

**State of New York**  
**Public Health and Health Planning Council**

**Minutes**  
**October 3, 2013**

The meeting of the Public Health and Health Planning Council was held on Thursday, October 3, 2013 at the New York State Department of Health, 90 Church Street, Rooms 4A and 4B, New York, New York. Chairman, Dr. William Streck presided.

**COUNCIL MEMBERS PRESENT:**

Dr. William Streck, Chair	Mr. Arthur Levin
Dr. Howard Berliner	Dr. Glenn Martin
Dr. Jodumatt Bhat	Dr. John Palmer
Mr. Christopher Booth	Ms. Ellen Rautenberg
Dr. Jo Ivey Boufford	Mr. Peter Robinson
Dr. Lawrence Brown	Dr. John Ruge
Mr. Howard Fensterman	Dr. Theodore Strange
Dr. Angel Gutiérrez	Dr. Ann Marie Sullivan
Ms. Victoria Hines	Dr. Anderson Torres
Mr. Robert Hurlbut	Dr. Patsy Yang
Mr. Jeffrey Kraut	Commissioner Shah

**DEPARTMENT OF HEALTH STAFF PRESENT:**

Mr. Charles Abel	Ms. Sylvia Pirani – Albany (via video)
Dr. Marietta Angelotti – Albany (via video)	Ms. Linda Rush – Albany (via video)
Dr. Guthrie Birkhead	Mr. Robert Schmidt – Albany (via video)
Dr. Barbara Dennison – Albany (via video)	Ms. Lisa Thomson
Ms. Barbara DelCogliano – Albany (via video)	Mr. Robert Welch – Albany (via video)
Mr. Christopher Delker	Ms. Diana Yang – Albany (via video)
Ms. Colleen Frost	
Ms. Rebecca Fuller Gray – Albany (via video)	
Ms. Sandy Haff	
Mr. Mark Kissinger – Albany (via video)	
Ms. Lisa McMurdo – Albany (via video)	

**INTRODUCTION:**

Dr. Streck called the meeting to order and welcomed Commissioner Shah along with Council members, meeting participants and observers.

**MEETING OVERVIEW:**

Dr. Streck gave a brief overview of the Council meeting agenda.

**RESOLUTION OF APPRECIATION:**

Dr. Streck noted that Ms. Susan Regan’s term on the Council has expired and read into the record on behalf of the Council a Resolution of Appreciation for Ms. Regan thanking her for her dedication and to the Council for the past eighteen years.

**APPROVAL OF THE MINUTES OF AUGUST 1, 2013:**

Dr. Streck asked for a motion to approve the August 1, 2013 Minutes of the Public Health and Health Planning Council meeting. Dr. Gutiérrez motioned for approval which was seconded by Dr. Bhat. The minutes were unanimously adopted. Please refer to page 20 of the attached transcript.

**REGULATION**

Dr. Streck introduced Dr. Gutiérrez to give his Report of the Committee on Codes, Regulations and Legislation.

**For Information**

13-13 Amendment of Section 12.3 of Title 10 NYCRR (Administration of Vitamin K to Newborn Infants)

12-20 Amendment of Part 425 of Title 10 NYCRR (Adult Day Health Care Programs and Managed Long Term Care)

Dr. Gutiérrez began his report by introducing and briefly 13-13 Amendment of Section 12.3, Administration of Vitamin K to Newborn Infants and 12-20 Amendment of Part 425, Adult Day Health Care Programs and Managed Long Term Care.

**For Discussion**

Section 405.4 of Part 405 of Title 10 NYCRR (Amendment to Hospital Sepsis Safety Protocols)

Part 23 of Title 10 NYCRR (Control of STDs)

Dr. Gutiérrez briefly described regulations that are on the agenda for discussion. The first being 405.4 of Part 405, Amendment to Hospital Sepsis Safety Protocols. Next, Dr. Gutiérrez introduced Part 23, Control of STDs.

Dr. Gutiérrez concluded his report. To review the complete report, please see pages 20 through 23 of the attached transcript. Dr. Streck thanked Dr. Gutiérrez for the report.

**REPORT OF DEPARTMENT OF HEALTH ACTIVITIES:**

Dr. Streck introduced Dr. Shah to give the Report on the Department of Health Activities.

## **REPORT OF DEPARTMENT OF HEALTH:**

### Health Benefit Exchange

Dr. Shah began his report by stating that New York witnessed a major mile stone two prior with the launch of the New York State Health Benefit Exchange. Governor Cuomo issued an Executive Order that lead to the creation of the Department's Exchange. There are over 450 navigators helping folks enroll in the Exchange. On the first day there were over 10 million visits to the website and the Department has reached over 30 million visits to the website. At any given second if you look on the Exchange there are over 9000 people actively logged on to the website. This has led to some delays and, but it's a good thing. As of October 3<sup>rd</sup>, the Department has fielded over 10,000 calls. The most common question relate to tax benefits. The Department has been actively every night taking the Exchange offline and working between 11PM and 8AM to update capacity, increase the flow-through and efficiencies with major upgrades planned through the weekend. The initial expectations were that by the end of the enrollment period which goes through March 31, 2014, so we still have lots of time to enroll. You may sign up as late as December 15, 2013 and still be enrolled in a plan that starts January 1, 2014.

