

State of New York
Public Health and Health Planning Council

Minutes
December 13, 2018

The meeting of the Public Health and Health Planning Council was held on Thursday, December 13, 2018 at the Empire State Plaza, Concourse Meeting Room 6, Albany. Chairman, Jeffrey Kraut presided.

COUNCIL MEMBERS PRESENT

Ms. Judy Baumgartner	Dr. Glenn Martin
Dr. John Bennett	Ms. Ellen Rautenberg
Dr. Howard Berliner	Mr. Peter Robinson
Dr. Jo Ivey Boufford	Dr. John Ruge
Dr. Lawrence Brown	Ms. Nilda Soto
Ms. Carver-Cheney	Dr. Theodore Strange
Dr. Angel Gutierrez	Mr. Hugh Thomas
Mr. Thomas Holt	Dr. Anderson Torres
Dr. Gary Kalkut	Dr. Kevin Watkins
Mr. Jeffrey Kraut	Dr. Patsy Yang
Mr. Scott La Rue	Dr. Howard Zucker – Ex-officio (via phone)
Mr. Harvey Lawrence	

DEPARTMENT OF HEALTH STAFF PRESENT

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| Ms. Deirdre Austin | Ms. Marthe Ngwashi |
| Ms. Suzanne Barg | Ms. Lauren Orciuoli |
| Ms. Barbara DelCogliano | Ms. Sylvia Pirani |
| Mr. Brian Gallagher | Ms. Tracy Raleigh |
| Ms. Rebecca Fuller Gray | Ms. Beverly Rauch |
| Mr. Mark Furnish | Ms. Gilda Riccardi |
| Mr. Scott Franko | Ms. Lora Santilli |
| Dr. Eugene Heslin | Mr. Keith Servis |
| Mr. Richard Kortright | Mr. Daniel Sheppard |
| Ms. Colleen Leonard | Mr. James Tardy |
| Mr. George Macko | Ms. Lisa Thomson |
| Ms. Karen Madden | Mr. John Walters |
| Ms. Adrienne Mazeau | Mr. Richard Zahnleuter |
| Mr. Brian Miner | |

INTRODUCTION

Mr. Kraut called the meeting to order and welcomed Council members, meeting participants and observers.

SYLVIA PIRANI RETIREMENT

*Mr. Kraut announced that Ms. Pirani will be retiring from State service and thanked Ms. Pirani for her many years of dedication. He acknowledged her expertise was invaluable in the work of the Prevention Agenda, her efforts in getting the Department of Health to be one of the first large states in the nation to be accredited by the Public Health Accreditation Board, and in implementing public health in the Certificate of Need process. On behalf of the Council, Mr. Kraut and Dr. Boufford signed a Resolution of Appreciation and thanked Ms. Pirani for her years of dedications to the Council. Please refer to pages 3 through 6 of the attached transcript.

APPROVAL OF THE MINUTES OF OCTOBER 11, 2018

Mr. Kraut asked for a motion to approve the October 11, 2018 Minutes of the Public Health and Health Planning Council meeting. Dr. Berliner motioned for approval which was seconded by Dr. Gutiérrez. The minutes were unanimously adopted. Please refer to page 3 of the attached transcript.

PUBLIC HEALTH SERVICES

Dr. Boufford began her report and presented a power point presentation. Dr. Boufford presented the Prevention Agenda 2019-2024 to the PHHPC members. Dr. Boufford motioned for approval of a Resolution to accept the Prevention Agenda 2019-2024. Dr. Brown seconded the motion. The motion carried. Dr. Boufford concluded her report, to view the detailed report see pages 5 through 18 and 27 through 37 of the attached transcript.

REPORT OF DEPARTMENT OF HEALTH ACTIVITIES

Mr. Kraut introduced Dr. Zucker to give a report on the Department of Health report who was participating via phone.

Dr. Zucker began his report by stating the best way to beat the flu is to get the flu shot, wash your hands and stay home if you are sick. Dr. Zucker noted that New York State pharmacies outside of NYC have reported 840,792 doses of the flu vaccine administered since August 2018.

