

**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**

- |                         |                        |
|-------------------------|------------------------|
| 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 20<sup>th</sup> 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**

<b><u>Number</u></b>	<b><u>Applicant/Facility</u></b>	<b><u>Council Action</u></b>
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**

<b><u>Number</u></b>	<b><u>Applicant/Facility</u></b>	<b><u>Council Action</u></b>
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**

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

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

<b><u>Number</u></b>	<b><u>Applicant/Facility</u></b>	<b><u>Council Action</u></b>
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**

<b><u>Number</u></b>	<b><u>Applicant/Facility</u></b>	<b><u>Council Action</u></b>
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**

<b><u>Number</u></b>	<b><u>Applicant/Facility</u></b>	<b><u>Council Action</u></b>
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**

<b><u>Number</u></b>	<b><u>Applicant/Facility</u></b>	<b><u>Council Action</u></b>
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**

<b><u>Number</u></b>	<b><u>Applicant/Facility</u></b>	<b><u>Council Action</u></b>
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**

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

Mr. Robinson calls application 181294 and notes for the record Dr. Ruge’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**

<b><u>Number</u></b>	<b><u>Applicant/Facility</u></b>	<b><u>Council Action</u></b>
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.

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**NEW YORK STATE DEPARTMENT OF HEALTH**  
**PUBLIC HEALTH AND HEALTH PLANNING COUNCIL**  
**FULL COUNCIL MEETING TRANSCRIPT**  
**DECEMBER 13, 2018**  
**CONCOURSE LEVEL, MEETING ROOM 6, ALBANY, NY**

JEFF KRAUT: Good morning. I'm Jeff Kraut and I have the privilege to call to order the meeting of the Public Health and Health Planning Council for December 13, 2018. I welcome the members. Commissioner Zucker will be joining us in a little while by phone. Other participants and observers. I'd like to remind the council members, staff and the audience, the meeting is subject to the open meeting law, is broadcast over the internet and you can access webcasts through the Department of Health's website at NYHEALTH.GOV. These on-demand webcasts are going to be available no later than seven days after the meeting for a minimum of 30 days and then a copy will be retained in the Department for up to four months. Remember we have synchronized captioning. It's important that we do not speak over each other. Obviously we can't do it correctly when two people speak at the same time. The first time you speak, please identify your name and briefly identify yourself as a council member, staff member, and I'll be assistance in recording the meeting and transcribing

1 our proceedings. Remember that the microphones are hot. They  
2 pick up every sound. Try to avoid the rustling of paper near the  
3 mic when you see the red light on, and be careful about side  
4 conversations because they tend to get memorialized on our  
5 webcast forever. As a reminder for our audience, There's a form  
6 that needs to be filled out before you enter the meeting room.  
7 It records your attendance here. It's a requirement of the joint  
8 commission on public ethics in accordance with executive law  
9 section 166, and the form is also posted and available at  
10 NYHEALTH.GOV, the Department of Health's website, under  
11 certificate of need. So in the future you can fill out that form  
12 prior to attending the council meeting, and I really appreciate  
13 your cooperation in fulfilling our duties as prescribed by law.  
14 And today's meeting, I'm going to turn it over to Dr. Boufford  
15 in a minute who will present for adoption the prevention agenda.  
16 Then we'll move to reports from the Department of Health and  
17 then committee reports. I just want to remind everybody that  
18 before we get to the Establishment and Project Review Committee  
19 Recommendations and Establishment actions there are, we've  
20 organized the agenda by topics or category, and this  
21 reorganization includes batching certificate of needs for our  
22 voting. And I've asked the members prior to us calling that  
23 committee that if you think there's an application that has been  
24 batched that you would like to be removed and considered

1 independently, please let us know during the course of the  
2 morning. Our next agenda item is the adoption of the minutes,  
3 and may I have a motion for adoption of the October 11, 2018  
4 Public Health and Health Planning Council Dr. Berliner. All  
5 approve, say aye.

6

7 [Aye]

8 That's it. Before I ask Dr. Boufford to speak, I want to  
9 take a moment and I want to provide, this is the last meeting  
10 with Ms. Sylvia Pirani who is going to be present today and  
11 retiring from state service. And on behalf of the council, Dr.  
12 Boufford and I have signed a resolution about the years of  
13 support, and I just thought that I would just read some of the  
14 things about ... I'll put it down and give it to you in a second.  
15 24 years of service, beginning in state service in 1994. She  
16 originally appointed the director of the office of public health  
17 practice in 2007 and she became a member of the Department's  
18 leadership team, and since that time has been involved in every  
19 major decision, policy initiative regarding promoting public  
20 health and protecting the health of New Yorkers. She has served  
21 six commissioners of health, several governors, and she's always  
22 contributed to the countless successful initiatives in many  
23 facets of healthcare, particularly focusing on public health and  
24 the healthcare infrastructure of the state. She's supported

1 actions to include the accreditation and public workforce  
 2 promoting collaborations throughout the state and the health in  
 3 all policies by state leadership, and in 2003 you may remember  
 4 she provided support to the council in developing a report  
 5 regarding strengthening the public health system for the 21<sup>st</sup>  
 6 century.

7       There are so many things that Sylvia has done regarding  
 8 what the activities of the council, leading the prevention  
 9 agenda, charged with overseeing the development and review of  
 10 objectives, and the improvement plan known as the prevention  
 11 agenda towards the healthiest state. And her expertise was just  
 12 invaluable creating the 2013 agenda and the one that Dr.  
 13 Boufford is going to be presenting in a minute. Also, her  
 14 efforts in getting the Department of Health to be one of the  
 15 first large states in the nation accredited by the Public Health  
 16 Accreditation Board in 2014 along with Chairman Streck and Vice  
 17 Chairman Boufford at that time. There are just so many things  
 18 that she has done getting us to consider public health in  
 19 deliberation of the certificate of need applications and the  
 20 like. And her advice, her dedication, her commitment to  
 21 strengthening healthcare in New York has just, she's been the ...  
 22 just the example of what a great public servant is. On a  
 23 personal level her content of her character is above reproach.  
 24 She's always been fundamentally committed to doing the right

1 thing. Sometimes it's a difficult bureaucracy to do that in,  
2 but somehow her and her colleagues and the team that she's  
3 recruited here have always prevailed. And on behalf of this  
4 council, on behalf of the Department of Health, on behalf of the  
5 State of New York and its residents, we are tremendously  
6 thankful and appreciative.

7 [applause]

8 SYLVIA PIRANI: Thank you all very much. The team is  
9 arriving right now, so it's perfect. This has been a real  
10 pleasure to work with you on public health and on the prevention  
11 agenda, and it's been a lot of years and I really believe that  
12 you have all successfully drank the public health cool aid so I  
13 really appreciate that. We've made a big difference. You've  
14 really fully incorporated it into your activities and into the  
15 certificate of need which I think is the final bar that we had  
16 to pass. So, it's been a real pleasure. I really enjoyed this  
17 time. Thank you.

18

19 JO BOUFFORD: I don't want to go on, but just to say  
20 Sylvia has been indispensable in this process and I think we all  
21 know that. So congratulations on this next phase. I think she's  
22 still with us for a while, but it's very appropriate that we  
23 should be acting on the prevention agenda, 2019-2024 your last  
24 official meeting. So thank you for everything.

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JEFF KRAUT: And Sylvia, based on the requirements of the State and (JCOB) we all chipped in and got you a \$5 Holiday Magic lottery for your retirement. Sensible person please.

[applause for the team]

JEFF KRAUT: Those people who just came in, unfortunately you didn't hear my introductory remarks about our appreciation, not only about Ms. Pirani but the work that she and the team have created, and she basks in reflected glory of your efforts. So, I hope that you'll take the opportunity to watch the webcast. You'll be probably one of the few people. Or depending on how the day goes, many people, to rereview it. But we thank you for your efforts. We don't always get a chance to know who really works behind the activities that Dr. Boufford is about to present to us, but you know, In the last couple of years we've tried to emphasize what the role of the council and not forgetting its first name is public health. And thank you very, very much for all your work and your dedication. And I can think of a no fitting introduction after that to present Dr. Boufford to deliver and present for our adoption the prevention agenda 2019-2014. Dr. Boufford.

1           JO BOUFFORD:    Thank you very much Jeff. And thank you  
2 colleagues and colleagues in the back as well. This resolution  
3 is brought to you by after a meeting of the Public Health  
4 Committee on December 3, and was passed unanimously and brought  
5 forward for your consideration. You received a lot of material  
6 in advance because we didn't want to take any chance that any of  
7 the details might be missed for those that were digging into it.  
8 I think I want to appreciate Colleen and colleagues for sending  
9 out this material, but you did receive the sort of, all the back  
10 up material for the health for all, the deveins of healthy aging  
11 as well as a nice note I think from Sylvia summarizing the areas  
12 that we were bringing to your attention, the sort of  
13 introductory executive summary, pages 4 to 8 of the long  
14 prevention agenda as well as the table of contents. And the  
15 whole thing so you can go in to a particular section if you were  
16 interested and had invited you to make comments on that and are  
17 still invited to do that today. We also did send you the  
18 executive order of Governor Cuomo so you'd have that in detail  
19 sort of incorporating even further in the DNA. Hopefully this  
20 health across all policies. So all of that was done in an effort  
21 to make what could've been a very long presentation shorter. So  
22 let me move ahead with that, and this is going to be a group  
23 effort. Let me also introduce I guess formally, perhaps, to the  
24 council Laura Santilli who is the new Director of the Office of

1 Public Health Practice and officially the commissioner's  
 2 ambassador for the Prevention Agenda. So we have our first  
 3 ambassadorial position here at the PHHPC and welcome Laura, and  
 4 it's been great working with you the last couple weeks. And of  
 5 course Sylvia Pirani and her last official appearance, but not  
 6 unofficial we hope.