### Brooklyn Facilities

Dr. Shah mentioned the Long Island College Hospital in Cobble Hill and Interfaith Medical Center in Bedford Sty is in danger of closing. For years these hospitals have dealt with declining revenues, poor management and high volumes of Medicaid patients. The Department has been exploring any and all financial opportunities to try to preserve emergency and outpatient services at Interfaith and as of now the vital access provider application and ultimately the Medicaid waiver are the only remaining sources of funds to assist with the transition and possible restructuring. The fate of LICH remains unknown. The challenges in Brooklyn will continue and the Department will continue to persist in looking for all possible solutions. One thing is certain, the Department has put the health and safety of our community first and foremost in our minds as we proceed, and keeping New Yorker's healthy is always a priority.

### Flu

Dr. Shah advised that the State's health workforce doctors, nurses, therapists, even volunteers, all of those involved in providing patient care this flu season brings with it a new mandate. The Department is urging healthcare professionals to receive a flu shot. Studies show that a flu shot is still the most effective means for protecting yourself and your family from the flu. If you decide that you do not want to get a flu shot or you cannot get a flu shot for any reason, and you work in a healthcare setting where your oath is to first do no harm, it is your ethical mandate and now the State's mandate that you must wear a surgical mask. Hospitals' will be held accountable for making sure their employees follow this rule. As caregivers of vulnerable patients, vulnerable immunocompromised patients do not always take to the flu shot as well as healthy folks. The flu shot is less effective in those we are providing care for than in ourselves. The Department is hoping to see large increases in vaccination rates and certainly healthcare providers will be protecting our patients despite that with the masks.

## e-Cigarettes

Next, Dr. Shah discussed the latest trend in smoking, which is e-cigarettes. Recent research by the Centers for Disease Control and Prevention show that the use of e-cigarettes among middle and high school students doubled in 2011-2012, and today 1.78 million youths have now tried them. The Department is concerned that these youths are using e-cigarettes as an onramp to cigarette smoking, and unless something is done to stop these trends, we will erase decades of efforts to reduce tobacco use and create a new generation of youth addicted to nicotine. The Department is also concerned because e-cigarettes are being heavily promoted and marketed as a healthier alternative to traditional cigarettes. It might be true that they are less harmful than tobacco cigarettes, however, there is absolutely no evidence that e-cigarettes help people quit at a faster rate or that they are safer than nicotine replacement therapies such as patches or gum. Anecdotally we see that people use e-cigarettes as bridges to smoking in areas where they can't smoke. What concerns us is that the illusion of these products are somehow safer, will actually even invite former smokers to start smoking once again. Just as worrisome is the fact that many who are "vaping" are doing so in public places that ban cigarettes. It is the Department's hope that the FDA will tighten up their regulations on e-cigarettes and treat them as a health hazard. The Department is actively working with college campuses and other areas that have policies against the use of cigarettes to explicitly include e-cigarette bans in all of their literature and regulations and materials, and hopefully we can catch this before this becomes yet another behemoth industry with power to sway public opinion in ways that we know are not helpful.

## Public Health

Dr. Shah announced upcoming events. On December 3, 2013, there will be the first is a population health summit. The event brings together state and national leaders for a discussion on the role of public health along with other sectors in the efforts to improve population health. On December 18, 2013 the Department will be hosting our first ever health code-a-thon co-sponsored by the New York Health Foundation at Rensselaer Polytechnic Institute, RPI. This will be as part of Governor Cuomo's December 16 innovation week. More details are forthcoming, the two-day event organized by health brings together public health partners, health technology experts, and coders for sessions on how to use health data off of our [healthdata.ny.gov](http://healthdata.ny.gov) website to create apps and websites and other views of the data that will benefit health. The code-a-thon is the first phase of a larger health innovation summit, and it will be followed by a three to six month event called the New York State Health Innovation Challenge. This will be open not just to RPI in person, but across the world with large prizes as well. The Department's goal will be to create apps and products and webpages that link people to the places in their communities, to improve physical activity, access to high quality affordable healthy food, and ultimately reduce the risk for obesity and diabetes for this first effort.