Dr. Zucker also spoke on the issue of immunizations. The State is actively managing the extensive response to measles outbreak with partners both in Rockland and Orange Counties where there have been 96 confirmed cases. In addition, Erie County has a positive case of measles, New York City is managing a similar response in Brooklyn where there have been 44 confirmed cases and the original cases originating in late September and early October from international travelers and the dozens of secondary cases since that time underscore the importance of vaccinations. Dr. Zucker advised that getting the measles vaccine is simply stated, the best way to prevent measles. The Department has had daily calls since early October, shipped supplies, weekly support staff traveling from Albany and New York City and a measles hotline has received 1000 calls and extensive community outreach have all factored in to truly coordinated responses. In addition, the State has worked with Rockland County to enforce student exclusions at schools that are impacted in the impacted areas with less than 70 percent

MMR vaccination rate. That effort has since been expanded to all schools with less than an 80 percent vaccination rate. The schools are required to keep an under vaccinated students at home until 21 days have passed since the last confirmed cases of measles in that community. Anyone who is not protected against measles is at risk of getting the disease and they may spread measles to people who cannot get vaccinated because of the age or specific health conditions as well. Dr. Zucker noted that he is personally invested in and has visited the communities on multiple occasions and will continue to encourage everyone to be up to date with their MMR vaccines.

Dr. Zucker next updated the Council members on the topic of e-WIC. Since October 2017 the Department has been busy continuing the statewide rollout of e-WIC an electronic benefits transfer card which eliminates the paper checks and provides a more convenient way for families in the Women, Infants, and Children program to shop for nutritious WIC foods. All across the State we are hearing from grateful families about the differences that this technology has made, and ensuring that they have access to nutritious foods without the shame that can be felt by holding up a grocery line using outdated system. Dr. Zucker stated that he had an opportunity to be at one of the launches. e-WIC is now online in the Capital Region, Central New York, Southern Tier, Rochester, Finger Lakes region, Buffalo, and the Western New York region and the Department is in the process of bringing Hudson Valley region online with Long Island and New York City in the new year, the Department is ahead of the 2020 federal guidelines.

Dr. Zucker advised that in late November 2018, the Department held its first meeting of the New York State Hepatitis C Elimination Taskforce. The Governor charged the Taskforce with developing the State's plan for eliminating Hepatitis C as a public health epidemic. The work of the Taskforce will be supplemented by five workgroups. One is prevention, two is testing in linkage to care, three is care and treatment, four is surveillance data and metrics, and five are the social determinants. Over the next several months, the five workgroups will meet to review update enhance and prioritize Hepatitis C elimination recommendations. The draft recommendations will be delivered to the Taskforce for review in early spring with a meaning to finalize the recommendations and seek community engagement.

Dr. Zucker noted that the Governor's End the Epidemic initiative was celebrated the first week of December on the 20th anniversary of World AIDS Day. The Governor's initiative features a three point plan which includes identifying people with HIV who remain undiagnosed, and linking them to healthcare. Number two, linking and retaining people diagnosed with HIV to healthcare and getting them on treatment to maximize HIV viral suppression. And three, providing access to appropriate prophylaxis for people who engage in high risk behaviors to keep them HIV negative. Thanks to the initiative, new diagnoses of HIV are falling while rates of enrollment and treatment for those diagnosed continues to decline, new HIV diagnoses in New York declined for a third consecutive year reaching an all-time low of 2769 in 2017 which is down 20 percent since 2014 and we continue to drop. The number of new HIV diagnoses in people with a history of injection drug use reached an all-time low of 110 during 2017 and that was down 28 percent from 2014 where it was 153. The Governor announced regulations governing HIV uninsured care programs will be amended to update income criteria and eliminate the assets test. Currently to be eligible for the HIV uninsured care program, an applicants household income must be equal to or less than 435 percent of the federal poverty level and the

applicants liquid resources must be less than \$25,000. These new regulations will increase eligible income to 500 percent of the federal poverty level and eliminate the cap on resources. The proposed regulations are being finalized with adoption anticipation in early 2019.

Dr. Zucker advised that the New York State of Health is in the middle of open enrollment. As of December 5, 2018 more than 930,000 consumers have enrolled or renewed coverage in a qualified health plan or the essential plan. 51,000 are new consumers. The Department contributes the large number of the new enrollees to a wide range of participating plans, a targeted consumer outreach, and easy auto renewal which help ensure the goal of getting every New Yorker covered. December 15 is the deadline to qualify for the January 1, 2019 coverage and open enrollment runs through January 31, 2019.

