

**NEW YORK STATE DEPARTMENT OF HEALTH**  
**PUBLIC HEALTH AND HEALTH PLANNING COUNCIL**  
**COMMITTEE ON CODES, REGULATIONS AND LEGISLATION**  
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**TRANSCRIPT**

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**Mr. Holt** Good morning. I'm Tom Holt and I'm the Chair of the Committee on Codes, Regulations and Legislation. I have the privilege to call to order the Codes committee meeting and welcome members, participants and observers. I'd like to remind the council members and staff and the audience that this meeting is subject to the Open Meeting Law and is broadcast over the internet. The webcasts are accessed at the Department of Health's website. The on demand webcast will be available no later than seven days after the meeting for a minimum of thirty days, and a copy will be retained by the department for four months. There are some suggestions or ground rules to follow to help make this meeting successful. Because there is synchronized captioning, it's important that people do not talk over each other. Captioning cannot be done correctly with two people speaking at the same time. The first time you speak please state your name and briefly identify yourself as a council member or DOH staff. This will be of assistance to the broadcasting company in their recording of this meeting. Please note that the microphones are hot mics, meaning that they pick up every sound. I therefore ask that you avoid rustling papers next to the microphone and also be sensitive about personal conversations or sidebars as the microphones will pick up that chatter. As a reminder for our attendance, there is a form that needs to be filled out before you enter the meeting room, which records your attendance at these meetings. It's required by the Joint Commission on Public Ethics in accordance with Executive Law, Section 166. The form is also posted on the Department of Health's website under the Certificate of Need. In the future, you can fill out this form prior to the council meetings. We thank you for your cooperation in fulfilling our duties as prescribed by the law.

**Mr. Holt** I call to order the Committee on Codes, Regulations and legislation.

**Mr. Holt** We do have a number of folks that have signed up to speak this morning. I'm going to go over some ground rules here in just a minute. We have folks both in Albany and here in the city. We're going to be going to the Albany location first. I would ask folks, because some of the individuals have signed up to speak on each of the regulations that are before us today. If your comments are specific to those particular regulations, that's fine. You can speak to that specific regulation. If your comments are just in general, we would ask that you just speak once at the beginning of the first regulation that's being presented this morning. We would ask that you limit your comments to three minutes or less and presenters are limited to one per organization. We ask that you'd be prepared to deliver your comments promptly after your name is called. I'll call people out ahead of time, so you know which order that we're going to be going in and then move close to the microphone to deliver your remarks and just sort of preemptively. Hopefully our sound is working well. Just remind the folks, particularly in Albany, to speak directly into the microphones sometimes that has been a bit of a challenge for us. Regarding the three minute time limit, I would like to note that although it is not legally required, this committee historically allows public comments during the meeting as a courtesy to encourage full

participation and gather important input on proposed regulations in an engaging manner. Adherence to the three minute time limit is necessary to ensure that the public comment option continues to remain available. If the time limit is not observed, the Chair has the authority to end or cancel the public comment portion of the meeting. In advance, I appreciate your cooperation. I will be in charge of the timer and will let you know when there's one minute remaining. There are three regulation proposals on the agenda for today. The first being for emergency adoption, the investigation of communicable disease.

**Mr. Holt** Can I have a motion for the recommendation of adoption of this emergency regulation to the full Public Health Planning Council.

**Mr. Holt** Dr. Gutierrez.

**Mr. Holt** Dr. Watkins.

**Mr. Holt** It's myself, Dr. Gutierrez, Dr. Yang, Dr. Watkins and Mr. Kraut are the members of the committee that are here today.

**Mr. Holt** We have a motion and a second.

**Mr. Holt** Mr. Jason Riegert and Dr. Emily Lutterloh of the Department are available and will provide us with information on this proposal.

**Mr. Riegert** Good morning. My name is Jason Riegert. I'm an attorney for the Department of Health. I'm here today to ask the council members to vote on the adoption of an emergency regulation concerning the investigation of communicable diseases. To briefly summarize, this emergency regulation amends 2.6 of the State Sanitary Code related to communicable diseases to update and clarify existing local health department authority for investigating communicable disease cases. Specifically, updates to Section 2.6 include setting forth specific actions that local health departments must take to investigate a case, suspected case, outbreak or unusual disease. Clarifying the authority for the Commissioner of Health to lead disease investigation activities in certain circumstances, such as where multiple jurisdictions are affected and it codifies the requirement that local health departments send reports to the Department of Health during a disease outbreak. In addition, the emergency regulation also amends Section four or 5.3 of Title 10 to require hospitals to report syndromic and disease surveillance data during an outbreak of a highly contagious communicable disease, and to allow the Commissioner of Health to direct hospitals to accept patients during such an outbreak. Finally, the emergency regulation adds Section 58-1.4 to Title 10 to clarify clinical laboratory reporting requirements for certain communicable diseases. No changes have been made to the emergency regulations since it was brought before the Council on July 28th. We're asking the Council today to approve this emergency regulation as it will enable the Department of Health and local health departments to continue effectively monitoring the spread of COVID-19, MPV, monkey pox, polio and other highly contagious communicable diseases throughout New York State.

**Mr. Riegert** Thank you.

**Mr. Holt** Thank you.

**Mr. Holt** Questions from the members of the committee or the counsel for the department?

**Dr. Watkins** Mr. Chair, I have a question, if I may.

**Mr. Holt** Dr. Watkins.

**Dr. Watkins** Sure.

**Dr. Watkins** I know you brought this regulation before us in July. In July I made comments regarding, I believe, Page 3 of this document where it says they want local health departments to examine the process, the structures, conditions and machines, apparatuses, devices, equipments, records and materials within such places that may be relevant to the investigation of disease condition. And at that time, I did comment that I felt that local health departments are not equipped, they're not trained or have the staffing to conduct such investigations. Because local health departments do not permit most of these facilities, legal concerns about local health departments and these facilities is a foremost concern. Again, I ask the department if there is a way to add to the regulations, if they could at least include that the State Department of Health will make sure that such training is made available to local health departments, or that such investigations will be conducted by the State Department of Health with the assistance of the local health departments.