Dr. Shah advised that the Department is also co-sponsoring a third event to take place in November along with the United Hospital Fund, the Primary Care Development Corporation, and the New York State Chapter of the American College of Physicians on patient-centered medical homes. There will be a conversational roundtable between providers and payers to discuss how New York State can accelerate the advanced primary care development model and payment reform using collaborative multipayer efforts. Part of that will certainly include the use of health data which will allow us to improve practices, evaluate progress, and inform efforts to enhance population health. New York State has legislation that effectively deals with potential antitrust issues that surround multipayer arrangements. The Department of Financial Services and the Office of Civil Service Employees Health Program will also join in the discussions to deliver a consistent and targeted message to payers and providers that regarding our vision of healthcare transformation and a fundamental focus on the triple aim, advancing primary care as the means to do that.

### Grants

Dr. Shah explained that the Department will be submitting a state health innovation plan to CMMI at the end of the year, which will discuss the Department's vision for healthcare in New York over the coming five years. This will include payment and delivery system reform and innovations. An RFA will be issued to lay the foundation for a response and a February RFA from the feds which may result in a \$60 million award to New York State to advance primary care, collaborative care, and many other models.

Dr. Shah congratulated Health Research Incorporated who just received a \$4.5 million grant from the U.S. Department of Health and Human Services, the Centers for Medicare and Medicaid services, and the Center for Consumer Information and Insurance Oversight. This \$4.5 million grant is a two-year grant that started September 30, 2013. It will allow the Health Department and the State Department of Financial Services to improve the way we review health insurance premiums in New York State. It will enable the Department to use the robust all-payer claims database sources that can synthesize quality patient safety cost and efficiency metrics when we look at healthcare premiums. It will also allow the Department to create a consumer portal using input from consumers and stakeholders to publish health pricing data, so New Yorkers can make smart healthcare decisions based on quality and costs. In addition to the creation of a public website so that data visualization, analytics, and report generation will be easy to make healthcare prices transparent and accessible.

### Department Staff

Dr. Shah also acknowledged Bob Welch who is now the Department's new Deputy Director of Hospital and D&TC Services.

Dr. Shah concluded his report. To view Dr. Shah's report and members questions and comments, please see pages 23 through 33 of the attached transcript.

## **REPORT OF THE OFFICE OF PUBLIC HEALTH ACTIVITIES**

Dr. Streck introduced Dr. Birkhead who was participating via video from Albany to give the report of the Office of Public Health activities

Dr. Birkhead gave a brief update on the Prevention Agenda. County health departments and hospitals are actively engaged in their local planning processes. Those reports and plans are due to the state in mid-November. The Department has been providing technical assistance to them and the Department is also engaged with New York Health Foundation for funding available, funding prevention agenda and community projects that are going to go forward.

Dr. Birkhead spoke on the topic of the new healthcare regulation around the flu shots. The Department since the regulation was put in place, has held multiple webinars with different sectors that are affected by this, nursing homes, et cetera, and really had great engagement from the statewide organizations that represent the different affected provider groups. The Department plans on conducting a survey of the affected institutions between November 1 and November 15, the survey instrument will be open on the web for all the affected facilities to report back their vaccination coverage levels. He advised that the Department will also send a survey out again at the end of the flu season to see what the final, what coverage levels are and compare it with previous years. In the last year, for example, in hospitals less than half of employees were vaccinated for flu. So, these efforts are underway. Dr. Birkhead also advised that within the State Health Department the same rule as a matter of personnel policy is applied to staff that are regularly in hospitals, and the Department will be implementing the same requirements for Department staff.

Dr. Birkhead explained that the December 3, 2013 population health summit will be opening up a website for people to register for the conference. It's going to be limited to roughly 200 participants in person. The summit will also be webcasted.

Dr. Birkhead concluded his report. To view the complete report see pages 44 through 48 of the attached transcript.

Dr. Streck thanked Mr. Smith for his report and moved to the Report of the Committee on Public Health activities.

## **PUBLIC HEALTH SERVICES**

Next, Dr. Streck asked Dr. Boufford to report on the Activities of the Committee on Public Health.

## **Report on the Activities of the Committee on Public Health**

Dr. Boufford thanked Ms. Pirani and the Commissioner for their hard work on the Prevention Agenda. The Public Health Committee met on September 12, 2013 and heard reports of the community engagement and that kind of activity going on statewide. The health improvement plans are due November 15, 2013 so that is the target deadline. The selection of problems among the five continues to be dominantly in the communicable disease prevention area, chronic disease prevention, and in mental health and substance abuse. Dr. Boufford stated that she is very appreciative the Commissioners of all of those agencies involved agreed to that.

Dr. Boufford noted that there is technical assistance being provided statewide through regional agencies that have been funded by the Robert Wood Johnson Foundation to support activities and HANYS has also run three webinars on the prevention agenda focusing on the issue of partnerships, priority setting and picking interventions. Dr. Boufford explained continuous quality improvement models for the interventions that are designed, and there have been 85 to 120 participants each time, each webinar, of those issues, and the Department has instructed all of its categorical grantees to connect to the Prevention Agenda activities in their local communities which potentially adds resources and intellectual firepower to those conversations in the areas that are synchronous with the selections of the local communities.