7       So let me just start very quickly by looking at just some  
 8 highlights from the short executive summary that you received.  
 9 This is page 4 to 8. This is the update of the prevention agenda  
 10 which is our responsibility as the New York State Public Health  
 11 and Health Planning Council overseeing this process on behalf of  
 12 the Department and this is the third cycle for this statewide  
 13 initiative that started in 2008. New to this cycle is the  
 14 incorporation of health across all policies approach which was  
 15 initiated by the State in 2017 when Governor Cuomo put in his  
 16 State of the State message and repeated it again that all state  
 17 agencies should look at how to identify and strengthen the ways  
 18 in which their existing policies and programs can have a more  
 19 positive effect on health. This is in the public health jargon  
 20 called health across all policies, health in all policies. It's  
 21 quite an important cutting edge political leadership move in any  
 22 territory, any kind of responsibility. So we appreciate the  
 23 Governor's action there. And it also embraces the healthy aging  
 24 and the State's commitment to making New York State the first

1 age-friendly state. So this cycle builds on both of these  
 2 important statements and also on the experience of the  
 3 prevention agenda coalitions from across the state. These are  
 4 led by the local health directors and key hospital leaders along  
 5 with other stakeholders depending on the particular community.  
 6 And these have been formed in previous cycles and part of the  
 7 challenge is keeping them moving and keeping them encouraged and  
 8 trying to act to mobilize local funds to support their efforts.  
 9 The goal of course is to make New York the healthiest state and  
 10 to address health disparities, and the process, official process  
 11 for this council - you'll hear more about the details - the  
 12 other key participant in both overseeing the health across all  
 13 policies and the age friendly agenda from the Governor's point  
 14 of view is the ad-hoc committee on leadership for the prevention  
 15 agenda. And they also have been with the public health committee  
 16 of this council overseeing the last two cycles. They met in this  
 17 cycle in April and again in August and have been very helpful in  
 18 broadening the outreach and consultation that occurred around  
 19 this draft that is before you, and the other groups I want to  
 20 mention especially the office of mental health and the state  
 21 office of alcoholism and substance abuse services who have been  
 22 with us since the beginning of the second cycle and have been  
 23 core partners in this third cycle and now joined by the State

1 Office on Aging and a number of other agencies. So it's very,  
2 very exciting I think as you'll see. So let me begin.

3       This should be familiar to you. We won't have a test on it.  
4 But obviously our goals are clear. I think the important thing,  
5 we sometimes perhaps don't give enough attention to is the  
6 prevention agenda is really successful because of local action,  
7 and the State has made a huge effort over the last two cycles to  
8 provide evidence-based information about both interventions that  
9 can be taken as well as to assist with even more intensive data  
10 availability at the local level and support in evaluating  
11 strategies. And the ad-hoc committee has been very active in  
12 overseeing the work. This diagram really reflects the new  
13 approach for this next five year period where we're  
14 incorporating health in all policies which is sort of the wheel  
15 where the different sectors are identified beyond the healthcare  
16 delivery system as well as the age-friendly New York State  
17 activity and the prevention agenda combines the two and  
18 integrates the resources from both. And the state agencies that  
19 are now involved with the prevention agenda have met twice with  
20 Dr. Zucker and secretary of health Paul Francis and we have  
21 another meeting scheduled for January 8, and we want to thank  
22 all of those agencies, those that have been more directly  
23 involved in the last few months and those that will be joining

1 us more actively going forward. You're going to see some great  
2 examples of that.

3 So with that, let me turn this over to Laura Santelli who I  
4 think will present the next few slides, and then after that,  
5 Sylvia.

6

7 LAURA SANTILLI: Great. Thank you Dr. Boufford and  
8 Sylvia. I echo everybody's thanks. She's been phenomenal in  
9 helping me transition to this role and it's going to be  
10 impossible to fill your shoes. You have big shoes for a little  
11 woman. But I guess as Shakespeare said, "although she little,  
12 she is fierce." So, I will aspire to continue to make them drink  
13 the cool aid as you said. Thank you all.

14 Just to give you a little bit of summary as the progress  
15 that we've made, so this graph is a little active, but just to  
16 kind of help you kind of decipher what's in here. So these are  
17 the prevention agenda priorities from the past cycle. The one on  
18 the left is the overarching indicator, so that's improving our  
19 health status and reduce health disparities. So that's our  
20 cross-cutting priority. And then the bars to the right are the  
21 individual priority areas for the past cycle that have been  
22 tweaked that you'll hear about with the new cycle as well. So  
23 those bars across the top, those dark green bars, those are the  
24 ones where we can cheerlead and celebrate our success. So 28of

1 our indicators have been met. Those objectives have been met to  
 2 give you some of the examples of what those look like. That top  
 3 one green on the left mark, on the left bar, that's the age  
 4 adjusted preventable hospitalizations per 10,000. So for those  
 5 that are 18 and above. So the preventable hospitalizations,  
 6 we've met that objective. That's one of our cross cutting. In  
 7 the healthy and safe environment, we've had success with the  
 8 rate of hospitalization due to falls for those age 65 and above.  
 9 So again, when we think about our health across all policies and  
 10 healthy aging, those hospitalizations due to falls is something  
 11 we definitely have to continue to work on, but we've had  
 12 success. In the chronic disease, percentage of cigarette smoking  
 13 in adults with income less than \$25,000, so we've met that  
 14 objective. And in communicable disease, the newly diagnosed HIV  
 15 cases and the difference in the rates between Black and White  
 16 and Hispanic and White cases, so really looking at those racial  
 17 disparities. In the healthy women, infants, and children, the  
 18 maternal mortality rate per 100,000 births, and the maternal  
 19 mortality ratio of the Black- Non-Hispanic to the White Non-  
 20 Hispanic. So we've seen success there. And another example in  
 21 the mental health and substance abuse disorder prevention  
 22 category. The age-adjusted percentage of adults binge drinking  
 23 during the past month. So we met that objective. So you always  
 24 start with the positive. We want to celebrate those successes.

1 Pat ourselves on the back. But as you can see we still have much  
 2 work to be done. So, towards the bottom that neon greenish, that  
 3 parts of the bar, those are the ones that have not been met, but  
 4 they are improving. So we've made some impact, but we're not  
 5 quite there yet. An example of that is the percentage of  
 6 children and adults who are obese.

7 The red ones in the middle, those are the ones that are  
 8 going in the wrong direction, so we really need to focus on  
 9 those. Some examples of those are the percentage of residents  
 10 served by a community water system with optimumly [sic]  
 11 fluoridated water. So we are going in the wrong direction with  
 12 that one. The annual number of days with unhealthy levels of  
 13 ozone, we've gone in the wrong direction with that one. The  
 14 percentage of health plan members with diabetes who have good  
 15 blood glucose control as measured by their A1C, and the rates of  
 16 men and women with syphilis and other STIs. So although we're  
 17 making an impact on the HIV, on the other STIs, not so much. So  
 18 those red bars are the ones that are going in the wrong  
 19 direction. So that just gives you an idea of what we're tracking  
 20 to the level of we're tracking and how we did in the past, and  
 21 we will continue to track each and every one of the objectives  
 22 going forward as well.

23 Again, with the lens of healthy aging, we want to think  
 24 about the trends in our population growth. As part of our health

1 assessment we do look at the demographics of our State. This  
 2 slide shows the growth in the New York State population  
 3 especially for our older age groups. Between 2015 and 2010 our  
 4 population grew from 19.5 to 19.7 million, so about half a  
 5 percent. We're obviously going to keep growing. As our  
 6 population ages, the 60 and older group are expected to see the  
 7 most growth as well as the age groups increase 75 and older,  
 8 also increasing. So with our residents living a bit longer, our  
 9 baby boomer generation really is going to tap into the services  
 10 of both the prevention services to keep them healthy as well as  
 11 the healthcare services to treat them. These are the focal  
 12 points that we'll have to look at. You will see that population  
 13 continue to grow.

14 We also look at everything at the geographic level breaking  
 15 down into the county perspective and you'll see this is just one  
 16 example looking at the percent of adults who are obese in 2015  
 17 and gives you a graphical representation at the county level.  
 18 Those darker shaded counties are the ones that are in the  
 19 quartile with most concerns. So in this particular case it's  
 20 the, they have an obesity rate of 34.7 percent or higher. Our  
 21 prevention agenda objective is 23.2. So you see it visually on  
 22 the map. You also see the bar graph, and so our counties can  
 23 pick out where they are, compare themselves to other counties.  
 24 Tons of data. Lots of resources that will be available. The

1 data-driven programing is a fundamental key element of what we  
2 do.

3        Alright. I'll turn it back over to you guys. Thank you.

4        I can keep going, Sylvia. I can keep going. I thought I  
5 could pass it. That's good.

6        Alright. So summary of our health issues. So just in  
7 general I think I'm preaching to the choir here, chronic disease  
8 continue to be the major burden so the heart diseases, cancers,  
9 diabetes and asthma. As we mentioned, we're making some good  
10 progress, especially in those maternal and infant health  
11 indicators, teen pregnancy and breast feeding, but more work  
12 needs to be done in those disparities, especially related to  
13 infant mortality, preterm birth, and maternal mortality. We're  
14 on the end, on the path to end AIDS as I mentioned with the HIV  
15 objectives going in the right direction, but STIs really are  
16 going through the roof, and Hep C remains a concern. Drinking  
17 water quality is a leading priority but New York State is also  
18 leading the nation in addressing these issues. And most  
19 importantly the opioid overdose, substance abuse disorders in  
20 combination with our mental health concerns are contributing to  
21 the decline in health and life expectancy for the first time.  
22 Let me give you a little bit more background on that with our  
23 leading causes of deaths. This is an application that is  
24 available on the website. So if you want to go pick around and

1 see what it looks like, you can look at it from the geographic  
 2 perspective from different age and gender types of cohorts. But  
 3 what you will see, what is most critical is if you follow that  
 4 graph in the bottom right corner you see that brown cell in that  
 5 bottom right corner. What that is is our unintentional  
 6 injuries. Ok. So in 2009 it was six? Seven? Can't see it. To the  
 7 right. Six, thank you. And then as the years come up you watch  
 8 that it goes fifth and now it's fourth. Unintentional injuries  
 9 includes our substance abuse disorder and our unintentional drug  
 10 overdoses. So the opioid epidemic is single handedly driving  
 11 that category and the leading causes of death with the  
 12 overdoses. Because it's also impacting our younger population,  
 13 it is single handedly driving the decline in life expectancy. So  
 14 when we talk about years of potential life lost, that is  
 15 contributing to that. This gives you another way of looking at  
 16 that. The overdose deaths. And you will see the dramatic upturn  
 17 since 2014. This is only showing 2016 when our data sources are  
 18 up to date and we see 2017 and 2018. The increase continues.  
 19 Maybe have started to see just a slight leveling. We're very  
 20 hopeful. But we have to continue to focus on this effort.