Lastly, Dr. Zucker spoke on the topic of the aging innovation challenge which took a year of work on part of everyone in many parts of the Department and to work hard to make sure New York is an age friendly state. The first week of December 2018, was the culmination of the effort by the Department to work with a group called HERO X to develop a crowd source competition to generate innovative solutions to help older adults and their caregivers in carrying out activities of daily living. The challenge was open to all undergraduate and graduate students attending a college or university in New York State. It was a panel of expert judges who evaluate the five finalists and their innovations to determine which team would win the first ever Aging Innovation challenge. There were co-winners who split the \$25000 top prize. A team from Corning Community College demonstrated something called Grip Aid. It was an assisted eating device targeted to people who have motor control issues and inhibit their ability to feed themselves. It was very innovative to look, you can put a spoon in, you could actually put a toothbrush in, and many other things in there. And a team from Syracuse University designed PNEU-Strength. PNEU, PNEU-Strength, which is an inflatable seat cushion device that provides physical assistance to older adults in standing up from a sitting position on a chair or a sofa. It is clear if you have trouble standing up without assistance, this was something which clearly could help them. The two teams from Cornell University and a team from University of Buffalo also received \$5000 each as finalists. All the teams were incredible, enthusiasm, professionalism, it was truly a pleasure to see the ingenuity that entrepreneurial spirit, their market research that they did, and it was a wonderful day and we look forward to doing this again.

Dr. Zucker stated that the Department has been actively managing an extensive response to the measles outbreak

Dr. Zucker concluded her report. To read the complete report and questions from the Members, please see pages 18 through 27 of the attached transcript.

REGULATION

Mr. Kraut introduced Dr. Gutierrez to give his Report of the Committee on Codes, Regulations and Legislation.

Report of the Committee on Codes, Regulation and Legislation

For Adoption

18-10 Amendment of Sections 405.7 and 751.9 of Title 10 NYCRR (Patients' Bill of Rights)

Dr. Gutiérrez described For Adoption the proposed Amendment Sections 405.7 and 751.9 of Title 10 NYCRR (Patients' Bill of Rights) and motioned for adoption. Dr. Berliner seconded the motion. The motion carried. Please see page 40 of the transcript.

18-01 Amendment of Section 400.18 of Title 10 NYCRR (Statewide Planning and Research Cooperative System (SPARCS))

Dr. Gutiérrez described For Adoption the proposed Amendment Sections 405.7 and 751.9 of Title 10 NYCRR (Patients' Bill of Rights Amendment of Section 400.18 of Title 10 NYCRR (Statewide Planning and Research Cooperative System (SPARCS)) and motioned for adoption. Dr. Kalkut seconded the motion. The motion carried. Please see page 40 and 41 of the transcript.

For Information

18-23 Addition of Section 415.32 to Title 10 NYCRR (Nursing Home Weekly Bed Census Survey)

18-21 Amendment of Sections 766.9 & 766.12(c)(4) of Title 10 NYCRR (New Requirements for Annual Registration of Licensed Home Care Services Agencies)

18-20 Amendment of Part 405 and Section 751.5 of Title 10 NYCRR (Hospital Policies for Human Trafficking Victims)

18-18 Amendment of Part 14 of Title 10 NYCRR (Food Service Establishments)

18-13 Amendment of Part 19 of Title 10 NYCRR (Clinical Laboratory Directors)

Dr. Gutiérrez described For Information the proposed Amendment Addition of Section 415.32 to Title 10 NYCRR (Nursing Home Weekly Bed Census Survey), Amendment of Sections 766.9 & 766.12(c)(4) of Title 10 NYCRR (New Requirements for Annual Registration of Licensed Home Care Services Agencies), Amendment of Part 405 and Section 751.5 of Title 10 NYCRR (Hospital Policies for Human Trafficking Victims), Amendment of Part 14 of Title 10 NYCRR (Food Service Establishments), and Amendment of Part 19 of Title 10 NYCRR (Clinical Laboratory Directors). Please see pages 41 through 43 of the transcript.

Mr. Kraut then moved to the next item on the agenda and introduced Dr. Ruggie to give the Report on the Activities of the Health Planning Committee

PUBLIC HEALTH SERVICES

Dr. Rugge began his report and advised that the Health Planning Committee has a 13 part agenda with topics for consideration over the next two years. Many of the items come from the RMI process for review and consideration. There will also be the opportunity to review the standards used for CON review. Dr. Rugge stated that there will be much more to follow and a few more meetings to attend so that the Committee can address concerns that are really central to everything that the Council is to do.