Dr. Boufford explained that the DASH obesity prevention policy center has recently been commissioned by the Bureau of Chronic Disease to provide specialized technical assistance to those communities that have selected chronic disease prevention of their areas and there have been two webinars there. Each has had over 100 participants. There are communication tools that have been developed. Dr. Boufford passed out brochures and gave credit the Robert Wood Johnson Foundation and the Department's communications department for putting together the brochure. There are also one pagers that accompany this for each of the potential stakeholders in the Prevention Agenda, a page for hospitals, businesses, media, and academia with a win-win as to why you should be interested and get involved.

Dr. Boufford explained that the New York State Health Foundation recently announced a \$500,000 grant program which will be grants up to \$50,000 with a matching requirement, but they can be smaller or as high as 50, will be available for communities who have approved plans in November to implement their plans. The Foundation will also be convening other statewide foundations with the goal of identifying opportunities for local support of communities in the implementation process.

Dr. Boufford advised that the September 12, 2013 Public Health Committee meeting there was a presentation of the New York City Take Care New York agenda cross walked with the State Prevention Agenda and discussions of the work they have been presenting in working with the Greater New York Hospital Association's leadership. Deputy Commissioner Patsy Yang has been very instrumental in that presentation, and they have produced a document that shows the items that are synchronous between the Take Care New York, New York City agenda and the Prevention Agenda, and identify areas.

Dr. Boufford highlighted a speech that the Commissioner gave at HANYYS over the summer emphasizing prevention as one of the keys to success in the overall healthcare reform, cost and quality agenda items as well as improving population health, and a recent letter to hospital directors urging them to invest in community service plans as part of their community benefit obligation, and so, and also indicating that the State will be requesting the community benefit plans from hospitals on an annual basis with all of the schedules filled out so they can see and how these investments are being made, and the hope being that as more and more people are insured some funds may be made available for investment in community-based prevention and broader determinants of health.

Dr. Streck thanked Dr. Boufford for her report. Please see pages 48 through 54 of the attached transcript.

## **HEALTH POLICY**

Dr. Streck next moved to the Category of Health Policy and introduced Dr. Ruge.

### **Report on the Activities of the Committee on Health Planning**

Dr. Ruge noted that the Planning Committee has been conducting a wide ranging set of discussions regarding the components of ambulatory care starting off with the various shapes of ambulatory surgery, high end imaging, and radiation therapy, and have moved on to the spectrum, the continuum of ambulatory care services on a hands-on basis reviewing the health department's proposal of the legislation last year of limited services or retail clinics. At the last meeting considering freestanding emergency departments including part time free standing emergency departments and also upgraded D&T centers which have in current regulation a place, although they have never come to exist but have a designation or category for a limited emergency services, such as urgent care.

Dr. Ruge stated that in the course of the Committee's discussion they identified certain themes that keep recurring. One is that we value pluralism. The Committee is not trying to find any one model of care that is best, but instead having a variety of models that work best for individual communities. There is a need for clear labeling and nomenclature and a set of services. There is newly available ability to collect and analyze data and that has implications for reporting expectations in the future that up to now have not existed. The Committee has also been looking at the absolute need for bidirectional referral arrangements, so that referrals can happen across primary care or over to acute care settings on an assured basis without fail. A preference for accreditation by agencies, national agencies over direct state supervision in the form of surveys.

Dr. Ruge advised that complete these tasks with the help of Dr. Shah they have identified David Chokshi as a scholar and a fellow. Dr. Chokshi prepared a seven page document setting a context for recommendation will be forthcoming, and also provided a vision statement that will be available and useful in the future as we collect more data.

Dr. Rugge outlined the upcoming meetings and Committee's goals. He noted that the Committee is looking at incremental steps providing a shaping experience for continuously evolving ambulatory modes of care. Dr. Rugge advised an all day meeting will be held on October 4, 2013 to consider urgent care, recognizing that urgent care is really the pivot between high end acute care in the emergency care setting and primary care in office-based settings or in clinic settings. While realizing that just as in office-based care, there are two modes. The entrepreneurial or proprietary mode with licensed physicians and not-for-profit institutional mode under article 28. In urgent care there is urgent care done by clinics and by health centers, but also urgent care being done on an increasing basis by private physicians. The open issues are what kind of commonalities? What kind of recognition? What kind of common traits should be identified and then what kind of naming convention might be in order, as well as what kind of accreditation. Dr. Rugge also stated that there will be a special Health Planning Committee meeting November where there will be a draft report with a series of recommendations for initial consideration by the Committee at that meeting leading to presentation on schedule in December for the Full Council to review.