21 Our stakeholder feedback... go ahead.

22

23 JO BOUFFORD: This is the non-technical part.

24

1 LAURA SANTILLI: That's ok. Go ahead.

2

3 JO BOUFFORD: Just on the stakeholder feedback areas, this  
4 was as you said a very wide ranging consultation thanks to the  
5 ad-hoc committee as well as the different agencies within our  
6 departments, within the overall Department of Health and Mental  
7 Health and Substance Abuse. And this was the kind of feedback we  
8 discussed with the ad-hoc committee were the themes that emerged  
9 and generally the sense to continue with the five goals and  
10 continue the work that isn't finished as you heard. The second  
11 area that was expanded on a good bit which had been largely  
12 focused on tobacco was the issue of vaping and e-cigarettes and  
13 adverse childhood experiences, opioid, food security... these are  
14 new areas that sort of emerged where people felt strongly they  
15 needed to be called out in the objectives underneath the overall  
16 goals. And then the implementations plans. The other... and  
17 violence as well. I'm going to come back to that in a minute.  
18 The integration of actionable interventions for older adults is  
19 very explicit in most of the areas. In some areas it's very  
20 explicit. It says for older adults or gives an age range. In  
21 others it says for individuals of all ages. And those are  
22 different. Those are changes that bring to focus the integration  
23 of health across all and age friendly. As Laura said, being  
24 specific about disparities especially beginning to focus on

1 these areas like STIs, HIV, maternal mortality, I think we've  
2 done a good job of bringing attention to maternal mortality  
3 which is now in the hands of the Governor's commission, among  
4 other activities, but issues like water quality, the communities  
5 in which that's a problem, and then linking really to the End  
6 the Epidemic commission for HIV and others not recreating the  
7 wheel, but using the various activities that are ongoing.

8 The Commissioner is available now. So we will interrupt  
9 this presentation to hear from him.

10

11 JEFF KRAUT: I'm going to put the Commissioner is joining  
12 us from New York City given the window we have to get him, he  
13 has a lot of things today, and we just really wanted him to give  
14 a report. So you have to, I beg your indulgence. We're going to  
15 stop right here and turn over to the Commissioner now.

16

17 HOWARD ZUCKER: I'm right here. Thanks. If they want to  
18 finish, what another five minutes? Why don't you finish up what  
19 you're doing?

20

21 JEFF KRAUT: No, commissioner. I think let's not put  
22 pressure on them. You just go ahead. We're find.

23

24 HOWARD ZUCKER: Sure. I don't want to interrupt.

1 Well, thank you all for all your work that you're doing.  
2 And I wanted to wish you all a happy holiday season. Sorry that  
3 I couldn't be there in person. But I want to remind everyone  
4 that this is the time of year that we talk about gifts and it's  
5 the flu season so I just want everyone to remember the gift of  
6 getting their flu shot would be one of the best things we can  
7 give to ourselves.

8 As we say often here at the Department, the best way to  
9 beat the flu is to get a flu shot, wash your hands, and stay  
10 home if you're sick. And believe me, it's not too late to get  
11 your flu shot. I got mine. I gather most of you, all of you have  
12 gotten yours, but also to provide that information to your  
13 relatives and friends and family.

14 Last year as you know was particularly active flu season  
15 and we're hoping New Yorkers will heed our advice this year. The  
16 Department collects, it compiles and analyzes the flu activity  
17 year round and all the corners of the State and report the  
18 information weekly between the beginning of October and through  
19 the following May. We've also closely followed the number of  
20 doses that have been administered. The New York State pharmacies  
21 outside of New York City have reported 840,792 doses of the flu  
22 vaccine administered since August of 2018. And 25,413 of these  
23 doses were administered in pharmacies to children less than 18  
24 years of age. And this is a reminder that children two years of

1 age and older can now get the influenza vaccine in a local  
2 pharmacy. This was the directive that began as emergency  
3 regulation which was issued last year by the Governor to help  
4 stem the tide of an especially active virus transmission, and is  
5 now permanent in state law. In total, 755,159 doses of the  
6 influenza vaccine have been administered to children in New York  
7 State outside of New York City. And during last year's flu  
8 season there were 23,377 flu related hospitalizations and  
9 unfortunately six pediatric deaths in New York. So I encourage  
10 everyone to get their flu shots if you haven't done so already.

11 Staying on the issue of immunizations, as I'm sure many of  
12 you are aware, the State is actively managing the extensive  
13 response to measles outbreak with our partners both in Rockland  
14 and Orange Counties where there have been 96 confirmed cases as  
15 of yesterday. In addition, Erie County now has a positive case of  
16 measles which is unrelated to the cases in the lower Hudson  
17 Valley. At the same time, New York City is managing a similar  
18 response in Brooklyn where there have been 44 confirmed cases  
19 and the original cases originating in late September and early  
20 October from international travelers and the dozens of secondary  
21 cases since that time underscore the importance of vaccinations.  
22 Getting the measles vaccine is simply stated, the best way to  
23 prevent measles. You're considered immune to measles if you have  
24 written proof of two valid doses of the MMR vaccine or other

1 live measles containing vaccine. Also considered immune to  
 2 measles if you have written lab report of immunity or if you  
 3 were born before 1957. Anyone who lacks proof of measles  
 4 immunity as defined by those two criteria should receive at  
 5 least one dose of the MMR and two doses of the MMR vaccine are  
 6 recommended for some groups of adults including healthcare  
 7 personnel, college students, and international travelers. And  
 8 the dose should be given at least 28 days apart. I'm working  
 9 closely with Rockland and Orange Counties to support free  
 10 vaccination clinics and in close coordination with the federally  
 11 qualified health centers and private healthcare providers. More  
 12 than 11000 MMR vaccines have been administered to date in those  
 13 counties. Daily calls since early October, shipment of supplies,  
 14 weekly support staff traveling from Albany and New York City and  
 15 a measles hotline which has received 1000 calls and extensive  
 16 community outreach have all factored in to truly coordinated  
 17 responses, but nothing short of remarkable. Your work between  
 18 the counties and together on tackling this problem. In  
 19 addition, the State has worked with Rockland County to enforce  
 20 student exclusions at schools that are impacted in the impacted  
 21 areas with less than 70 percent MMR vaccination rate. And that  
 22 effort has since been expanded to all schools with less than an  
 23 80 percent vaccination rate. The schools are required to keep  
 24 un- and under vaccinated students at home until 21 days have

1 passed since the last confirmed cases of measles in that  
2 community. Measles as many of us know, is highly contagious.  
3 Anyone who is not protected against measles is at risk of  
4 getting the disease and they may spread measles to people who  
5 cannot get vaccinated because of the age or specific health  
6 conditions as well. So it's an issue I've personally invested  
7 in. I visited these communities on multiple occasions and will  
8 continue to encourage everyone to be up to date with their MMR  
9 vaccines.

10 The next issue is e-WIC. Since last October we have been  
11 busy continuing our statewide rollout of e-WIC and electronic  
12 benefits transfer card which eliminates the paper checks and  
13 provides a more convenient way for families in the Women,  
14 Infants, and Children program to shop for nutritious WIC foods.  
15 All across the State we're hearing from grateful families about  
16 the differences that this technology has made, and ensuring that  
17 they have access to nutritious foods without the shame that can  
18 be felt by holding up a grocery line using outdated system. I  
19 had a opportunity to be at one of the launches. It's really  
20 amazing and we did have a video, but unfortunately it doesn't,  
21 the pixels won't work so we can't share that with you, but it is  
22 quite amazing what we've done. By bringing the WIC system into  
23 the 21<sup>st</sup> century we're enhancing this critical benefit program  
24 and promoting convenient shopping for all New Yorkers. WIC

1 gives infants and children truly a healthy start in life, and  
 2 the program helps pregnant, post-partum moms and their families  
 3 with a healthy lifestyle and ensures a brighter future for all  
 4 New Yorkers. e-WIC is now online in the capital region. It's in  
 5 central New York, Southern Tier, Rochester, Finger Lakes region,  
 6 Buffalo, and the Western New York region. And right now we're in  
 7 the process of bringing Hudson Valley region online with Long  
 8 Island and New York City in the new year. So we're on track with  
 9 statewide implementation well ahead of the federal guidelines  
 10 which is 2020.