**Dr. Watkins** Thank you.

**Mr. Holt** Thank you, Dr. Watkins.

**Mr. Holt** Does the department have a response?

**Mr. Riegert** No. We'll certainly look at that. Appreciate that.

**Mr. Holt** Mr. Kraut.

**Mr. Kraut** What does that mean? I mean, it's a valid issue that Dr. Watkins just brought up. If we vote to approve this, are we able to approve it with this requirement? I'm asking council. Well, if we add something to the reg right now. Because it was a valid issue he brought up in the Summer. We asked you to address it. You bring it back to us not addressed. Now, I'm asking, can we take an action?

**Mr. Kraut** We want to amend the reg based on what Dr. Watkins had said.

**Ms. Ngwashi** You can make a motion to do that.

**Mr. Kraut** I'm sorry. We can't hear you. I think it's the mask.

**Ms. Ngwashi** Good morning. This is Marthe Ngwashi. I'm an attorney from the Department of Health. You can make a motion to amend the regulation.

**Dr. Watkins** Do we make a motion here in the committee or do we do it during the actual meeting?

**Mr. Holt** That will occur here in the committee.

**Mr. Holt** Do we need to withdraw the original motion or just make it an amendment to the existing?

**Mr. Holt** I would ask Dr. Gutierrez and Dr. Watkins if they would be willing to allow for an amendment to their motion.

**Mr. Holt** Dr. Watkins.

**Dr. Watkins** Yes.

**Mr. Holt** Dr. Watkins, do you want to make that motion then to that amendment?

**Dr. Watkins** Sure. I'd like to make an amendment to this regulation that New York State Department of Health will make sure that trainings that are identified in this regulation is made available to local health departments, or that such investigations will be conducted by the State Department of Health with the assistance of local health departments.

**Mr. Holt** Thank you. Do I have a second?

**Dr. Gutierrez** Second.

**Mr. Dr. Gutierrez.**

**Mr. Holt** Are there any other questions from the members of the committee or council?

**Mr. Holt** Ms. Monroe.

**Ann Monroe** Where is this regulation now in its process of development? If we've made an amendment to it, does it need to be published again?

**Marthe Ngwashi** I can actually let Jason, if you'd like to respond to it rather.

**Mr. Riegert** Sure.

**Mr. Riegert** I guess I'm still trying to figure out then, Dr. Watkins you're just saying to add that sentence into like a bullet number three under D there on Page 3. I just want to make sure that I capture that.

**Dr. Watkins** If you go to Page 3 of your regulation and I think it's number six.

**Dr. Watkins** You follow me?

**Mr. Riegert** Yes.

**Dr. Watkins** Where it says examined the process structures, conditions, machines, apparatuses, devices, equipments, records and materials with such places that may be relevant to the investigation of disease or condition. The regulation is saying local health departments will be required to do this. My objection is that we're not equipped, we're not trained, we don't have the staffing to do this. If the State Department of Health can lead us through this, we would have no problems making the adjustment. We will need their guidance, their assistance in order for us to do this type of examination in these facilities. My second concern is that we don't permit these facilities. Say if this was a dental office that had a Hepatitis B outbreak of some sort. We don't permit those facilities. Our other concern is that whether or not there will be legal ramifications for local health departments.

**Mr. Holt** Thank you, Dr. Watkins.

**Mr. Holt** Is there a response from the department to Dr. Watkins comments?

**Mr. Riegert** No, I think that helps clarify.

**Mr. Holt** We'll move to the public comment.

**Mr. Holt** Oh, I'm sorry. Ms. Monroe.

**Ann Monroe** Yes. I apologize.

(Connection lost)

**Mr. Holt** Actually, Jason, do you have a response to that specific question from Ms. Monroe where we are at in the process of this reg from an adoption standpoint?

**Mr. Riegert** Yes.

**Mr. Riegert** The regulation was originally proposed in December. We received a number of public comments. If you'll remember, there were additional provisions to the regulation when we brought it back in July. We removed a number of those provisions from the regulation. To answer your question, we had a notice of proposed rulemaking. This is a slightly different package, so we would have to put out a new notice of proposed rulemaking or a revised rulemaking, which would subject that to an additional public comment period.

**Mr. Holt** Thank you.

**Mr. Holt** Other questions?

**Mr. Holt** We're going to go to the public comment portion and we're going to start up in Albany and would just remind folks that you have three minutes to speak and that is a hard deadline. I will give you the warning at the one minute point that your time is coming to an end, and I will serve as the timekeeper. Up in Albany, we have four individuals who have signed on to speak. I'll just name them all now and would ask that you come up in that order and be ready to speak. Speak directly into the microphone and state your name at the start. We remind folks that we would like the comments to be specific to this particular regulation that's being discussed at this point.

**Mr. Kraut** Just to reaffirm that we don't have a repeat of what happened last time, that this is the reg they wish to speak to and not the others, you know, just be clear that they know what they're speaking to.

**Mr. Holt** Thank you, Mr. Kraut.

**Public Comment 1** Thank you.

**Public Comment 1** Good morning, everyone. Thank you so much for continuing to look at these regulations and to the Public Health and Health Planning Council members for meeting so frequently during this important time for public health. My name is Sarah

Ravenhall. I am the Executive Director of the New York State Association of County Health Officials, representing the 58 local health departments in New York State. As being discussed, I am commenting on the investigation of communicable disease regulations. I completely agree with the comment that Dr. Watkins made regarding the need for local health departments to have additional resources, training, you know, fiscal so that they can hire the staff to do the work that are existing in these regulations that are being considered. Thank you for having that conversation. In addition, because these regulations directly impact the work that local health departments are doing on the ground, NYSACHO strongly suggests that you and the New York State Department of Health convene a work group to really dig into these regulations and evaluate them to find out, you know, if there are any updates that need to be made from a long term perspective so that as we continue to extend them, we can make sure that they really are meeting the needs of the local health departments and the communities that they serve. Those are my comments on those regs.

**Public Comment 1** At this time, I will end.

**Public Comment 1** Thank you.

**Mr. Holt** Thank you very much.

**Mr. Holt** If we could have Deborah Sheldon come forward. State your name in the microphone and again, I would ask that you address the specific regulation.