Dr. Rugge recognized that the Department assisted in preparing option papers which have been very well developed, Dr. Rugge noted that the new introductory essay will be helpful to us as we try to get our arms around a very big series of topics. In addition, the Department has been working very hard to engage the legislature so there will be some understanding and receptivity of the recommendations we are making, and this was made manifest by Assemblyman Gottfried attending and participating as an honorary member of our committee in September with some very helpful advice for us, and a continuing interest as we share with him the papers that we are receiving, and we are looking for a similar outreach to the Senate.

Dr. Rugge concluded his report, to review in detail and the members comments, please refer to pages 54 through 58 of the transcript.

Dr. Streck thanked Dr. Rugge and introduced Mr. Kraut to give the Report of the Committee on Establishment and Project Review

### **PROJECT REVIEW RECOMMENDATIONS AND ESTABLISHMENT ACTIONS**

Mr. Kraut called upon Mr. Abel to give an update on the activities CON streamlining activities.

Mr. Abel briefly gave the status of the PHHPC's recommendations for CON reform Phase One and Phase Two. Phase One recommendations were submitted to the Department in June of last year, the Department has streamlined a review process for integrated behavioral health and physical health services. The Department has worked with the other agencies. The Department has expanded the acceptance of architecture and engineering self-certifications, finalized a MOU and a process for DASNY review of architectural drawings to help expand the resources that we have available for CON reviews. The Department has enacted the requested revisions to the limited life policy, basing the limited life on an operating certificate expiration date and not on limited life of the establishment approval, thus facilitating the reviews of limited life extensions. The Department has committed to a continuation of the NYSECON development as evidenced by a 2013-2014 contract for continued development. There are

remaining phase one recommendations which required legislative or regulation changes and have drafted all new regulations. Some of which were included in the proposed legislation within the 2013-2014 budget bill. Unfortunately the language associated with the implementation of those recommendations that required new statute, that language was omitted from the enacted article 7 bill. The Department is working to reintroduce those pieces of legislation to further implement the phase one recommendations.

Mr. Abel advised that Phase Two contained 23 recommendations and Phase One had nine. The Department implemented and accepted the recommendations for retaining CON for hospital beds for the next three to five year, implemented a process for ACO certification in lieu of CON, and regulations were drafted. The Department is well underway in updating the hospice need methodology. The Department developed a process for approved pipeline projects reviewing all projects that have contingent approval but have not progressed, and have been moving forward with applicants being contacted and must state that either the applicant needs to demonstrate that the project is still viable or the Department begins proceeding with abandonments. We have implemented the temporary operator statute to strengthen the Department's authority to respond to failures in governance. The Department developed a ranking of hospitals and nursing homes in the State with respect to financial strength and quality metrics, relaxed our prohibition on revenue sharing with revised policy on the interpretation of 600.9C, drafted revisions to that regulation circulating within the Department and expect to be able to move forward with promulgation of that regulation at an upcoming meeting.

Mr. Abel advised that with respect to recommended changes to the character and competence review process, the matter of standardization of process and what constitutes a taint. The recommendation was to add some flexibility to the interpretation of taint and move from a 10 year look-back to a 7 year look-back while that requires statute for Article 28 providers it does not require statutory change for Article 36 and Article 40 providers. The Article 28 standard by policy for Article 36 and Article 40 providers and as now that we have accepted and embraced that the 7 year look-back with greater flexibility is going to be our standard, the Department is implementing a revised policy for the Article 36, Article 40 providers to implement the recommendations at this time, with 7 year look-back, flexibility on the taint rule.

Mr. Abel concluded his update. To view the complete update, please see pages 58 through 63 of the attached transcript.

**A. Adoption of the Ad Hoc Advisory Committee on Environmental and Construction Standard's Final Report and Recommendations**

Jeffrey Kraut, Chair  
Robert Schmidt, Director, Certificate of Need Review Group  
Division of Health Facility Planning

Mr. Kraut and Mr. Schmidt presented to the Council for adoption the Ad Hoc Advisory Committee on Environmental and Construction Standard's Final Report and Recommendation. Mr. Kraut made a motion for adoption which was seconded by Dr. Berliner. To review Mr. Kraut's presentation, please see pages 63 through 72 of the attached transcript.

**B. APPLICATIONS FOR CONSTRUCTION OF HEALTH CARE FACILITIES**

**CATEGORY 1:** Applications Recommended for Approval – No Issues or Recusals, Abstentions/Interests

**CON Applications**

**Continuing Care Retirement Community - Construction** **Exhibit #5**

	<b><u>Number</u></b>	<b><u>Applicant/Facility</u></b>	<b><u>Council Action</u></b>
1.	131304 C	Peconic Landing at Southold (Suffolk County)	Contingent Approval

Mr. Kraut introduced application 131304 and motioned for approval which was seconded by Dr. Gutiérrez. The motion to approve carried. Please see pages

**CATEGORY 2:** Applications Recommended for Approval with the Following:

- ❖ PHHPC Member Recusals
- ❖ Without Dissent by HSA
- ❖ Without Dissent by Establishment and Project Review Committee