11 Another issue is Hepatitis C. In late November we held our  
 12 first meeting of the New York State Hepatitis C elimination  
 13 taskforce. The Governor charged the taskforce with developing  
 14 the State's plan for eliminating Hepatitis C as a public health  
 15 epidemic. The work of the taskforce will be supplemented by five  
 16 workgroups. One is prevention. Two is testing in linkage to  
 17 care. Three is care and treatment. Four is surveillance data and  
 18 metrics, and five are the social determinants. Over the next  
 19 several months, the five workgroups will meet to review update  
 20 enhance and prioritize Hepatitis C elimination recommendations.  
 21 The draft recommendations will be delivered to the taskforce for  
 22 review in early spring with a meaning to finalize the  
 23 recommendations and seek community engagement. On the issues of  
 24 what the team is working on, we have End the

1 Epidemic, so the work of the Hepatitis C taskforce will follow  
 2 nicely in the footsteps of the tremendous progress we've made  
 3 with the Governor's End the Epidemic initiative, which we  
 4 celebrated last week on the 20<sup>th</sup> anniversary of World AIDS Day.  
 5 The Governor's initiative features a three point plan which  
 6 includes identifying people with HIV who remain undiagnosed, and  
 7 linking them to healthcare. Number two, linking and retaining  
 8 people diagnosed with HIV to healthcare and getting them on  
 9 treatment to maximize HIV viral suppression. And three,  
 10 providing access to appropriate prophylaxis for people who  
 11 engage in high risk behaviors to keep them HIV negative. And  
 12 thanks to the initiative, new diagnoses of HIV are falling while  
 13 rates of enrollment and treatment for those diagnosed continues  
 14 to decline. New HIV diagnoses in New York declined for a third  
 15 consecutive year reaching an all-time low of 2769 in 2017 which  
 16 is down 20 percent since 2014 and we continue to drop. The  
 17 number of new HIV diagnoses in people with a history of  
 18 injection drug use reached an all-time low of 110 during 2017  
 19 and that was down 28 percent from 2014 where it was 153. And the  
 20 Governor announced last week that regulations governing HIV  
 21 uninsured care programs will be amended to update income  
 22 criteria and eliminate the assets test. Currently to be  
 23 eligible for the HIV uninsured care program, an applicant's  
 24 household income must be equal to or less than 435 percent of

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

6       Regarding the New York State of Health, we're in the middle  
 7 of open enrollment for the program. As of December 5, more than  
 8 930,000 consumers have enrolled or renewed coverage in a  
 9 qualified health plan or the essential plan. 51,000 are new  
 10 consumers, and both the numbers we're very pleased with. We  
 11 contribute the large number of the new enrollees to a wide range  
 12 of participating plans, a targeted consumer outreach, and easy  
 13 auto renewal which help ensure the goal of getting every New  
 14 Yorker covered. Another reminder is this Saturday December 15 is  
 15 the deadline to qualify for the January 1 coverage. And open  
 16 enrollment runs through January 31.

17       On aging innovation challenge, this is a very interesting  
 18 thing that we did. I wanted to close my highlight, a program I  
 19 came to the conclusion last week, it took a year of work on part  
 20 of everyone in many parts of the Department, and it's really  
 21 something very interesting, and as one who cares, has elderly  
 22 parents and realizes what it is to be caregiver and work hard to  
 23 make sure New York is an age friendly state, last week was the  
 24 culmination of the effort by the Department to work with a group

1 called HERO X to develop a crowd source competition to generate  
 2 innovative solutions to help older adults and their caregivers  
 3 in carrying out activities of daily living. The challenge was  
 4 open to all undergraduate and graduate students attending a  
 5 college or university in New York State. It was a panel of  
 6 expert judges who evaluate the five finalists and their  
 7 innovations to determine which team would win the first ever  
 8 Aging Innovation challenge. We ended up splitting the winners so  
 9 the co-winners split the \$25000 top prize. A team from Corning  
 10 Community College demonstrated something called Grip Aid. It  
 11 was an assisted eating device targeted to people who have motor  
 12 control issues and inhibit their ability to feed themselves. It  
 13 was very innovative to look, you can put a spoon in, you could  
 14 actually put a toothbrush in, and many other things in there.  
 15 And a team from Syracuse University designed PNEU-Strength.  
 16 PNEU, PNEU-Strength, which is an inflatable seat cushion device  
 17 that provides physical assistance to older adults in standing up  
 18 from a sitting position on a chair or a sofa. It's clear if  
 19 you're really sort of have trouble standing up without  
 20 assistance, this was something which clearly could help them.  
 21 The two teams from Cornell University and a team from University  
 22 of Buffalo also received \$5000 each as finalists. All the teams  
 23 were incredible, enthusiasm, professionalism, it was truly a  
 24 pleasure to see the ingenuity that entrepreneurial spirit, their

1 market research that they did, and it was a wonderful day and we  
2 look forward to doing this again. Probably do it in a two-year  
3 cycle. So I close by just wishing everyone a happy and healthy  
4 holiday season. Look forward to working with you in the new  
5 year. I'm happy to answer your questions that you may have on  
6 these topics or other topics as we move toward the end of the  
7 year and start 2019. Thank you.

8

9 JEFF KRAUT: Thank you Commissioner. Any members of the  
10 council have any questions on this or any other matter that  
11 they'd like to raise, ask the Commissioner? Commissioner, we  
12 wish you as well a happy holiday and a happy healthy new year,  
13 and we look forward to next year.

14

15 HOWARD ZUCKER: Thank you. Sorry to interrupt the flow  
16 before.

17

18 JEFF KRAUT: Thank you.

19

20 JO BOUFFORD: Briefly, just to go back, I wanted to  
21 highlight the issue of the inclusion of wellbeing and our mental  
22 health goal and, this was an area of a lot of interesting  
23 discussion and was included because this is a lot of effort at  
24 the National Academy of Medicine and others to begin to think

1 about the, what does wellbeing mean? How does it play out? How  
 2 does it address this issue of quality of life and issue of  
 3 empowerment. And I think you'll find some of the subobjectives  
 4 in that area of mental health and wellbeing to be very  
 5 interesting. So we're pleased with that change.

6       So this is our continuing goal. I would say since 2008 we  
 7 started with 26 ranking in America's health rankings beginning  
 8 of this second round, went down to 17 and now we're at 10. Up to  
 9 10. Low is good. 10<sup>th</sup> ranking in the America's health rankings.  
 10 Since we're using America's health rankings, we are also paying  
 11 attention to the ranking for older persons, which is at 18, so  
 12 we have some ground to cover in the age-friendly area in the  
 13 next round of the prevention agenda. These are the goals. Very  
 14 strong feeling. As I said before, that we would stay with the  
 15 same goals. The language changes. You see wellbeing. Our  
 16 colleagues in the broader infectious disease area decided to use  
 17 the notion of communicable diseases rather than calling out  
 18 every single one they're working on. As you've heard, it's a  
 19 busy agenda and that will continue as part of the core business.  
 20 So with that, let me turn it over to Sylvia to sort of take us  
 21 through the details.

22

23       SYLVIA PIRANI: So I'm just going to quickly go through each  
 24 priority area. There are five priorities as we said. This is

1 the, prevent chronic disease priority whereas before we had a  
 2 specific priority about reducing obesity, the subject matter  
 3 experts that led this discussion with members of our committee,  
 4 ad-hoc committee, local health departments, hospitals, NYSECHO,  
 5 Dr. Watkins was represented, and others decided that they should  
 6 split this between healthy eating and physical activity, and  
 7 then the other thing that's new here is this added goal relating  
 8 to food security which many of our hospitals, calling on  
 9 Northwell here for one, and others are working on and wanted  
 10 included, and most importantly this is reflecting our new  
 11 collaboration with Ag and Markets as part of health across all  
 12 policies that wanted to participate with us on this. So that's  
 13 one of the things that's new. Jo mentioned in tobacco we have  
 14 calling out e-cigs, electronic vaping products. This priority  
 15 addresses three major risk factors for mortality and morbidity  
 16 and then preventive care and management.

17 On this, promote a healthy and safe environment, want to  
 18 call out that violence prevention is one of the goals, and  
 19 injuries, violence, and occupational health. This was the  
 20 subject of much discussion at our public health committee and by  
 21 some of the public health committee members. Mr. Lawrence and  
 22 others specifically and we did broaden this and made it a bigger  
 23 focus area, goal, and as part of this focus area than it was  
 24 before. There's a new focus area here related to food and

1 consumer products. That's what's new from the last cycle.  
 2 Healthy women, infants and children. These are focus areas that  
 3 we had before except for the cross cutting one which focuses on  
 4 racial, ethnic, economic, and geographic disparities. We worked  
 5 hard to include in the first goal area increasing use of primary  
 6 and preventive healthcare services, not just for women of  
 7 reproductive age, but for women of all ages including older  
 8 adults. And this includes maternal mortality of course, which  
 9 has received a lot of attention from this council as well as the  
 10 governor's office.

11 This is a broader title for what was before mental health  
 12 and substance abuse priority. The promote wellbeing, as Jo  
 13 noted. This was a new concept. We spent a lot of time to talk  
 14 about it. In the second focus area includes a new goal related  
 15 to opioid and other substance misuse and deaths. It includes  
 16 additional attention to adverse childhood experiences which  
 17 local health departments and hospitals and others are paying  
 18 attention to. And it included some stakeholders who were  
 19 concerned about the mental health and wellbeing of older adults.  
 20 So there's attention here to that population.

21 And finally, prevent communicable diseases. We shortened  
 22 the title. We have included vaccine preventable diseases, HIV,  
 23 sexually transmitted infections, trying to reduce the annual  
 24 rate of growth because it keeps going up. So we have a lot of

1 attention on that. And then a new attention to antibiotic  
 2 resistance.

3       So just really quickly, we are starting, one of the pieces  
 4 of feedback we got was to try and keep it simple. This is a big  
 5 plan. Everybody wants to see themselves in it. You got the 200  
 6 page document. You know it's not that simple, but we're trying  
 7 to do that with our web design. So this is just an example of  
 8 what next year you'll see. When you go to chronic diseases,  
 9 you'll be able to touch on a specific focus area like healthy  
 10 eating and food security and when you go there you'll see the  
 11 goals. For each goal we have objectives and interventions. Under  
 12 the increase food security we also have some interventions that  
 13 were supported by the Department of Ag and Markets, and we're  
 14 going to connect to some of what they're working on here for  
 15 example. They've been very engaged and eager to connect local  
 16 prevention agenda coalitions to resources that make a local food  
 17 more affordable including the 500 community farmers markets  
 18 statewide, the farmers market nutrition program, incentive  
 19 programs that make SNAP available, that you can use SNAP to pay  
 20 for food at markets.