**Public Comment 2** Thank you.

**Public Comment 2** Good morning Mr. Chair, members of the Public Health and Health Planning Council, neighbors. I'm Deborah Sheldon, a lifelong New Yorker, born and raised and a Mother of two beautiful children, also New Yorkers. I come here today concerned about my and my children's future and safety. I, like you, have a good vision for a good life where safety and security are deeply linked to both freedom and civic responsibility. I come here today concerned not only about my children's future and safety, but also about the future and safety of your families and of our community, our nation, and our shared humanity. I imagine we have this in common too. It is on these grounds that I offer my testimony in good faith and fellowship. I've worked for nearly two decades at the intersection of quality of life and civic engagement. I served as the nationwide benefits coordinator for the Red Cross on one of the most significant response and recovery efforts in our nation's history, the attacks of 911. I then went into public service for the City of New York's Office of Emergency Management, where I served as an emergency preparedness specialist and disaster human services coordinator. As I've been following along with the rollout of the pandemic and ensuing response, including the regulations offered here in this group, I can't help but notice that something is amiss. What seems clear, regardless of the justifications offered, most of which fall flat under rigorous examination, is that all of the measures taken to mitigate the so-called risks are aimed at one enemy free thinking and acting people. I ask the same questions of you that I ask of myself, my family, friends and neighbors. Are our lives getting better? Are we safer and healthier? Are we living in a free society still? Are we faring well and thriving? Are we alleviating suffering? Are we opened to the plural views that are so foundational to our nation's dignified approach to the human condition and our spiritual growth? Are we motivated by the trust and love that is required to honor one another's freedoms and uphold our responsibilities, and importantly, are we open to considering views, facts and research that require that we actually think about what we might not be seeing? I hope you'll take some time with these questions and the

even bigger question, which is what is truly burgeoning here in these regulations? What are we really birthing? I ask that you please consider this reflection by Hannah Arendt, who covered the Eichmann trials in Jerusalem for The New Yorker. She wrote, For when I speak of the banality of evil, I do so only on the strictly factual level, except for an extraordinary diligence in looking out for his personal advancement, he had no motives at all. He merely, to put the matter colloquial, never realized what he was doing. It was sheer thoughtlessness, something by no means identical with stupidity that predisposed him to become one of the greatest criminals of that period. History has actors and in the greats that is our shared history, all complicit actors will be named.

**Public Comment 2** Thank you for your time.

**Public Comment 2** Thank you.

**Mr. Holt** Thank you very much.

**Public Comment 3** Good morning. Thank you for giving me the opportunity to speak today. The Native Americans, particularly the Iroquois Nation, have a saying that they think ahead to seven generations when they make a decision. I come here today to in that spirit of the great Iroquois, who were great exemplars for the founders of our country in the Constitution, and ask what kind of precedent does it set when we give health commissioners the ability to decide that somebody is a public health risk, that they can be taken, as the regulation says, from their home or business and put into a hospital that has been deemed a place for people to go. The precedent is what concerns me. What kind of state will we become if this is what we do, taking out of individual's hands the ability to decide for themselves how to heal from illness and how to care for their children or their older aged loved ones. That has always been our right to make that kind of decision. The language here says that that right then becomes not ours anymore, but at the jurisdiction of the Health Commissioner. What is the spirit behind this? Is it lack of trust in people to make the right decisions for themselves? Haven't we always trusted each other to do the right thing? Haven't we done it with help, with love from each other? I ask that the spirit of this be taken into account. Are we going to become a state unrecognizable to our children, our grandchildren, to seven generations from now?

**Mr. Holt** One minute remaining.

**Public Comment 3** I'm afraid so. The ability to care for oneself and make decisions about one's health, one's body has been a freedom that perhaps I have taken for granted. I don't want to lose it. I don't want to see future generations lose it. I want to speak those words here and to just ask you to consider the precedent that this sets for our state, our country and future generations, and realize that the ability to make decisions for one's selves is perhaps one of the greatest freedoms and gifts of all.

**Public Comment 3** Thank you.

**Mr. Holt** Thank you very much.

**Public Comment 4** Chairman Holt, Mr. Kraut, Mr. Levin, Dr. Ruggie, Dr. Watkins, Dr. Yang, things are not always as they appear. You are about to approve regulation strengthening of the power of health investigators. Did you get a report on the shortcomings of the current laws? Did you get a risk benefit analysis? The new regulation you are about to pass, but hopefully it's been put off now. Thank you, Dr. Watkins, for your

important points. Requires your hospitals to detain anyone these investigators see fit. No standards of scientific proof are promulgated. No process for challenging these standards or the investigators conclusions are presented. No due process at all. The regulations would allow an unscrupulous or misled Commissioner to detain anyone for any length of time. There isn't even payment to your hospital for your service, but perhaps that's good. We have had a great number of COVID hostages in hospitals already. Have we not? People with no access to family, no advocates, no legal representation. This regulation each of you were going to vote on today, allows any materials in a person's home or business to be taken if the investigator decides it's relevant. No due process, no regulations addressing the return of these remainings. Personal effects, computers, cell phones, documents, anything. There are no standards for your detention of quarantine. My question to you is, do you go home proudly and say to your children and family, please report if you see any of your friends who are sick. I made sure today that they can be taken away from their families and locked up indefinitely to keep you safe, my love. You may want to make sure your families and your friends know about your earnest efforts.

**Public Comment 4** Thank you.

**Mr. Holt** Thank you,.

**Mr. Holt** That concludes the signup list that we have in Albany. We have two speakers that have signed to speak here in the New York City office.

**Public Comment 5** Members of the council, thank you for your time and for your attention to this very difficult discussion. One of the things that we learned at the last meeting was that rarely does this council oppose or vote against a recommendation from the Health Commissioner. Which leads me to wonder what its real purpose is and why that is. Today, we're looking at a very powerful regulation. The reason why I and many others are not in favor is because, as the previous speaker mentioned, this regulation gives way too much power to the executive branch and in particular, to the Health Commissioner. One of the problems with that, which might under other emergency circumstances be understandable is that during the last. The most recent health crisis. There was a very substantial concern throughout the population that the emergency actions taken, especially with respect to vulnerable and elderly populations, were mishandled. I recall I believe that even the attorney general has discovered problems with the handling of that situation. I would argue that before we give the same health department more powers, we might make sure that it has a good handle on what will work.

**Mr. Holt** One minute remaining.

**Public Comment 5** I have to say to you that my experience over the last three years to however many years we are now, leads me to feel that not only am I personally losing faith in the health care institutions of the State of New York and the United States of America, but many people are. It doesn't make me happy to have to come here and say this to you. I miss my family when I'm working on these subjects. The process is flawed. The remedy is more dangerous than it is helping. Natural immunity has worked forever.