Request for Stroke Center Designation

Applicant

Glens Falls Hospital

Mr. Kraut introduced for approval a Request for Stroke Center Designation for Glens Falls Hospital and noted for the record that Dr. Rugge has a conflict and has exited the meeting room. Mr. Kraut motions for approval, Dr. Berliner seconds the motion. The motion to approve carries. Dr. Rugge returns to the meeting room. Please see pages 45 and 46 of the transcript.

Mr. Kraut then moved to the next item on the agenda and introduced Mr. Robinson to give the Report of the Committee on Establishment and Project Review.

PROJECT REVIEW RECOMMENDATIONS AND ESTABLISHMENT ACTIONS

Report of the Committee on Establishment and Project Review

Mr. Robinson, Chair, Establishment and Project Review Committee

A. APPLICATIONS FOR CONSTRUCTION OF HEALTH CARE FACILITIES

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

CON Applications

Residential Health Care Facilities - Construction

<u>Number</u>	<u>Applicant/Facility</u>	<u>Council Action</u>
182082 C	Menorah Home & Hospital for Aged & Infirm (Kings County)	Contingent Approval

Mr. Robinson calls application 182082 and motions for approval. Dr. Gutiérrez seconds the motion. The motion to approve carries. Please see pages 46 and 47 of the 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

NO APPLICATIONS

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

CON Applications

Ambulatory Surgery Centers – Construction

<u>Number</u>	<u>Applicant/Facility</u>	<u>Council Action</u>
181329 C	Albany Medical Center Hospital (Schenectady County) Dr. Bennett – Recusal Dr. Ruge - Recusal	Contingent Approval

Mr. Robinson calls application 181329 and motions for approval. Dr. Gutiérrez seconds the motion. After members discussion there was a roll call vote. The motion to approve passed with 6 members opposing. Please see pages 46 through 60 of the attached transcript.

B. APPLICATIONS FOR ESTABLISHMENT AND CONSTRUCTION OF HEALTH CARE FACILITIES

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

CON Applications

Ambulatory Surgery Centers – Establish/Construct

<u>Number</u>	<u>Applicant/Facility</u>	<u>Council Action</u>
181277 E	The Surgery Center at Orthopedic Associates, LLC (Dutchess County)	Approval

Diagnostic and Treatment Centers – Establish/Construct

<u>Number</u>	<u>Applicant/Facility</u>	<u>Council Action</u>
181183 B	Visiting Services, LLC d/b/a Visiting Docs (Rockland County)	Contingent Approval
182073 B	Union Square Eye Center, LLC d/b/a Union Square Eye Care – Harlem (New York County)	Contingent Approval

Certified Home Health Agencies – Establish/Construct

<u>Number</u>	<u>Applicant/Facility</u>	<u>Council Action</u>
181268 E	Oswego Health Home Care, LLC (Oswego County)	Contingent Approval

Mr. Robinson calls applications 181277, 181183, 182073 and 181268 and motions for approval. Dr. Gutiérrez seconds the motion. The motion to approve carries. Please see pages 60 through 62 of the 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

Acute Care Services – Establish/Construct

<u>Number</u>	<u>Applicant/Facility</u>	<u>Council Action</u>
172379 E	St. Peter’s Health Partners (Albany County) Dr. Bennett – Interest/Abstaining	Contingent Approval
182052 E	HQ-WCHN Health Systems, Inc. (Dutchess County) Dr. Bennett – Interest/Abstaining Mr. Kraut - Interest	Contingent Approval

Mr. Robinson calls application 172379 and notes for the record Dr. Bennett’s interest and motions for approval. Dr. Kalkut seconds the motion. The motion carries with Dr. Bennett’s noted abstention. Please see pages 62 and 63 of the transcript.

Mr. Robinson calls application 182052 and notes for the record Dr. Bennett and Mr. Kraut’s interest and motions for approval. Dr. Gutiérrez seconds the motion. The motion to approve carries with Dr. Bennett’s abstention. Please see pages 63 through 66 of the attached transcript.

Dialysis Services – Establish/Construct

<u>Number</u>	<u>Applicant/Facility</u>	<u>Council Action</u>
172406 B	Queens Boulevard Extended Care Dialysis Center II (Queens County) Mr. Kraut - Interest	Contingent Approval

Mr. Robinson introduces application 172406 and notes Mr. Kraut’s interest. Mr. Robinson motions for approval, Dr. Gutiérrez seconds the motion. The motion to approve carries. See pages 66 and 67 of the transcript.