21

22       JO BOUFFORD:     Just a quick comment. I think this is an  
 23 example of how working with the other agencies really adds  
 24 enormous resources to trying to get to a particular goal and

1 we're hoping to begin having maps of these county level  
2 resources across many more of the Departments going forward.

3

4 SYLVIA PIRANI: And then I just want to say a word about  
5 local community health improvement planning because the  
6 prevention agenda is the basis for that planning. This has  
7 probably been one of the most satisfying parts of this for me  
8 overall these years working on that. Before the prevention  
9 agenda started, we had in article 28 and article 6 which is the  
10 public health part of public health law, requirements for local  
11 health departments and hospitals to do community health  
12 improvement planning. Hospitals did something called a community  
13 service plan. It was a retrospective look at all the things we  
14 did in the community over the last three years. Local health  
15 departments did these plans but they did them by themselves. In  
16 2008 the first cycle, we, Dr. Daines asked local health  
17 departments and hospitals to do this priority setting together.  
18 We had some success in that collaboration but not a lot of  
19 success in the implementation of the plans. In 2013 we kicked it  
20 up a notch with a lot of technical assistance and support and  
21 strong guidance that required the two to do it together, and we  
22 also started asking hospitals to report community benefit  
23 spending, so we were encouraging them to align that spending  
24 with the prevention agenda. We've had a fair amount of success

1 with that. The last cycle as I think you all know, more than  
 2 half the counties did the plans with their hospitals, less for  
 3 us to read, less for them to do, and more importantly strong  
 4 collaboration. Dr. Watkins is someone who can attest to that  
 5 benefit of getting the hospital to invest in the prevention  
 6 agenda in the community which is huge for his county. As we move  
 7 forward we're going to strongly encourage that continued  
 8 collaboration. Jo would like us to require that single plan. But  
 9 we've had some... it's challenging with the multi hospital systems  
 10 especially in the City and in the Metro area. We're going to ask  
 11 hospitals to describe how they're investing their resources to  
 12 support local prevention agenda efforts and this effort has also  
 13 been supported by the council's actions to connect the  
 14 prevention agenda to the certificate of need application.

15 Just want to say a word about community benefit spending.  
 16 We were anticipating that with the increase in the number of  
 17 people who had insurance that there would be a reduction by  
 18 hospitals in spending on charity care which is one of the  
 19 categories of community benefit spending. We thought we'd see an  
 20 increase in the community health improvement spending category.  
 21 Community benefit accounted for \$6.8 billion of, or 12 percent  
 22 of hospitals operating expenses in 2016. Of that, \$257 million  
 23 was spent on community health improvement. That's only .47  
 24 percent. But it's not nothing. Compared to our public health

1 budget, that's a significant amount of resources. So we think  
2 it's good that we're calling attention to that. But it hasn't  
3 increased as much as we would like. And this shows you how the  
4 hospitals are spending or not on this. 60 percent on hospitals  
5 spent between zero and \$1 million. 30 hospitals spent nothing in  
6 this category in 2016. So we'd like to... and those are not the  
7 distressed hospitals in New York State. There's just a couple on  
8 that list that are distressed. We'd like to continue attention  
9 on this. We think hospitals ... it's been helpful for this body  
10 especially to bring attention to the need for hospitals to  
11 support their entire community in the community benefits  
12 spending.

13 This is our last slide. Just to let you know we're doing  
14 the office kick off of the updated prevention agenda at a summit  
15 in the end of February in Albany to celebrate progress on  
16 everything that's been achieved to learn about the updated  
17 prevention agenda and to support communities and their efforts  
18 to implement it.

19

20 JO BOUFFORD: Ok, thank you. So in the spirit of opening  
21 the discussion and questions, may I move the resolution to adopt  
22 the prevention agenda 2019-2014.

23 [so moved!]

24

1           JEFF KRAUT:       And the resolution, you've all received a  
 2 copy of. It's the Public Health Committee of the New York State  
 3 Public Health and Health Planning Council is going to move to  
 4 accept the prevention agenda that establishes the priorities for  
 5 state and local action in New York State to help it become the  
 6 healthiest state for all people, for people of all ages. The  
 7 Council agrees that the new focus of the plan shall include  
 8 action by additional state agencies to support the Governor's  
 9 Health Across All Policies and goals for an age-friendly New  
 10 York State by focusing on the broad determinants of health and  
 11 the council commits itself to a regular review of programs  
 12 during the implementation period to support its successful  
 13 implementation. And so that's the agenda, and we also have to  
 14 acknowledge not only the work of Sylvia Pirani and the staff  
 15 that we did, but the extraordinary leadership of Dr. Boufford in  
 16 doing this. I would say that she single handedly..

17 [applause]

18           And I know they wrote remarks for me but I have the one  
 19 that doesn't have my remarks. But I really don't need remarks.  
 20 I mean, Dr. Boufford in not only here but outside the walls of  
 21 this room have an extraordinary commitment of advancing public  
 22 health in all the roles that she's held throughout her career.  
 23 It's been her life's work. We are blessed and fortunate that we  
 24 have such a leader in the Public Health Council that is taking

1 all of that experience and insight and helping us focus it I  
2 think very, very appropriately. And you see the work, the  
3 manifestation of all of those efforts in a lot of the numbers,  
4 in moving the needle so to speak, so her leadership, her  
5 tenacity, have absolutely led to the success of the agenda.  
6 You've earned the support involved in an aberration of all the  
7 organizations throughout New York State, not only the Department  
8 and this Council, but we are forever grateful and thank you so  
9 much Dr. Boufford.

10 So I have an emotion [sic]. We moved it. I'm assuming  
11 there'll be no debate. All those in favor aye?

12

13 [aye]

14 Opposed? Abstention? Uncharacteristic, the motion carries.  
15 Thank you so much. Go ahead Dr. Boufford. Final word.

16

17 JO BOUFFORD: Thank you so much everybody really for all  
18 your support. It's been great. The Public Health Committee,  
19 we've had many, many members of the Council coming to that  
20 committee meeting and the ad-hoc committee as well. I did want  
21 to mention one other thing that the Public Health Committee did  
22 discuss at their recent meeting which is a bit we hope, a  
23 preview of coming activity, was our... we may recall that five  
24 years ago we said we would focus on obviously overseeing the

1 Prevention Agenda, but raising one particular issue to higher  
 2 intention, and that issue was maternal mortality. So this  
 3 council had a number of hearings about it. The Public Health  
 4 Committee as well, and happily it is a commission of the  
 5 Governor, is focusing on maternal mortality, so we feel it's  
 6 time to turn our attention to another issue. We'll always keep  
 7 our eye on the ones that are underway. We had a very important  
 8 discussion I think about the potential role of bringing  
 9 attention to violence prevention as it is memorialized in the  
 10 Prevention Agenda as an issue for us, and we've had some  
 11 internal conversations and I think the initial reactions are  
 12 quite positive, so we will be coming back to you with some  
 13 thoughts about how we might have some public activity to, again,  
 14 working across agencies begin to look at this as it's  
 15 represented in the prevention agenda. And that's especially to  
 16 Mr. Lawrence and Ms. Rautenberg for their interventions in that  
 17 space. So we look forward to working on that as well.

18

19 JEFF KRAUT: OK, with that, we'll continue with the  
 20 agenda. But as it seems to be this time of year there's so many  
 21 things to celebrate so I have one more item I just want to bring  
 22 to your attention. You look around the room. The people that are  
 23 around this table. There's a lot of things to be proud of and  
 24 how we've contributed to the healthcare in New York. I'm going

1 to point out, there's one other person in this room who did  
 2 something I want to bring to your attention. This individual is  
 3 a true hero. It's Dr. Ted Strange. He was running the New York  
 4 City Marathon, as they crossed mile 16 which is the 59<sup>th</sup> Street  
 5 Bridge or the Ed Koch Bridge, or the Queens Borough Bridge, this  
 6 41 year old runner from out of state collapsed. Cries for help  
 7 come out. Dr. Strange nearby comes over, runs the code, gets the  
 8 defibrillator, I think you paddled her four times, brought her  
 9 back from the code and brought her back to life. And unchara...  
 10 characteristically of the humility that Ted is a doctor's  
 11 doctor. He is a tremendously respected physician on Staten  
 12 Island and through, I get to work with Ted in our health system,  
 13 but he said, the headline in the New York Post was "please don't  
 14 call him a hero." But the "Doc Saves New York Marathon Runner's  
 15 Life." And so Ted, we just want to congratulate you for the work  
 16 you do outside the Council. And he, it ruined his time a little,  
 17 but he did 5hrs 16min. which is extraordinarily... compared to  
 18 what I would run it in which would be in days. Ted, just  
 19 congratulations. And I just can't imagine just what went on that  
 20 day.

21

22 THEODORE STRANGE: I want to say thank you for that and  
 23 yeah, I was in third at the time... I don't know what to say. I  
 24 was hoping for... but anyway. What I'd like people to get out of

1 this and here we are sitting at the Public Health Council is, in  
 2 speaking recently with the American Heart Association  
 3 Nationally, providers including physicians, nurses, and others  
 4 and besides everybody else in the community, and here we are  
 5 talking about wellness and health and prevention, we all need to  
 6 understand and know what CPR is in 2018 going into '19 and that  
 7 AEDs save lives. And there's an adage "if you see something, say  
 8 something," and I'm going to say to you, if you see something,  
 9 do something. If we're part of healthcare please get on a video,  
 10 get on YouTube. You can learn CPR in an hour. It's really basic.  
 11 As I said in one of the articles it's not about mouth to mouth  
 12 which everybody is always concerned about. It's about getting on  
 13 the floor and doing some chest compressions and hopefully EMS or  
 14 somebody is going to arrive with something more that will help  
 15 as they did in this case. And it truly saves lives. And the  
 16 American Heart Association told me this week that we're still  
 17 only doing this when necessary. About 15 percent of the time.  
 18 And that's a real shocking number. Hundreds of runners passed me  
 19 by not for any other reason that they thought probably something  
 20 was being done for her, but we just need to stop and just do  
 21 something. There is no hero to that. That's just being a good  
 22 human being, and that's what I truly believe. So I thank you for  
 23 that Jeff.  
 24 [applause]

1

2           JEFF KRAUT:       It's now my pleasure to ask Dr. Gutierrez to  
3 give a report on the Codes, Regulations, and Legislation  
4 Committee.