**Mr. Holt** Your time has expired.

**Mr. Holt** Thank you for your comments.

**Public Comment 5** Thank you very much.



**Public Comment 6** Thank you for giving me the opportunity to speak about this extremely serious issue. My name is Martha Rowen. I am the Medical Freedom Party's candidate for the 26 district New York State Senate. I'm also a member of the Medical Freedom Alliance. I want to reinforce what previous speakers have said. I am extremely concerned about the vagueness of this language that gives absolutely undue powers to the executive branch and to unaccountable, unelected officials in the bureaucracy. This is extremely dangerous. I'm also concerned, as other people have mentioned, about our constitutional rights, the infringement of the Fourth Amendment, the right of people to be safe in their homes and their possessions. Constitutional protections against unlawful imprisonment. This is a serious constitutional issue. I also would point out, as the previous speaker did, why are we putting this much power into the hands of people who have repeatedly bungled this crisis that they manufactured over the last two and a half years? People dying in hospitals, on ventilators, which were the wrong choices, people being denied the kinds of medications that would help them. People being put into nursing homes and causing infections of the most vulnerable people.

**Mr. Holt** One minute remaining.

**Public Comment 6** I am very much against us doing this. This is extremely dangerous. As other people said, I hope that you will be able to go home and face your families and look at yourselves in the mirror when you consider how you have voted on this, because this is bringing us down an extremely dangerous road.

**Public Comment 6** Thank you.

**Mr. Holt** Thank you.

**Public Comment 7** Thank you for letting me speak.

**Mr. Holt** Before you get started, just because you weren't here at the very beginning. There's three minutes to speak, and the comments need to be specific to the regulation that's being discussed at this point.

**Public Comment 7** I wasn't able to print out the information about the exact regulation that I'm speaking on. Is there a way that I could get a copy of that?

**Mr. Holt** Not at this point. If you don't have comments that are specific to the regulation that we're discussing today, then.

**Public Comment 7** It's a process issue. You're not going to let me speak, because I don't happen to have the regulation number.

**Mr. Holt** No, no, no, no, no, no. You're welcome to speak to this regulation. I just wanted to make sure that your comments were specific to the regulation that's being discussed at this point.

**Mr. Holt** That's all.

**Mr. Holt** You weren't here at the very beginning when we gave those instructions out. I was just pointing them out to you now.

**Mr. Holt** You have three minutes starting now.

**Public Comment 7** I'm sorry that I'm late. I had to try to attach my scooter outside. They wouldn't let me in with it. That was partly why. I only found out about this very late last night. I'm not sure if you actually gave public notice. There's a lot of people in public that are very interested in this issue, but they could not get here because the announcement came out very, very late. I know that could be a tactic because you know that it's unpopular. As far as the premises that this is on, the premise that this is based upon is that, first of all, that you have the right to seize people physically. I'm going to calm down. Sorry. To seize them under some pretenses which you don't actually enumerate because say they didn't pass a test or say they were contact traced with somebody who got sick. Right now, we're in a situation in our country where people are being jailed for their political beliefs. For instance, the Governor of our state said, if you are a Trump supporter, leave. You aren't wanted. You're not a New Yorker. She's the one who is behind the law that wanted to give her the power to decide who was a danger to society. Now, if you happen to be judged a danger, because let's say the tests that you take comes out negative or positive. Now, if you do minimum research on the issue, and I've done years of it now. I have thousands of articles compiled. You will know that the PCR test which they give people is not supposed to be used for diagnosis. Nobody trusts the government. Nobody. This is worldwide. There's masses of people that are coming up and trying to resist this because they feel it's actually a movement toward tyranny.

**Mr. Holt** One minute remaining.

**Public Comment 7** Do I have any more time?

**Mr. Holt** One minute.

**Public Comment 7** Okay.

**Public Comment 7** If you look in history, you'll find out that what they're doing is calling their political enemies enemies of the state. That's what Biden did. He got up and he said, you are a danger to our state. That will give them the legal right to seize people and to lock them up or to kill them. Naturally, people aren't going to be comfortable with this type of regulation. We don't even know who's behind it, though we are researching that. People are funding this. It's a Fourth Amendment issue. The Constitution gives people a right not to be seized in their property or in their physical body.

**Public Comment 7** Thank you very much for letting me speak.

**Mr. Holt** Thank you for your comments.

**Mr. Holt** We have our final speaker.

**Public Comment 8** Thank you.

**Public Comment 8** As the previous speaker mentioned, I just found out about this last night late. I had to move a lot of chess pieces to be able to get here. I'm very concerned about this regulation. I'm not going to add to the comments made by previous speakers who feel as I do, because I agree with them. I will add this personal detail. My whole family was once quarantined for a good reason. My sister developed typhoid. We didn't know. As you may know, in typhoid, there's always a carrier. You don't know who the carrier is. We

were all quarantined while we all underwent tests to find out who the carrier was. Department of Health put up big yellow tapes in front of our house. Big sign saying Typhoid Don't Approach. Typhoid Don't Approach. I was a kid at the time, young, and of course, was this fun being locked up at home? No. Our big activity was trying to break out. Couldn't go far. The minute one of us were out, a neighbor would call. Do you know one of your kids is out on the street. You have tyhoid in your house. Please get your child off the street. I've gone through something where, one, it was a realistic reason why we should be quarantined. Because two, actual tests prove there was somebody in the household... She was in the hospital the time with typhoid. Three, they had to uncover who the carrier was. As it turns out, it was our nanny. She was treated. We were all reviewed. We were released. I would like to emphasize that all of this was done under meaningful, sensible regulations. There was no, well, maybe somebody has typhoid. Somebody definitely had typhoid and was in the hospital then being treated for typhoid. Finally, it made sense.

**Mr. Holt** One minute remaining.

**Public Comment 8** None of these regulations make sense. I'm concerned about their constitutionality. I'm concerned about how they could be misused. I'm concerned about how bizarrely they're being handled now in this whole epidemic. The way it's being handled now. Typhoid is serious. I'm not so sure about COVID. How many people here have had COVID? I have. How many of your friends have had COVID? I would judge 30% to 40%. The ones that have the most serious cases have been jabbed. The jab is not effective. Some of us question whether it's safe. All of us back here right now or most of us are very concerned about these regulations that are vague, misplaced and don't really apply.