**CON Applications**

**Upstate Request for Applications – Certified Home Health Agencies – Construction** **Exhibit #6**

	<b><u>Number</u></b>	<b><u>Applicant/Facility</u></b>	<b><u>Council Action</u></b>
1.	131186 C	HCR (Clinton County) Mr. Booth – Interest Ms. Hines - Interest	Approval
2.	131187 C	HCR (Madison County) Mr. Booth – Interest Ms. Hines - Interest	Approval
3.	131188 C	HCR (Schoharie County) Mr. Booth – Recusal Ms. Hines – Interest	Contingent Approval
4.	121267 C	TLC Health Network-Lake Shore Hospital (Chautauqua County) Mr. Booth – Interest	Approval

Mr. Kraut called applications 131186, 131188 and 121267 noting Mr. Booth's interest on applications 131186, 131188 and 121267 and Ms. Hines interest on applications 131186 and 131188. Mr. Kraut motioned for approval which was seconded by Dr. Gutiérrez. There was discussion regarding the process and transparency of the applications being presented to the Council for action. Mr. Kraut amended his motion and called applications 131186, 131187 and noted for the record that Mr. Booth has a conflict and will be recusing and exited the meeting room, Ms. Hines has declared an interest and also called 131188 and motioned for the applications to return to the Establishment and Project Review Committee. The motion to amend the original motion was seconded by Ms. Hines. The motion failed. Mr. Booth re-entered the meeting room. The original motion to approve applications 131186, 131188 and 121267 is called and was previously seconded by Dr. Gutiérrez. The motion to approve carried with 2 members opposing. Next, Mr. Kraut calls application 131187, Mr. Booth exits the meeting room declaring a conflict. Dr. Gutiérrez seconds the motion. The motion to approve carries with Mr. Booths recusal, Ms. Hines interests and 3 members opposing. Please see pages 73 through 110 of the attached transcript. Mr. Booth re-enters the meeting room.

**CATEGORY 3:** Applications Recommended for Approval with the Following:

- ❖ No PHHPC Member Recusals
- ❖ Establishment and Project Review Committee Dissent, or
- ❖ Contrary Recommendations by HSA

**NO APPLICATIONS**

**CATEGORY 4:** Applications Recommended for Approval with the Following:

- ❖ PHHPC Member Recusals
- ❖ Establishment and Project Review Committee Dissent, or
- ❖ Contrary Recommendation by HSA

**NO APPLICATIONS**

**CATEGORY 5:** Applications Recommended for Disapproval by OHSM or Establishment and Project Review Committee - with or without Recusals

**NO APPLICATIONS**

**CATEGORY 6:** Applications for Individual Consideration/Discussion

**NO APPLICATIONS**

**C. APPLICATIONS FOR ESTABLISHMENT AND CONSTRUCTION OF HEALTH CARE FACILITIES**

**CATEGORY 1:** Applications Recommended for Approval – No Issues or Recusals, Abstentions/Interests

**CON Applications**

**Acute Care Services – Establish/Construct**

**Exhibit #7**

	<b><u>Number</u></b>	<b><u>Applicant/Facility</u></b>	<b><u>Council Action</u></b>
1.	132025 E	White Plains Hospital Center (Westchester County)	Contingent Approval
2.	132026 E	Northern Westchester Hospital (Westchester County)	Contingent Approval
3.	132027 E	Lawrence Hospital Center (Westchester County)	Contingent Approval
4.	132028 E	Phelps Memorial Hospital (Westchester County)	Contingent Approval

Mr. Kraut described applications 132025, 132026, 13207 and 132028 and motioned for approval which was seconded by Dr. Gutiérrez. The motioned to approve carried. See pages 110 and 111 of the attached transcript.

**Ambulatory Surgery Centers – Establish/Construct**

**Exhibit #8**

	<b><u>Number</u></b>	<b><u>Applicant/Facility</u></b>	<b><u>Council Action</u></b>
1.	132056 E	Eye Surgery Center of Westchester (Westchester County)	Approval

**Diagnostic and Treatment Center – Establish/Construct**

**Exhibit #9**

	<b><u>Number</u></b>	<b><u>Applicant/Facility</u></b>	<b><u>Council Action</u></b>
1.	062287 E	SDTC – The Center for Discovery Incorporated (Sullivan County)	Contingent Approval
2.	131237 E	B&L Health, Inc. d/b/a Allhealth D&TC (Kings County)	Contingent Approval
3.	131258 B	AIDS Healthcare Foundation (Kings County)	Contingent Approval
4.	131341 E	PALA Community Care, LLC d/b/a PALA Community Care (Kings County)	Contingent Approval

**Residential Health Care Facilities – Establish/Construct**

**Exhibit #10**

<u>Number</u>	<u>Applicant/Facility</u>	<u>Council Action</u>
1. 131195 E	River Ridge Operating, LLC d/b/a River Ridge Living Center (Montgomery County)	Contingent Approval

Mr. Kraut described application 132056, 062287, 131237, 131258, 131341 and 131195 and motioned to approve the applications. Dr. Gutiérrez seconded the motion. The motion to approve was carried. See pages 111 and 112 of the attached transcript.