5

6           ANGEL GUTIERREZ:    Thank you. It is still morning. Good  
7 morning. At today's meeting of the Committee of Codes,  
8 Regulations, and Legislation the committee reviewed seven  
9 proposals; two for adoption and five for information. For  
10 adoption was patient's Bill of Rights. This proposal will amend  
11 sections 405.7 and 751.9 of Title 10 to update information  
12 reflected in the patients' Bill of Rights. The Committee voted  
13 to recommend adoption to the full council and I so move.

14

15           JEFF KRAUT:       I have a motion. I have a second, Dr.  
16 Berliner. Any conversation? Any questions? Hearing none I'll  
17 call for a vote. All those in favor, aye.

18

19 [aye]

20           Opposed? Abstention? The motion carries.

21

22           ANGEL GUTIERREZ:    For adoption also is statewide planning  
23 and research cooperative system. This proposal will revise  
24 section 400.18 of Title 10 regarding the statewide planning and

1 research cooperative system referred to as SPARCS. The proposal  
2 will make necessary updates and grant the Department the  
3 flexibility to explore new data intake options. The Committee  
4 voted to recommend adoption to the full Council and I so move.

5

6 JEFF KRAUT: I have a motion. Do I have second? Dr.  
7 Kalkut. Any questions from the Council? All those in favor aye.

8

9 [aye]

10 Opposed? Abstention? The motion carries.

11

12 ANGEL GUTIERREZ: The next five will be for information  
13 only. Nursing home weekly bed census. This proposed regulation  
14 will add a new section 415.32 to Title 10 that will require  
15 nursing homes to electronically submit the weekly bed census  
16 data surveyed to the Department to ensure that the Department  
17 has accurate bed availability information. There was no vote on  
18 this proposal.

19 The next one is for information also. New requirements for  
20 annual registration of licensed home care services agencies.  
21 This proposal will amend part 766 of Title 10 and update  
22 requirements for licensed home care services agencies referred  
23 to as LHCSAs with respect to annual registration and reporting.

1           Next for information also was hospital policies for victims  
2 of human trafficking. This proposal will amend part 405 and  
3 section 751.5 of Title 10 to require hospitals and diagnostic  
4 and treatment centers to establish policies and procedures  
5 pertaining to the identification and referral of victims of  
6 human trafficking.

7           Next for information, food service establishments. This  
8 proposal will amend part 14 of Title 10 and will restrict the  
9 use of liquid nitrogen and dry ice in food preparations.

10           And last for information clinical laboratory directors.  
11 This proposal will amend part 19 of Title 10 pertaining to  
12 clinical laboratory directors. To update the list of recognized  
13 board certifications that qualify clinical laboratory directors  
14 among other changes. No more on this, and this concludes my  
15 report from the Codes Committee. Thank you very much.

16

17           JEFF KRAUT:       Thank you very much Dr. Gutierrez. I'm going  
18 to turn it over to Dr. Rugge to give the report on the Health  
19 Planning Committee and I'll do the stroke center designation  
20 because I know you're in conflict. After Dr. Rugges...

21           After Dr. Rugge's presentation we're going to take a five  
22 minute break just to get to the bathroom before the Committee so  
23 you can plan accordingly. Dr. Rugge.

24

1           JOHN RUGGE:       Thank you. As we all know this is the Public  
2 Health and Health Planning Council, and we've just seen how  
3 productive and effective the public health section has been and  
4 is. I think also the health planning section is coming to life  
5 and that we have a 13 part agenda with topics for consideration  
6 over the next two years as outlined by Dan Sheppard. Dan is not  
7 here and I hope it's not because his feelings were hurt. I did  
8 ask him to keep his discussion of each of those items down to 15  
9 minutes.

10

11           JEFF KRAUT:       So, Dan I should mention this, Dan has  
12 unavoidingly been called away for a very urgent matter. He at  
13 least acknowledged that you were going to handle most of the  
14 issues that he was going to talk about, you're going to handle  
15 in the Planning Committee presentation.

16

17           JOHN RUGGE:       And again, I hope that's not a covered  
18 story. I did ask him to keep the discussion of each of those 13  
19 items down to 15 minutes each. So we'd be out by 2:30. But in  
20 any case, many of these items come from the RMI process for  
21 review and consideration. Others are new and will be coming up  
22 shortly.

23           Also maybe more importantly, imbedded in those discussions  
24 and hopefully coming out of them will be the opportunity to

1 review the standards we use for CON review. With regard to  
 2 public need, as I see it, clearly a need for service is one  
 3 standard, but also questions about a need for choice. How do we  
 4 connect public need to the need for competition or the value of  
 5 competition among providers. With regard to financial  
 6 feasibility, this is a standard that developed decades ago when  
 7 the state was actually setting reimbursement rates. And  
 8 financial feasibility entailed how much was the State committing  
 9 to spend on healthcare? These days I think we are asking Tracy  
 10 to review the budgets of providers coming in, to say are they  
 11 actually going to make money on a service? And it strikes me as  
 12 a little silly. Regarding character and competence; competence I  
 13 think translates to quality. And to have a new discussion and  
 14 one that's advanced in terms of what are our expectations of  
 15 quality and how do we measure and how should we use those  
 16 discussions to determine decisions regarding CON applications  
 17 will be important. With regard to character, this was a standard  
 18 evolved long before we had a national or out of state providers,  
 19 before we had parent companies and grand parent companies with  
 20 layers and levels of responsibility that need to be considered  
 21 with some sensitivity and some precision that right now I think  
 22 we're simply incompetent to do. We simply have not had the  
 23 background discussions necessary and the refreshing that this  
 24 council deserves and really needs to undertake for itself. There

1 will hopefully be much more to follow and a few more meetings to  
2 attend so that we can address concerns that I think are really  
3 central to everything that we are charged to do.

4

5       JEFF KRAUT:       Thank you. And you know, it is going to be a  
6 very rich conversation if we can plow through this and come to  
7 some meaningful thing. It's kind of a continuation of some of  
8 the other issues that have come up in some recent CONs as well,  
9 is to get clarification and to create kind of a framework for  
10 decision making and to focus policy. So I think it would be very  
11 productive. And I also suspect for the following year, we might  
12 want to reconsider, you know, we didn't want to do it every  
13 year, but every two years possibly, to have kind of a retreat  
14 again. Particularly there may be some movement of new council  
15 members coming, some council members terming out. So next year  
16 that might be a good time when some of those changes occur to  
17 start, to revisit some of the things we did two years ago.

18       Any other comments for Dr. Ruggie? If not, I'm going to call  
19 a stroke center designation. We have a request for a stroke  
20 center designation for Glens Falls Hospital. Presentation was  
21 made and the Committee had voted to approve. I don't know if  
22 there's any comments that the Department wishes to make?

23

24 [just questions]

1           If there are any questions. The material is in your report.  
2 Dr. Rugge has left the room. And if that's the case, I'd like to  
3 make motion to approve Glens Falls Hospital for stroke center  
4 designation. Second Dr. Berliner. Any questions or comments?  
5 Hearing none, I'll call the vote. All those in favor, aye.

6  
7 [Aye]

8           Opposed? Abstentions? The motion carries.

9           That concludes the report of the Health Planning Committee.  
10 Let's take a 10 minute break. If you can return back in here at  
11 five to twelve, and we will take the Establishment and Project  
12 Review Committee.

13 JEFF KRAUT:       I'm going to reconvene the Public Health and  
14 Health Planning Committee. I'm going to now ask Mr. Robinson to  
15 give the report on Establishment and Project Review.

16

17           PETER ROBINSON:       Thank you Mr. Kraut. As the Council  
18 notes, where possible we're going to attempt to batch  
19 applications and consider them in a grouping. Please indicate at  
20 any time when you want an application pulled out so we can give  
21 it individual consideration.

22           So beginning with category one, and this is a single item,  
23 182082C, Menorah Home and Hospital for Aged and Infirm in Kings  
24 County. This is to perform renovations to convert a 16 bed

1 hospice unit to a 16 bed residential unit and certify 16 RHCF  
2 beds. The Department is recommending approval with conditions  
3 and contingencies, as did the Committee and I so move.

4

5 JEFF KRAUT: I have a motion. I have a second, Dr.  
6 Gutierrez. Does the Department wish to comment?

7

8 TRACY RALEIGH: Just take questions.

9

10 JEFF KRAUT: Does any member of the Council have any  
11 questions? Hearing none, I'll call for a vote. All those in  
12 favor, aye.

13

14 [Aye]

15 Opposed? Abstention? The motion carries.

16

17 PETER ROBINSON: Thank you. This is an application for  
18 ambulatory surgery center construction. 181329C. Albany Medical  
19 Center Hospital in Schenectady (County). I will note an  
20 interest, abstention, and recusal by both Dr. Rugge and Dr.  
21 Bennett who are leaving the room. So this is to certify a  
22 multispecialty ambulatory surgery center extension clinic to be  
23 located at 1769 Union Street in Niskayuna. The Department has  
24 recommended approval with a condition and contingencies. The

1 Committee had a lengthy debate and ended up voting 6-5 in favor  
2 [sic] which results in no recommendation to the full council. I  
3 make a motion for approval with a condition and contingencies.

4

5 JEFF KRAUT: I have a motion, I have a second by Dr.  
6 Gutierrez. Department?

7

8 TRACY RALEIGH: I'll just point out that additional  
9 information was distributed to members following the Committee  
10 meeting, and it was information both by the applicant, Albany  
11 Med, as well as from opposing hospital, Ellis Medicine. So we  
12 hope that members have had a chance to review that material. And  
13 we'll take any questions.