**Public Comment 8** Thank you for your time.

**Mr. Holt** Thank you very much.

**Mr. Holt** I'd ask members of the council if there are any other questions?

**Mr. Holt** Ms. Monroe.

**Ann Monroe** First of all, I want to thank those who came today. I know the announcement was out much, much sooner than last night about today. I'm sorry that you didn't hear about it until last night. My question goes back to two things. Dr. Watkins point and Sarah's point about a work group to bring, as they put it, you know, structure and process and meaningful use to these regulations. Perhaps I'm naive, but I assumed that before the department issued a regulation that so relied on local health departments that there was extensive discussion with local health departments. I'm interested in knowing what involvement Dr. Watkins organization or the association had in developing these regulations, because, as I said, perhaps it's a misperception on my part that there is that kind of discussion and involvement before a regulation is brought to us. Can someone clarify for me how that process works?

**Mr. Holt** Mr. Kraut, do you have a comment?

**Mr. Kraut** I'd offer the department to do it. However, I would say that I think part of the process was we recognized that when the regulation came to us back in July, if I'm not mistaken, and we had brought this issue up and it came back to us today without that issue being addressed. I think the action we took today sent a very clear message that the

things you're concerned about will occur. The folks in drafting regulations when they bring it to us for emergency adoption or for information should pay attention to the comments that we make in this room. Because when they come back a second time and they're not addressed or in the instance of a reg we did the other week, three times and they're not addressed. We will not be predisposed to approve those regulations. I think the message has been heard. I believe the department, look, things are moving for a variety of reasons very quickly with, frankly, a department whose resources are stretched, to be honest. They're trying to do the best they can. I do think they will, you know, in implementing this particular reg, there certainly is going to be more communication, because everybody wants to do the right thing sometimes it's just challenging.

**Ms. Monroe** I appreciate that. I certainly don't mean my comments to be critical of the department. I was asking for the general process. When you're developing a regulation that puts responsibility on a particular part of our society, that is going to carry a lot of weight, which is what Dr. Watkins and Sarah spoke about a work group. I'm of the assumption that some of those discussions occur generally before the regulations come to us. If that's a misunderstanding on my part, then I'll think differently about this. I had just assumed that these discussions occurred before there was any regulation that came to us. As I said, it's not just this one. It's just the general process.

**Mr. Holt** Thanks, Ms. Monroe.

**Mr. Holt** Again, that's a good more of a general comment as raised by this specific issue.

**Mr. Holt** Dr. Gutierrez.

**Dr. Gutierrez** To be clear, when one reads was written here for emergency adoption 20-06 Amendment of Part 2, Section 405.3 in addition to Section 58 114 to Title 10 NYCRR investigation of communicable diseases. All we're doing is changing rules that already exist. Nobody should think that we are creating new things. All we're doing is amending what is already in the regulations to adapt to differing knowledge, new diseases that didn't exist at the time; diphtheria or typhoid were the problem. All we're doing is changing existing regulations.

**Mr. Holt** Thank you, Dr. Gutierrez.

**Mr. Holt** Like to call the question then. Just as a reminder, the members of the committee are myself, Mr. Kraut, Dr. Watkins, Dr. Gutierrez and Dr. Yang.

**Mr. Holt** All in favor?

**Mr. Holt** Aye.

**Mr. Holt** Opposed?

**Mr. Holt** Abstentions?

**Mr. Holt** The motion carries.

**Mr. Holt** Thank you.

**Mr. Holt** The next regulation up for presentation is face coverings for COVID-19 prevention.

**Mr. Holt** Can I have a motion for a recommendation?

**Mr. Holt** Dr. Gutierrez.

**Mr. Holt** And a second.

**Mr. Holt** Dr. Yang.

**Mr. Holt** Thank you.

**Mr. Holt** Jason Riegert and Dr. McDonald from the Department are available and will provide us with information on this proposal.

**Mr. Riegert** Thank you.

**Mr. Riegert** I'm here now to ask the council members to vote on renewal of the emergency regulation. That adds a new Section 2.60 to Part 2 of the State Sanitary Code regarding face coverings for prevention of COVID-19 transmission. The emergency regulation is currently set to expire October 17th. This emergency regulation authorizes the Commissioner of Health to issue determinations for requiring face coverings in certain settings based on COVID-19 incidence and prevalence, as well as other public health or clinical risk factors related to specifically COVID-19. It's important to note that the regulation in and of itself does not require the use of face masks, but instead leaves that determination up to the discretion of the Commissioner again, based on the incidence and prevalence of COVID-19. No changes have been made to the regulation since it was last brought before the council. However, on September 7th, the Commissioner did update her masking determination, which is issued pursuant to this emergency regulation. The Commissioner's updated determination now only requires masks to be worn by staff, personnel and visitors in health care settings, which are facilities and clinics regulated by DOH under Articles 28, 36 and 40 of the Public Health Law, Adult Care Facilities, Specialty Hospitals certified by the Office of People with Developmental Disabilities, Addictions Service Facilities or hospital settings regulated by the Office of Mental Health. We're asking the council members to renew this emergency regulation, to allow the Commissioner's determination to continue and also to respond to any sudden changes that may occur if the incidence and prevalence of COVID-19 statewide.

**Mr. Riegert** Thank you.

**Mr. Holt** Thank you, Mr. Rieger.

**Mr. Holt** Are there questions of the department for members of the committee or the council?

**Mr. Holt** Mr. Kraut.

**Mr. Kraut** I think CNS has given 60 day notice that they're about to amend or suspend their emergency regulations. What's the process to harmonize the state regs with the CMS?

**Mr. Riegert** With regard to what specifically?

**Mr. Kraut** This particular regulation.

**Mr. Kraut** Unless I misread CMS's notification. They notified I think it was this week. In 60 days, they gave 60 day notice. They're going to modify or suspend their regulations that were promulgated on an emergency basis. That also deals specifically with face coverings for health care workers. Unless I read it wrong. Let's say I read it right. Is there a process on how to harmonize the federal regulations with the state regs? Do we have to wait until this comes back for emergency adoption and you may not re adopt it? Are we going to have permanent regs in place? It might be just a yes or no that they haven't addressed that yet. That's a sufficient answer. I'm just wondering how it happens.