**Certificate of Incorporation**

**Exhibit #11**

<u>Applicant</u>	<u>Council Action</u>
The Hazel Thomas Holder Lung Foundation, Inc.	Approval

**Certificate of Amendment of the Certificate of Incorporation**

**Exhibit #12**

<u>Applicant</u>	<u>Council Action</u>
The Foundation of St. Mary’s Hospital at Amsterdam, Inc.	Approval

**Certificate of Dissolution**

**Exhibit #13**

<u>Applicant</u>	<u>Council Action</u>
The Linden Foundation, Inc.	Approval

Mr. Kraut called The Hazel Thomas Holder Lung Foundation, Inc., The Foundation of St. Mary’s Hospital at Amsterdam, Inc. and The Foundation of St. Mary’s Hospital at Amsterdam, Inc. and motioned for consent to file their certificates. Dr. Berliner seconded the motion. The motioned carried. Please see page 112 of the transcript.

**HOME HEALTH AGENCY LICENSURES**

**Exhibit #14**

<u>Number</u>	<u>Applicant/Facility</u>	<u>Council Action</u>
2071-L	Home Life Health Care, LLC d/b/a Alvita Care (Kings, Bronx, Queens, Richmond, New York and Westchester Counties)	Contingent Approval

2001-L	Effective Home Care, LLC (Bronx, Richmond, Kings, Westchester, New York and Queens Counties)	Contingent Approval
2090-L	Merchant Care Services, Inc. d/b/a BrightStar of White Plains (Bronx and Westchester Counties)	Contingent Approval
1615-L	Universal Home Care Agency of New York, Inc. (Bronx, Westchester, Kings, New York and Queens Counties)	Contingent Approval
2229-L	The Pavilion at Vestal, LLC (Broome County)	Contingent Approval

Mr. Kraut called applications 2071, 2001, 2090, 1615 and 2229 and motioned for approval. Dr. Gutierrez seconded the motion. The motion carried. Please see pages 112 and 113 of the attached transcript.

**CATEGORY 2:** Applications Recommended for Approval with the Following:

- ❖ PHHPC Member Recusals
- ❖ Without Dissent by HSA
- ❖ Without Dissent by Establishment and Project Review Committee

**CON Applications**

**Ambulatory Surgery Centers – Establish/Construct**

**Exhibit #15**

	<b><u>Number</u></b>	<b><u>Applicant/Facility</u></b>	<b><u>Council Action</u></b>
1.	132057 E	Queens Endoscopy ASC, LLC (Allegany County) Mr. Booth - Interest	

Mr. Booth introduced application 122311 and motioned for approval. Dr. Gutiérrez seconded the motion. The motion to approve carried. Please see page 78 of the attached transcript.

**Diagnostic and Treatment Centers – Establish/Construct**

**Exhibit #16**

	<b><u>Number</u></b>	<b><u>Applicant/Facility</u></b>	<b><u>Council Action</u></b>
1.	131329 E	Planned Parenthood of Central and Western New York, Inc. (Erie County) Mr. Booth - Interest	Contingent Approval



**Dialysis Services – Establish/Construct****Exhibit #17**

<u>Number</u>	<u>Applicant/Facility</u>	<u>Council Action</u>
1. 132065 E	Plattsburgh Associates, LLC (Clinton County) Dr. Bhat – Interest Mr. Booth - Interest	Contingent Approval

Mr. Kraut described application 132057, 131329 and noted for the record Mr. Booth’s interest. Mr. Kraut also introduced application 132065 and noted for the record Dr. Bhat’s and Mr. Booth’s interest. Dr. Berliner seconded the motion. The motion carried. Please see 113 and 114 of the attached transcript.

**Residential Health Care Facility – Establish/Construct****Exhibit #18**

<u>Number</u>	<u>Applicant/Facility</u>	<u>Council Action</u>
1. 131107 E	JSSG Healthcare, LLC d/b/a Fiddlers Green Manor Rehabilitation and Nursing Center (Erie County) Mr. Booth – Interest Mr. Fensterman – Recusal	Contingent Approval

Mr. Kraut called application 131107 and noted for the record that Mr. Booth has an interest and Mr. Fensterman has a conflict and is leaving the meeting room. Mr. Kraut motioned for approval. Dr. Gutiérrez seconded the motion. The motion carried with the noted interest and recusal. Mr. Fensterman remained outside the meeting room. Please page 114 of the attached transcript.