14

15 LAWRENCE BROWN: Good afternoon, this is Lawrence Brown,  
16 member of the Council. So I was wondering just out of interest,  
17 I didn't have the opportunity to review everything, but maybe I  
18 missed something with respect to what is your sense about your  
19 understanding of the famous prevention agenda?

20

21 TRACY RALEIGH: Sure, Dr. Brown, I won't do justice to the  
22 presentation made by Albany Medical Center in responding to this  
23 important question. But I will note that there was significant  
24 discussion about the investment that Albany Med has made into

1 community outreach and services, particularly I have a call  
2 noting the amount of cancer screenings done and certainly the  
3 provision of ensuring that there is specialty services in the  
4 surrounding communities as well. It was also clarified from our  
5 staff report that they, for 2017, have now documented their  
6 significant investment in the community benefit spending. That's  
7 required to be reported. That was noted in the staff report for  
8 2016 as having not had the ability to capture, and that was also  
9 clarified.

10

11 JEFF KRAUT: Any other members of the Council have any  
12 comments? Observations? Because I'm going to make some. Yes, Ms.  
13 Carver-Cheney.

14

15 KATHLEEN CARVER-CHENEY: What did you think about Ellis'  
16 assertion that there wasn't actually any need, that you looked  
17 at the wrong counties, etc.?

18

19 TRACY RALEIGH: I would just comment that we are working  
20 within the current regulations and guidance that this PHHPC body  
21 has given us to assess ambulatory surgery centers. I will note  
22 that, and let me just back up and say that those regulations  
23 really for the need of ambulatory surgery right now focus on  
24 whether the proposal has enough sufficient volume to be

1 financially feasible, and certainly in our review of Albany  
2 Medical Center's application that our conclusion that there was.  
3 We did have a discussion at the Committee meeting regarding the  
4 fact that there is a services in Saratoga County that if there  
5 was the framework to look at overall utilization from a region,  
6 we should have acknowledged that. So we'll take that back. But  
7 we made our conclusions based on the current regulatory  
8 framework and guidance before us.

9

10 HARVEY LAWRENCE: My question is not directly directed at  
11 this particular applicant. We just went through a presentation  
12 of the prevention agenda, and we looked at uneven spending for  
13 community benefits by hospitals. And I noticed that in our  
14 presentations of these applications we usually look at charity  
15 care and Medicaid expenditures. Can we add the percentage of  
16 their budget that is devoted to community benefit spending?

17

18 TRACY RALEIGH: I'm sorry, I'm not sure I'm understanding  
19 the question.

20

21 JEFF KRAUT: Are you asking in the future? Not specific  
22 to this application.

23

1 HARVEY LAWRENCE: Not this application in particular. But  
2 just as an indicator looking at the amount of community service  
3 spending that hospital in particular have whenever they present  
4 an application.

5

6 TRACY RALEIGH: I'll just point out that certainly I think  
7 that's a good comment. We currently in our recently adding the  
8 public health and prevention agenda questions to our  
9 applications for hospitals, we ask those questions and we report  
10 out on the community benefit spending. But certainly we'll  
11 consider that in terms of how we can apply that in other  
12 applications as well.

13

14 ELLEN RAUTENBERG: That chart raised a huge number of  
15 questions ... community benefit spending. (inaudible)

16

17 JEFF KRAUT: I think in general terms, the community  
18 benefit spending is something that you do need to have a lot of  
19 conversation with what those categories mean. As you, just to  
20 digress for a moment, if you looked at the growth in the  
21 categories, because Sylvia I think had pointed out that there  
22 were certain categories didn't increase in community investment.  
23 And partly because if you're using that money, take a look at  
24 what did increase, which was subsidization of government payers

1 who are not paying cost. And significant part of that community  
 2 benefit is going to maintaining access for Medicaid patients and  
 3 the economic consequences of doing so. Because it went from 3.68  
 4 percent of total benefit for statewide, to 5.63... I'm pulling out  
 5 numbers, I probably made up the last two digits because they  
 6 sounded good. But I'm pretty good it went from 3.6 something to  
 7 5-something. And you just need to understand, if you think it's  
 8 a zero-sum gain, it's not. Because every year the gap that  
 9 institutions are trying to close between revenue and expenses  
 10 has been growing. And this year nationally is the largest gap  
 11 that have been reported. So far it's 1.6 percent nationally. But  
 12 the gap that institutional providers have to close between what  
 13 they're getting paid and what their expenses are in a lot of  
 14 markets, and they have to generate a margin and how to do that.  
 15 And that's overall. So I think that's a great conversation to  
 16 have, and I think in John's Committee I think it would be  
 17 helpful, because I think some of those agenda items, and if it's  
 18 not, let's get it in there because it is useful information, but  
 19 again, you have to remember what you have to be careful about  
 20 doing and we'll come back I think to this application in a  
 21 moment is you don't think you can second guess investment  
 22 decisions. Because some of the decisions that we're asking,  
 23 we're being asked to approve are trying to strengthen or support  
 24 the hospital that it might create additional margin so it can

1 continue to just serve what it serves. And it's not a fungible  
2 number in and of itself.

3

4 HARVEY LAWRENCE: Yeah, I think, I don't confess to  
5 completely understand the dynamics of hospital investments in  
6 expenditures, but what was somewhat concerning is that in the  
7 presentation there was a 21 percent of the hospitals that paid  
8 zero and also that these were not distressed hospitals. They  
9 were not the hospitals that were ...

10

11 JEFF KRAUT: And I think that's appropriate.

12

13 HARVEY LAWRENCE: ... the category that you are alluding  
14 to. And so maybe it does merit further investigation. But I  
15 think we need to know when the hospital is being presented for  
16 approval here, when in fact whether they fall within the 21  
17 percent category that paid zero, or they are in some other  
18 category.

19

20 JEFF KRAUT: I absolutely agree with you.

21

22 HOWARD BERLINER: Jeff, I have to disagree with you.

23

24 JEFF KRAUT: I would've been disappointed otherwise.

1

2           HOWARD BERLINER:       On your comments, and this is a very  
3 long discussion and will get very arcane, so we're not going to  
4 have it now. But I certainly agree with your suggestion that the  
5 planning committee take it up. For years, the for-profit  
6 hospital industry has claimed that their charity care includes  
7 the difference between what they accept from Medicare and  
8 Medicaid and what they say is their cost which is really their  
9 price. And for years everyone who was not a member of a for-  
10 profit hospital chain has said, What? That's crazy. You signed a  
11 contract with Medicaid. That's your accepting it. You can't  
12 call that charity care if it's less than what you want to charge  
13 a well insured patient. So just want to say..

14

15           JEFF KRAUT:       Yeah, but it's not charity care. There's a  
16 gap in the categorization. That's not charity care. It's  
17 classified under "unreimbursed" services.

18

19           HOWARD BERLINER:       Well, on that chart...

20

21           JEFF KRAUT:       That's why I'm thinking there's an issue  
22 here, you've got to have... it's not as simple as a chart might  
23 suggest. And that's the point, exactly. OK. Could we go back to  
24 the application? Thank you. The applicants are saying, "what the

1 hell does this have to do with me?" but it does. So, I'm  
2 bothered. This application is symptomatic of an issue that we  
3 have here. And we have three statutory criteria and one  
4 undefined criteria anything else. And when we deal with concerns  
5 or arguments that are raised about competition, we kind of  
6 suspend all the conversations we've had about where the policy  
7 initiatives are with the state, what we discussed at our  
8 retreat, and what we've discussed in the planning committee, and  
9 it's kind of like Groundhog Day again. And so that's where I'm  
10 trying to... what I'm trying to look at is to get the Council to  
11 understand, we need to have a cohesive framework to make some  
12 decisions. There are three very clear framework items. Does the  
13 applicant, and we'll apply it to this one in particular, have  
14 the character and competence to operate an am-surg center, and I  
15 think the answer is yes. Is it financially feasible? Well,  
16 they've showed they have the existing volume already, also  
17 possibly making the argument about need. That they've already  
18 established a need because patients in that area have chosen to  
19 go to this place. And those patients, so what they're asking now  
20 is to take an existing physician practice as we've approved for  
21 the last six or seven years and say, a hospital based physician  
22 practice wants to now become a hospital-based ambulatory surgery  
23 center. Now we've had arguments when it's been doctors in an  
24 area organizing and not taking on the same obligations of the

1 hospitals, and we've treated hospital to hospital competition  
 2 differently than we've treated the doctor to hospital  
 3 competition because they're slightly different dynamics. This is  
 4 business that we already proved that has left... not in the  
 5 hospital today and has left. Then we have this other thing  
 6 that's a very nebulous criteria that's called 'any other item  
 7 that we don't like.' Here we're confronted with like it or not,  
 8 we're living in an environment where there is competition. We've  
 9 stated that as an absolute basis of policy in New York State. We  
 10 permit it. We are careful in certain environments to see if that  
 11 competition could be negatively affected, and you have everybody  
 12 comes up here with every argument that they keep just throwing  
 13 up. They're hoping one of these resonates here. Clearly Ellis  
 14 is very concerned. I would suggest by the actions it's fragile.  
 15 And maybe it needs to also take a look and be concerned with  
 16 their board to explore other options if they think an ambulatory  
 17 surgery center that already is existing, where doctors are doing  
 18 endoscopies and colonoscopies, if that is going to make the  
 19 difference of the future of that hospital. And but I do think  
 20 that we have to be clear about the type of competition. We  
 21 cannot use this venue to stop what's happening. Imagine what  
 22 happens when Amazon or Apple goes to telemedicine and they're  
 23 going to divert all the patients. they're not coming into an  
 24 urgent center. Not going to be done. It's going to be done in a

1 remote location. You can't use a regulatory process to stop  
 2 inevitable things that are going to be happening. And that's  
 3 what I'm afraid is occurring. And all I'm asking, and one of the  
 4 reasons I voted to support the applicant, but I just would ask  
 5 us to take a step, we need to be consistent. Because we are  
 6 inconsistent, and I think that inconsistency sends signals that  
 7 make it very difficult to have these conversations. That's not  
 8 to say there's not validity and other things here, but I just  
 9 wanted to express my concern here. And I really do suggest that,  
 10 if the hospital really thinks this is a real problem for its  
 11 longevity and its fiscal viability as they've suggested, then I  
 12 think that board has to look way beyond this application as to  
 13 how they are going to maintain access to services and look at  
 14 different options. Because clearly I'm just not convinced. Dr.  
 15 Brown.