**Mr. Riegert** I think my answer would be that this regulation is drafted in such a way that it allows for that sort of harmonization through the Commissioner's determination. One of the things that she does look at are the CDC recommendations. To the extent that those guidelines change, then we would update the Commissioner's determination accordingly to make sure that that was all consistent, assuming that there was, you know, unless the Commissioner thought that we needed to do something.

**Mr. Kraut** I understand the situational awareness.

**Mr. Kraut** Thank you.

**Mr. Holt** Thank you.

**Mr. Holt** Are there other questions of the department?

**Mr. Holt** We have two speakers who have signed up to speak to this specific regulation, which again is a reminder of face coverings and comments need to be specific to this particular regulation that we're discussing. Again, same rules apply, three minutes and I will give you the one minute warning. And again, I would remind you that your comments need to be specific to this particular regulation.

**Public Comment 9** Members of the Council, thank you again for the opportunity to speak on this subject. I am speaking against arbitrary masking. The science of masking it is not settled. Even mask advocates like Anthony Fauci have acknowledged that masks don't work, but that they encourage compliance. America is not a country based on compliance. We're not that kind of a country. In the event that face masks don't work, we'd ask if you not allow the Health Commissioner to arbitrarily decide that everybody has to wear them. I want to say that also in particular, I felt it was really a tragic situation watching young children wearing masks. We do know that mask wearing actually has health implications; lack of oxygen, other problems arise, psychological problems, lack of verbal nonverbal cues. There's been a lot of research to suggest that forcing young children to wear masks is child abuse. I think that this question is a lot more important than is suggested by the nature of the regulation, especially given the science is not settled and there are adverse effects to masking.

**Public Comment 9** Thank you very much for your consideration.

**Mr. Holt** Thank you.

**Public Comment 10** Thank you.

**Public Comment 10** As I mentioned, I am part of a party called the Medical Freedom Party. It's quite large. It's more or less taking over the Democrat Party here, because nobody wants to be a Democrat anymore. I can explain why. I believe a doctor over there said that this has already been settled. This regulation has already been passed and now we're just having like if we're going to reinstate it or not and if there's going to be any caveats. As far as the emergency regulation and as far as the emergency approval of the injections, that is a very serious issue because many people are injured and are dying and people are already starting to make suits against people that have been forcing them to take this injection when it's not proven, it's not been tested, and statistics all show that it's of benefit actually not to take it. That's why people are feeling suspicious. The face covering, flip flop, flip flop, flip flop. If you look into him, you find out he has a financial interest in this. He funded the research that was called, you know, extension of function for these viruses. He actually gave money to Wuhan lab. He also has a financial interest in that he has a patent on the injections. There's a lot of suspicion about him. He's going to be questioned when Spring comes around and the Republicans take control. All this is going to come out. I think everybody should realize that they're in a position where they could be personally sued for the people who've died. Everybody. As far as the stats about who died of COVID and how that's going to be used as a way of----

**Mr. Holt** One minute remaining.

**Public Comment 10** Whether to do with masks or not, the stats have been jimmied. A lot of people were told, you know, on the death certificate, it writes that they died of COVID and it wasn't. It was something else alternative. They needed to get the numbers up for the COVID deaths. That was part of the plan for the people who need to make money off of this whole emergency situation. It's well known in the research community, open source that the masks actually don't prevent getting sick. They actually make people get sick because you're breathing in your own, let's say, things that should be expelled from your body and children get sick from it. Children get, let's say, sores on their faces, etc. The rule of law has been violated by the people who are demanding these health regulations against the right of people to decide what to do with their own body.

**Mr. Holt** Your time as expired.

**Public Comment 10** As an attempt to destroy our society.

**Mr. Holt** Your time is expired.

**Mr. Holt** Thank you.

**Public Comment 10** Causing depression and isolation.

**Public Comment 10** Thank you.

**Mr. Holt** Thank you.

**Mr. Holt** We have some speakers in Albany. I'll read those off in the order in which we'll ask them to speak. Again, would remind folks to please make sure your comments are specific to the regulation that's being discussed now.

**Mr. Holt** Thank you.

**Public Comment 11** Thank you.

**Public Comment 11** I'm going to re-introduce myself for the purposes of the record. I'm Sarah Ravenhall. I'm the Executive Director at the New York State Association of County Health Officials, representing the 58 local health departments across New York State. I'm commenting on all three regulations today, so bear with me on that. In regard to the face coverings for COVID-19 prevention, we've had many conversations with the State Department of Health on our comments here. We appreciate the open conversation and partnership there. I want to put that out there. We typically encourage the New York State Department of Health to align with the CDC whenever possible, including in this instance, to provide for consistency in public health messaging. These regulations provide flexibility allowing the Commissioner of Health to make determinations about the appropriate use of face coverings for COVID-19 prevention. We strongly support the Commissioner's ability to have that flexibility. We request the Commissioner use this flexibility to evaluate the appropriateness of this specific regulation, because not all state regulated facilities are the same when it comes to the setting that they're working within. Local health departments provide limited clinical services under the scope of their Article 20 licensure, or if a public health nurse enters a person's home to provide direct observed therapy or led education. They're working under the scope of their Article 36 licensure, or their limited home care service agency licensure. Unless the local health department is actively engaged in community facing clinical service provision under one of these regulated entities, it would not be necessary for them to utilize mask wearing. If they're in the office setting and they're not working under the purview of one of those licensors. We therefore recommend you enact this renewal and urge the Commissioner to use her existing regulatory flexibility to relax requirements for local health departments. This flexibility should be reflected in the way that auditors are siting and working with local health departments. I want to again, thank you to the members of the committee for the partnership that we have with the New York State Department of Health. Our full comments have been submitted in writing to the staff.

**Public Comment 11** Thank you.

**Mr. Holt** Thank you.

**Public Comment 12** Good morning. Thank you for the time. I am here for my children and my children's future and for them to have the ability in dealing with matters affecting their security and their health. I'm also here to practice interpreting the language of the committee and the regulations and what that language really means, leaving the discretion up to the Commissioner. If I really think that that is a valuable thing to do for my children and for the preservation of public health. Is the preservation of public health and masking the preservation of mental health? Again, I'm here for my children's future and their autonomy in affecting their own mental health and public health. My role, I've been a teacher for over ten years for elementary aged, kindergarten age all the way up to college. I also am a family coach where I work with children and adolescents and young adult on screen addictions and gaming addictions and their families. My husband actually is a physician and pediatrician and he works in about six acute care facilities. He runs a program and he also works in nursing homes, rehabs and also pediatric/psychiatric hospitals. And so, as you can imagine, the home masking issue is a big theme in our family. Luckily, my two children our two children, an 11 year old and a 12 year old. They have not had to mask at all during the pandemic. Their mental health, luckily, is very



balanced. One thing that I do want to read to you is an email that I got from my daughter's Choir Director last night, because she's in a children's chorus.

