was well done and inclusive of a lot of different agents. She said it included charts which could be blast faxed to local physicians to give them information on treatment. She said that last Friday's County Nurse Manager meeting had included a discussion on the Smallpox Clinic Guide put out by the Centers for Disease Control (CDC). She said it was an exhaustive document on how to set up a mass clinic in the event of a smallpox release or case. She said the proposed mass

clinic looked good on paper but would not work in the real world: it would be impossible to give that many vaccines in a short period of time with existing staff. She mentioned that current staff had never given smallpox vaccine and were not trained to do so; people who had given smallpox vaccine had by now most likely retired. She said current staff with twenty years or more experience did not remember giving this vaccine, therefore training is in order. She said Dr. Brackett was on a committee currently addressing this issue. She said the manual was a good guideline but one problem is that the process would require a large building to accommodate it. She mentioned that some people would not be able to get the vaccine for health reasons and that dealing with them would be another problem.

She mentioned that last week there had been a shelter management meeting to check local schools to see which would be appropriate shelters. She said school system staff, the Red Cross, EMA and the health department participated. She said that discussion with the Red Cross regarding mass smallpox vaccinations led to finding out that the Red Cross believed that already ill or contagious persons would have been screened out and sent to the hospital. She said therefore they felt that volunteers would not be exposed and there would be no need for setting up quarantine shelters. She said this would not be the case, due to people not knowing they had been exposed; fear and panic; as well as not wanting to be separated from their families. She said that a lot of work had been done already and much remained to be done. She thought that the Bioterrorism Task Force would probably be meeting again shortly.

**STAFF REPORTS:**

Ms. Grant mentioned that Paula Evans, the dietitian who had been based out of Fayette County Health Department, was to be transferred to Coweta County effective November 1, 2002. She mentioned that Fayette County Health Department had been carrying Ms. Evans on payroll and billing Carroll and Coweta counties for time she spent in their clinics. She said that Ms. Evans would continue to see patients in Fayette County Health Department two days a week but would be carried on Coweta's payroll in the future.

She updated the board on flu shots given and health fairs the department had participated in. She said there were less than one thousand doses of flu vaccine left of five thousand received. She said that thirteen outside flu clinics had already been done, with seven more to go. She said kindergarten immunization audits had also been done in the midst of flu shots and outside clinics. She said that school clinic staff had done a superb job of coordinating immunization records, especially since there was such high traffic flow in the clinics during the day. She said that many of the schools had 100% compliance, and others had at least 90%. She said they had done a spectacular job.

**BLAST FAX:**

Mr. Bowman asked for an update on blast fax capability of the health department.

Ms. Grant replied that the software had been purchased and district four staff was working on getting it installed.

Ms. Crowe responded that a modem was necessary to use the software and it was on order.

Ms. Grant informed the board that blast faxing would expedite sending information to local physicians since it would eliminate the need to hand-feed the fax machine, which is very time-consuming.

**MR. FEHR:**

Mr. Fehr said that with the assistance of a committee and District Four a brochure had been developed for the public on the different sewage systems that were now being approved. He mentioned that the brochure would go a long way to address the concern of public education the board previously expressed. He said he would have copies to share with the board at the next meeting.

He announced that a new employee had been hired, Peggy Monkus, to replace Candace Clay. He gave her starting date as November 18, 2002.

He mentioned that *Safe Kids of Fayette* would be celebrating its tenth anniversary in December. He thanked the board for its support during that time. He said he felt that Safe Kids had been a benefit to the community during its tenure.

Dr. DeCotis asked for an update on West Nile Virus.

Mr. Fehr replied that the weather change has slowed down calls. He said Environmental Health had been given the option to determine what birds they would collect depending on the pattern of reports received; if there is concentration in a certain area he said investigation would be in order. He mentioned that a vaccine was in process but not currently available, although he had been told that there was already a vaccine for horses.

Dr. DeCotis mentioned that the schools had dealt with a minor panic when the individual in Fayette Community Hospital died.

Ms. Grant mentioned that she had contacted school nurse supervisor Debbie King when the patient died and let her know that people might panic. She said she had sent along information Ms. King could pass out to parents.

**ADJOURNMENT:** Motion was made to adjourn by Dr. DeCotis, seconded by Mr. Bowman. The meeting adjourned at 8:15 a.m.

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Michael Strain, MD

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Merle Crowe, Admin. Ops. Coord. II