**Residential Health Care Facility – Establish/Construct****Exhibit #18**

<u>Number</u>	<u>Applicant/Facility</u>	<u>Council Action</u>
2. 131120 E	Essex Operations Associates, LLC d/b/a Essex Center for Rehabilitation and Healthcare (Essex County) Mr. Booth – Interest Mr. Fensterman - Recusal	Contingent Approval
3. 131193 E	Washington Operating Associates LLC d/b/a Washington Center for Rehabilitation and Healthcare (Washington County) Dr. Bhat – Recusal Mr. Fensterman – Recusal	Contingent Approval

Mr. Kraut introduced applications 131120 and stated that Mr. Booth has an interest and Mr. Fensterman is recusing. He then called application 131193 and noted for the record that Dr. Bhat has a conflict and has left the meeting room and Mr. Fensterman has a conflict and remains outside the meeting room. Mr. Kraut motioned for approval, Dr. Gutiérrez seconded the motion. The motion carried with the noted recusals. Mr. Fensterman and Dr. Bhat returned to the meeting room. Please see page 115 of the transcript.

**Residential Health Care Facility – Establish/Construct**

**Exhibit #18**

	<u>Number</u>	<u>Applicant/Facility</u>	<u>Council Action</u>
4.	132079 E	Auburn Senior Services, Inc. (Cayuga County) Mr. Booth - Interest	Contingent Approval
5.	132093 B	Auburn Senior Services, Inc. (Cayuga County) Mr. Booth - Interest	Contingent Approval

**Dialysis Services – Establish/Construct**

**Exhibit #19**

	<u>Number</u>	<u>Applicant/Facility</u>	<u>Council Action</u>
1.	131281 E	L. Woerner, Inc. d/b/a HCR (Washington County) Ms. Hines - Interest	Contingent Approval

**HOME HEALTH AGENCY LICENSURES**

**Exhibit #20**

	<u>Number</u>	<u>Applicant/Facility</u>	<u>Council Action</u>
	2242-L	Mount View Assisted Living, Inc. (Niagara County) Mr. Booth - Interest	Contingent Approval

Mr. Kraut described applications 132079, 132093 and noted for the record Mr. Booth’s interest on both applications. He called application 131281 and noted Ms. Hines Interest and called application 2242 and noted Mr. Booth’s interest. Dr. Torres seconded the motion. The motion to approve carried. Please see pages 116 and 117 of the attached transcript.

**CATEGORY 3:**

Applications Recommended for Approval with the Following:

- ❖ No PHHPC Member Recusals
- ❖ Establishment and Project Review Committee Dissent, or
- ❖ Contrary Recommendations by or HSA

**Ambulatory Surgery Centers – Establish/Construct****Exhibit #21**

	<u>Number</u>	<u>Applicant/Facility</u>	<u>Council Action</u>
1.	131030 B	Bay Ridge Surgi-Center, LLC (Kings County)	Contingent Approval
2.	131308 B	Great South Bay Endoscopy Center, LLC (Suffolk County)	Contingent Approval

Mr. Kraut called applications 131030 and 131308 and motioned for approval. Dr. Gutiérrez seconded the motion. The motion carried with one member opposing. Please see 117 and 118 of the attached transcript.

**CATEGORY 4:** Applications Recommended for Approval with the Following:

- ❖ PHHPC Member Recusals
- ❖ Establishment an Project Review Committee Dissent, or
- ❖ Contrary Recommendation by HSA

**Acute Care Services – Establish/Construct****Exhibit #22**

	<u>Number</u>	<u>Applicant/Facility</u>	<u>Council Action</u>
	132088 E	St. Lawrence Health System, Inc. (St. Lawrence County) Mr. Booth - Interest	Contingent Approval

Mr. Kraut called application 132088 and motioned for approval. Dr. Gutiérrez seconded the motion. The motion carried with Mr. Booth’s noted interest. Please see pages 118 and 119 of the attached transcript.

**CATEGORY 5:** Applications Recommended for Disapproval by OHSM or Establishment and Project Review Committee - with or without Recusals**Ambulatory Surgery Centers – Establish/Construct****Exhibit #23**

	<u>Number</u>	<u>Applicant/Facility</u>	<u>Council Action</u>
1.	121373 B	Lockport Ambulatory Surgery, LLC (Niagara County) Mr. Booth - Interest	Disapproval

Mr. Kraut described application 121373 and noted for the record Mr. Booth’s interest. Mr. Kraut motioned for disapproval which was seconded by Dr. Gutiérrez. The motion to disapprove carried with Mr. Booth’s noted interest. Please see pages 119 and 120 of the attached transcript.

**CATEGORY 6:** Applications for Individual Consideration/Discussion

**CON Applications**

**NO APPLICATIONS**

**ADJOURNMENT:**

Mr. Abel stated that there may be a need to convene a Special Establishment and Project Review Committee meeting and a Special Full Council meeting to consider three CON applications. To review the comments, please see pages 120 through 126 of the attached transcript.

Dr. Streck hearing not further business of the Council adjourned the meeting.