**Mr. Holt** One minute remaining.

**Public Comment 12** As of last Thursday evening, this county moved directly from green to orange to red according to the CDC data tracker. We will still have rehearsal, however, must adjust our protocols. Here is what is necessary for tomorrow. New completion of online weekly screening survey required before arrival, face masks required, limited available supply, please bring your own, physical distancing six feet or more required of space allow, snacks before or after rehearsal not permitted, water not permitted in rehearsal space, wellness checks at the door, air purification system running for the duration of the rehearsal. We certainly did not see this coming. In looking at the data, it seems new hospital admissions are what accounts for this change. Not the case rates, though I am not an epidemiologist. This was written by the Choir Director, Artistic Director who is giving medical advice to my child.

**Public Comment 12** Thank you.

**Mr. Holt** Thank you.

**Public Comment 13** Dear commission members and staff. I've been looking after the well-being of children as a teacher for thirty-four years. The most important thing is that children feel a sense of comfort. We could say that's true for all of us. There are many other important things that they understand that their teachers and the adults around them are serving truth. Any of us, hopefully all of you have done the research to see that masking children harms them, harms their emotional development. I could give you a dozen studies, maybe ten dozen studies. Harms their speech development. Harms their development of understanding of language. Perhaps most important, harms their sense that the world around them is safe. Now, I know some of you, your profession is to convince us that the world's really dangerous and we should be really careful how we breathe and through what we breathe. I'm wearing this T-shirt, the Virus of the Month Club. Perhaps you know that there are over 1 Million published genetic variants of the COVID-19 virus. No doubt if you did the testing, you could find a million variants of measles, polio, smallpox, etc.. Then we pick out, Oh, that's the one we should be concerned about. We come up with different reasons why we should be concerned about that.

**Mr. Holt** One minute remaining.

**Public Comment 13** Healthy children are not vulnerable to this thing called COVID-19. If you don't know that, I would be happy to help you find that out because it's obvious to the research. To be covering children's faces with masks, to tell them that it's more important to not see a person's face and to not breathe freely is one. To ask all children in the state to believe a lie, to live a lie, and teach them that the world is a dangerous place from which they should cower. This is not good for mental health. This is not good for children's development. I think any teacher could tell you this.

**Public Comment 13** Thank you.

**Mr. Holt** Thank you.

**Mr. Holt** Our final speaker, Deborah Sheldon.

**Public Comment 14** Good morning. Thanks again. I'll be brief. I just want to echo the sentiments of all the previous speakers. I think the question for me is just because we're motivated to do good things doesn't mean we have to stop thinking about whether or not we truly are. I think everyone is here in good faith for the betterment of all. I would say that just as a Mother, it's so true that our main priority here is to make sure that the children know that we live in a good world and that they're safe. I take that task to heart. I will just say that in my personal experience, working with children and as a Mother of two beautiful children, that I saw a really steep decline in the well-being of the children in our sphere, specifically around the masking. The sense that somehow children are filthy disease carriers is something that we all know is a dangerous thing to promulgate. I just ask as a final plea, please, let's leave the children alone and let the families decide what they feel comfortable with and how to keep their children safe and feeling loved.

**Public Comment 14** Thank you very much.

**Mr. Holt** Thank you.

**Mr. Holt** Concludes our public comment period.

**Mr. Holt** Are there questions from the members of the committee hearing?

**Mr. Holt** I would call the question.

**Mr. Holt** All in favor?

**Mr. Holt** Aye.

**Mr. Holt** Any opposed?

**Mr. Holt** Motion carries.

**Mr. Holt** Thank you.

**Mr. Holt** The final item before us today is both for information and for emergency adoption, and that's the monkeypox virus, adding it to the list of sexually transmitted diseases.

**Mr. Holt** Can I have a motion for recommendation of adoption?

**Mr. Holt** Dr. Gutierrez.

**Mr. Holt** Dr. Watkins.

**Mr. Holt** Thank you.

**Ms. Morne** Thank you very much.

**Ms. Morne** The Department of Health is proposing to amend Title 10 of the New York Codes, Rules and Regulations Section 23.1. This amendment would add monkeypox or MPV to Group B of Section 23.1, which is the sexually transmitted infection list. In New York State, minors, individuals under the age of 18 generally cannot consent to their own health related testing, treatment and vaccination without the permission of a parent or

guardian. There are a few exceptions. One of which is if an individual is being tested, treated or vaccinated for a condition listed in Section 23.1 of Title 10, of the official compilation of Codes, Rules and Regulations within the State of New York, which is the list of conditions officially recognized in New York State as sexually transmitted infections. In other words, if minors are getting tested, treated or vaccinated for a sexually transmitted infection, they're allowed to consent to their own prevention and care. This amendment is being proposed as an emergency regulation, meaning it will be in place for 90 days, subject to possible extension, during which time the department will continue to assess the impact and continued need for minor consent for MPV service access. There are real world examples of appropriate MPV prevention not being delivered to minors, which this amendment is designed to address. For example, the local health departments have reported that minors seeking vaccination who were otherwise eligible have been turned away due to not having parental consent. The department is concerned that young LGBTQ or lesbian, gay, bisexual, transgender, queer or questioning and other youth will continue to face challenges with respect to accessing essential MPV prevention, including vaccination, without deliberate efforts to remove this policy barrier through the proposed regulatory amendments. The intent, again, of this amendment is to enable minors under the age of 18 to consent to their own MPV prevention, most importantly, vaccination. For at this time, vaccination remains one of our most important tools in protecting New Yorkers against MPV. The DOH successfully took similar steps in 2016, as well as 2017, by adding HPV and HIV respectively to the STI list. These moves enabled greater access to HIV testing, treatment and prep, pre-exposure prophylaxis, as well as HPV vaccination, which is a cancer prevention for minors who were previously unable to obtain parental or guardian consent for their essential health care. On September 13th, the Department of Health expanded vaccine eligibility to include almost anyone who is perceived to be at risk now or who may be in the future. This is a major expansion of who can be vaccinated for MPV. At this point, no one who presents for vaccination should be getting turned away. All local health departments are required to provide diagnosis and treatment, including prevention services, for any disease that is characterized as sexually transmitted within the New York State law, regardless of an individual's ability to pay. Adding MPV to the STI list means that individuals will be able to access critical services within their local county sexual health clinics. Again, this action provides direct access to MPV testing and vaccination for individuals under the age of 18, New York State's Minors.