Hospice Services – Establish/Construct

<u>Number</u>	<u>Applicant/Facility</u>	<u>Council Action</u>
181405 E	Visiting Nurse Hospice and Palliative Care (Monroe County) Ms. Baumgartner – Recusal Mr. Robinson – Recusal Mr. Thomas - Recusal	Contingent Approval

Certified Home Health Agencies – Establish/Construct

<u>Number</u>	<u>Applicant/Facility</u>	<u>Council Action</u>
181403 E	Visiting Nurse Service of Rochester and Monroe County (Monroe County) Ms. Baumgartner – Recusal Mr. Robinson – Recusal Mr. Thomas – Recusal	Contingent Approval

Dr. Kalkut calls applications 181405 and 181403 and notes for the records that Ms. Baumgartner, Mr. Robinson and Mr. Thomas have declared conflicts and have exited the meeting room. Dr. Kalkut motions for approval, Dr. Gutiérrez seconds the motion. The motion to approve carries with the noted recusals. Ms. Baumgartner, Mr. Robinson and Mr. Thomas return to the meeting room. Please see pages 67 through 69 of the transcript.

171041 E	Shining Star Health Care (Kings County)	Disapproval
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Mr. Robinson next calls application 171041 and motions for approval, Dr. Gutiérrez seconds the motion. There was discussion amongst members. A roll call vote was conducted, the motion to approve failed. Mr. Robinson made a second motion to disapprove, Dr. Kalkut seconded the motion. There was a roll call vote, the motion to disapprove carried. Please see pages 69 through 83 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 HSA

CON Applications

Residential Health Care Facilities – Establish/Construct

<u>Number</u>	<u>Applicant/Facility</u>	<u>Council Action</u>
181293 E	Carthage Center for Rehabilitation and Nursing (Jefferson County)	Contingent Approval
181295 E	New Paltz Center for Rehabilitation and Nursing (Ulster County)	Contingent Approval

181297 E	Onondaga Center for Rehabilitation and Nursing (Onondaga County)	Contingent Approval
181298 E	Schenectady Center for Rehabilitation and Nursing (Schenectady County)	Contingent Approval
181299 E	Slate Valley Center for Rehabilitation and Nursing (Washington County)	Contingent Approval
181300 E	Troy Center for Rehabilitation and Nursing (Rensselaer County)	Contingent Approval

Mr. Robinson called applications 181293, 181295, 181297, 181298, 181299, and 181300 and motioned for approval. Dr. Gutiérrez seconded the motion. The motion carried with one member opposing. Please see pages 83 through 85 of the attached transcript.

CATEGORY 4: Applications Recommended for Approval with the Following:

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

CON Applications

Residential Health Care Facilities – Establish/Construct

<u>Number</u>	<u>Applicant/Facility</u>	<u>Council Action</u>
181294 E	Glens Falls Center for Rehabilitation and Nursing (Warren County) Dr. Rugge – Interest/Abstaining	Contingent Approval

Mr. Robinson calls application 181294 and notes for the record Dr. Rugge’s interest. Mr. Robinson motions for approval, Dr. Gutiérrez seconds the motion. The motion carries. Please see page 85 of the transcript.

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

CON Applications

Acute Care Services – Establish/Construct

<u>Number</u>	<u>Applicant/Facility</u>	<u>Council Action</u>
182217 E	St. Joseph’s Health, Inc. (Onondaga County) Mr. Robinson - Interest	Contingent Approval

Mr. Robinson calls application 182217 and notes for the record he has interest and motions for approval. Dr. Gutiérrez seconds the motion. The motion carries with one member opposing. Please see pages 85 and 86 of the attached transcript.

HOME HEALTH AGENCY LICENSURES

Serious Concern/Access

182030 E	Amerita of New York LLC d/b/a Amerita (Nassau County)	Contingent Approval
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Affiliated with Assisted Living Programs (ALPs)

182014 E	The Mohawk Homestead, Inc. d/b/a The Mohawk Homestead Licensed Homecare Services Agency (Herkimer County)	Contingent Approval
182076 E	The Eliot at Troy, LLC (Rensselaer County)	Approval
182078 E	The Sentinel of Amsterdam (Montgomery County)	Contingent Approval

Mr. Robinson calls applications 182030, 182014, 182076, and 182078 and motions for approval. Dr. Gutiérrez seconds the motion. The motion to approve carries. Please see pages 86 and 87 of the attached transcript.

ADJOURNMENT:

Mr. Kraut announced the upcoming PHHPC meetings and adjourned the meeting.