**Ms. Morne** Thank you for your consideration.

**Mr. Holt** Thank you.

**Mr. Holt** Are there questions of the department from the members of the committee or the council?

**Mr. Holt** Not seeing any, we have four individuals who signed up to speak specifically to the monkeypox virus regulation in front of us. We'll start here in New York. Again, we just remind folks the three minute time limit and the comments need to be specific to the regulation being discussed.

**Public Comment 15** Members of the Council and for tthe woman who expressed the opinion that there are times when parental consent is not beneficial to an individual's health care outcome. Although the Department of Children's Protective Services has been established for the purpose of protecting children whose parents are not capable of doing a good job at raising them. Outside of a situation where Children's Protective Services, who arguably also need to have some oversight. Outside of the situation where Children's

Protective Services has determined that parents do not deserve to have final say in their children's health care outcomes, the likelihood that a parent might be making a decision of benefit to their child is basically 100%. Now, the issue in this case is whether or not monkey pox treatment options are likely to be superior to other ones. Unfortunately, the record of vaccination is rapidly being called into question. In the event that a parent is standing in the way of a child's vaccination, there is ample reason to believe that they might be making the right decision. As a result, I oppose this regulation.

**Mr. Holt** One minute remaining.

**Public Comment 15** On the grounds that in the event that the child is wrong and they made a decision that they later regret, there's no recourse for the family. This is a serious issue because many people in other situations who are accepting gender altering procedures are finding that they were allowed to do those procedures as minors later decided that they regretted it, but they have no recourse. The same is true of an injection. Vaccinations are not without risk. In fact, the record of modern vaccinations is rapidly demonstrating that they are more risky.

**Public Comment 15** Thank you very much.

**Mr. Holt** Thank you.

**Public Comment 16** My apologies. I thought there were more speakers in New York City. Again, for the record, my name is Sarah Ravenhall. I'm the Executive Director of the New York State Association of County Health Officials. On behalf of the 58 local health departments across New York State in regard to this regulation, MPV virus being added to the list of sexually transmitted diseases. We commend the State Department of Health, Commissioner Bassett for taking on these regulations. We strongly support the adoption and enactment of these set of regulations today. Local health departments have been instrumental in the provision of the vaccine to help curb the spread of monkeypox, and data shows that that is working. We are challenged, however, to ensure equitable access to prevention, education and vaccine, particularly to those who are under the age of 18 years. Intimate physical contact has been shown to be a significant risk factor in the transmission of the virus, particularly in the MSM population, along with skin to skin contact. There is also some evidence indicating that the virus may be transmitted through semen. To remove as many barriers to care as possible, adding the virus as an STD will allow us to provide care to those high risk individuals under the age of 18 years without parental consent. Again, thank you to the committee for taking this up today for your leadership, and I encourage you to read our full comments which have been submitted in full to the staff.

**Public Comment 16** Thank you.

**Mr. Holt** Thank you very much.

**Public Comment 17** My comments are about the monkeypox virus vaccine being added to the list of STD's to be treated for minors. In your agenda, you'll be approving the minutes from a May meeting in which Dr. Bassett talked about the department rolling out and encouraging and pushing mRNA vaccines for children. No doubt that's been happening since then. Perhaps you're not aware that Denmark has ended COVID mRNA vaccines for people under 30 and Sweden as well has stopped encouraging. No, that was Sweden under 30. Denmark was for children. As a committee, you might want to look at

what other countries research that they have used to make their decisions has been. Because we know from looking at our local obituary pages that we have a great increase in sudden unexpected deaths of very, very healthy people, especially athletes, but not only. You might have noticed there's a lot more obits on the page these days. You can dig into the research behind that, but that's just right in front of all of our faces that the MRNA shots have some shadows to them. And of course, as I mentioned last time, we know they do not prevent transmission and they certainly don't prevent infection. That's clear. In the context of the monkeypox virus, our virus of the month, perhaps you could look at the research that Dr. Bassett and her staff have used to say that this vaccine, which you will be encouraging by your vote, should be pushed on as many children as possible. You'll be responsible. Some of them, no doubt, will be grievously injured. Some of them may have monkeypox virus prevented. I would encourage you as a regulatory body to not trust the word of the department staff, but ask them, could you show me the studies that you cited and then look for a second opinion. As doctors, you'll understand this.

**Public Comment 17** Thank you.

**Mr. Holt** Thank you.

**Mr. Holt** Our final speaker signed up is Ms. Sheldon.

**Mr. Holt** Thanks again.

**Public Comment 18** I just have a few questions. The first is, do we really feel that medical safety and risk mitigation is such a simple issue that we can leave it up to minors to decide for themselves? I don't think so. As a parent, I make these decisions for my children in consultation with trained medical professionals. I don't leave it up to the staff at the CVS Pharmacy to decide whether or not my minor children can have access to therapeutics. I think the answer here is very clear. The second question, I guess, is, does this mean that the state will act in loco parentis? Does this mean that the people administering vaccines and other therapeutics will also be acting in loco parentis? I hope not. Also, I feel a little bit suspicious. I want to ask, are we cloaking this issue as an LGBTQ issue, so that anyone who dissents on fact based and practical grounds will be deemed either homo or transphobic? I think that's very unfair if that's the case. Finally, I would like to ask for investigation. What's the real number of people here who seek this treatment and are actually declined? I would imagine that number is pretty small.

**Public Comment 18** Thank you.

**Mr. Holt** Thank you.

**Mr. Holt** That concludes the public comment portion of this meeting.

**Mr. Holt** I would ask if there are questions remaining for members of the committee?

**Mr. Holt** I'll call the question.

**Mr. Holt** All in favor?

**All Aye.**

**Mr. Holt** Opposed?

**Mr. Holt** The motion carries.

**Mr. Holt** These regulations will go to the full council for their adoption.

**Mr. Holt** And with that, we close the meeting on Codes, Regulations and Legislation.