16

17       LAWRENCE BROWN:       I must confess Jeff, that part of what  
 18 you have articulated I can see concurrence with respect to this  
 19 application. I can probably see that. I'm not sure that I can  
 20 embrace it though at a larger level, higher level, because I  
 21 think the issue about access to care and the challenges before  
 22 us are going to continue to evolve. So in some ways there's  
 23 going to continue to be evolution about how we actually execute  
 24 to make sure that the citizens of New York State are being

1 adequately served. So I hear with you about the different models  
2 that are going to come. I'm not sure I can, from a macroscopic  
3 level say that we gotta let business be business, but I do  
4 understand with respect to this applicaiton, I cannot disagree  
5 with you at all on this.

6

7 JEFF KRAUT: I get the big picture. So any other... not  
8 that we're getting into a debate, I just wanted to express my  
9 concerns. So I'll call a vote. All those in favor, aye.

10

11 [Aye]

12 Opposed? You're going to have to do a roll call. We'll do a  
13 roll call.

14

15 Ms. Baumgartner

16 Yeah

17 Dr. Berliner

18 No.

19 Dr. Brown

20 Abstain

21 Ms. Carver-Cheney

22 Yes

23 Dr. Gutierrez

24 Yes

NYSDOH20181213-PHHPC-Council-1  
1hr 45min

- 1 Mr. Holt
- 2 Yes
- 3 Dr. Kalkut
- 4 Yes
- 5 Mr. LaRue
- 6 Yes
- 7 Mr. Lawrence
- 8 No.
- 9 Dr. Martin
- 10 No
- 11 Mr. Rautenberg
- 12 Yes
- 13 Mr. Robinson
- 14 Yes
- 15 Ms. Soto
- 16 No
- 17 Dr. Strange
- 18 Yes
- 19 Mr. Thomas
- 20 Yes
- 21 Dr. Torres
- 22 No
- 23 Dr. Watkins
- 24 Yes

1 Dr. Yang

2 (?)

3

4 JEFF KRAUT: I'll vote yes for the record. There is no...  
5 we need 13 affirmative vote. The vote is?... 12-6 and one  
6 abstention. Would you like to change the abstention.

7

8 LAWRENCE BROWN: Yes I would like to change the  
9 abstention if I'm allowed to do so.

10

11 JEFF KRAUT: Mark?... Yes.

12

13 LAWRENCE BROWN: My vote would be yes.

14

15 JEFF KRAUT: Motion passes. Next item.

16

17 PETER ROBINSON: The following applications I am going  
18 to batch. These are applications for establishment and  
19 construction. Application 181277E, the Surgery Center at  
20 Orthopedic Associates, LLC in Dutchess County. This is a request  
21 for indefinite life for CON 112379. With the Department and the  
22 Committee recommending approval with a condition.

23

1           JEFF KRAUT:       I have a motion?... OH, you're batching. I'm  
2 sorry.

3

4           PETER ROBINSON:       application 181183B, Visiting Services  
5 LLC, d/b/a Visiting Docs in Rockland County. This is to  
6 establish and construct a new diagnostic and treatment center to  
7 be located at 240 North Main Street in Spring Valley. Here the  
8 Department recommends approval with conditions and  
9 contingencies, as did the Committee.

10           Application 182073B, Union Square Eye Center LLC d/b/a  
11 Union Square Eye Care in Harlem in New York County, to establish  
12 and construct a diagnostic and treatment center at 1825 Madison  
13 Avenue in New York with the Department and the Committee  
14 recommending approval with conditions and contingencies.

15           Application 181268E, Oswego Health Homecare LLC in Oswego  
16 County. To establish St. Joseph's Health Inc. as the parent and  
17 Trinity Health as the grandparent of the certified home health  
18 agency. The Department recommends approval with a condition and  
19 contingencies as did the Committee. I make a motion in favor of  
20 that batch.

21

22           JEFF KRAUT:       I have a second. Department wishes to  
23 comment on any aspects?

24

1 TRACY RALEIGH: Any questions about any item in that batch?

2 Hearing none, I'll call for a vote. All those in favor, aye.

3

4 [Aye]

5 Opposed? Abstention? The motion carries.

6

7 PETER ROBINSON: Application 172379E, St. Peter's Health  
8 Partners in Albany County. Noting an interest and abstention by  
9 Dr. Bennett. To co-establish Trinity Health Corporation over all  
10 the St. Peter's Health Partners facilities as active parent and  
11 co-operator. I will note the applicant came back and listened to  
12 the Council and it's direction regarding the structure and we  
13 were most appreciative of that. The Department is recommending  
14 approval with a condition and contingencies as did the  
15 Committee.

16 Application 182052E, HQ-WCHN Health Systems Inc., in  
17 Dutchess County. Pardon? You want to pull this out? Well then  
18 I'll make a motion with the applications that I've just  
19 reiterated.

20

21 JEFF KRAUT: So I have a motion. I have a second by Dr.  
22 Kalkut. Any questions from the Council for the Department on any  
23 of these applications? Hearing none, I'll call for a vote. All  
24 those in favor, aye.

1

2 [Aye]

3 Opposed? Abstention? The motion carries.

4

5 PETER ROBINSON: OK. Separately 182052E, HQ-WCHN Health  
6 Systems Inc. in Dutchess County. Noting an interest and  
7 abstention by Dr. Bennett and an interest by Mr. Kraut. This is  
8 to establish HQ-WCHN Health System Inc. as the co-operator of  
9 licensed entities owned by Healthquest Systems Inc. including  
10 Northern Dutchess, Putnam, and Vasser Bros. Hospitals. Northern  
11 Dutchess RHCF, and Healthquest Homecare Inc. which is both a  
12 CHHA and a LHCSA and the Department is recommending approval  
13 with a condition and a contingency as did the Committee and I so  
14 move.

15

16 JEFF KRAUT: I have a second, Dr. Berliner.

17

18 HOWARD BERLINER: We had a speaker (Dr. Hyde) asking  
19 about this application. It turns out that HealthQuest is  
20 purchasing a hospital outside of New York State in Connecticut,  
21 Sharon Hospital, which I believe parenthetically is the first  
22 New York Hospital that would actually own an out-of-state  
23 hospital. But the question raised by the speaker was, and he  
24 sent a letter afterwards, and I'm wondering if the request that

1 Sharon Hospital made could be added as conditions or things to  
2 this...

3

4 PETER ROBINSON: What was that request?

5

6 HOWARD BERLINER: It was just a couple training programs,  
7 residency program, things like that.

8

9 GARY KALKUT: It was related to maternity services.

10

11 HOWARD BERLINER: And maternity services.

12

13 TRACY RALEIGH: If we may address, and thank you for raising  
14 that Dr. Berliner. So, just for clarity the Department's  
15 understanding is that Health Quest is already operating Sharon  
16 Hospital so it's not an acquisition of Sharon Hospital. What was  
17 going before both this body and New York State as well as the  
18 Connecticut regulatory agency is the establishment of the new  
19 parent over both the Western Connecticut Network and Health  
20 Quest. Just to clarify that.

21 Secondly, we evaluated the letter subsequently received  
22 from Dr. Hyde and it is requesting that New York take action on  
23 a Connecticut facility that from our perspective wouldn't be a  
24 action that this body can take.

1

2           HOWARD BERLINER:       But, it's kind of interesting because  
3 when we look at it the other way, when we, when an out of state  
4 is operating or purchasing a New York hospital, we always have  
5 lots of questions about their policies and how their policies  
6 might interact with New York's and things like that. Seems to  
7 me this is just the other side of that question.

8

9           JEFF KRAUT:       But we have jurisdiction. How do we have  
10 jurisdiction in Connecticut?

11

12           HOWARD BERLINER:       Well, we have jurisdiction over the  
13 parent which is a New York State article 28.

14

15           JEFF KRAUT:       That's correct, but why would we... I don't  
16 know what the consequences of what you're asking us to do. We  
17 don't have... I don't know if that makes the hospital financially  
18 unfeasible. I just don't know.

19

20           HOWARD BERLINER:       I must say, and I don't know the answer  
21 to this, didn't seem to me that any of those were outrageous or  
22 even particularly unreasonable kinds of requests from a  
23 hospital. Now, maybe they should've made that argument in  
24 Connecticut when that got taken over. But, I mean, ...

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TRACY RALEIGH: And from my understanding I believe there was a lengthy public comment and exchange of questions and answers and I believe appropriately that was taken up on the Connecticut public comment period. Just to update the Council, the public comment period has ended, and now the counterpart to this body in Connecticut, the regulatory agency will have 60 days to conclude it's recommendation on that application. The concerns as we understand relate to maternity services, and it is again, whether we have enough information to understand the dynamics in a facility operating in Connecticut, it is a rural environment and the question comes down to whether there will be the availability of practitioners.

JEFF KRAUT: So call the question. All those in favor, aye.

[Aye]

Opposed? Abstention? The motion carries.

PETER ROBINSON: Application 172406B, Queens Boulevard Extended Care.

1 JEFF KRAUT: Hold on. I want to point out, because I  
2 didn't announce it, Dr. Bennett abstained on the previous vote.  
3 (we did)

4 OK. Thank you.

5  
6 PETER ROBINSON: 172406B, Queens Boulevard Extended Care  
7 Dialysis Center II in Queens County. Noting an interest by Mr.  
8 Kraut. To establish and construct a 15 station chronic renal  
9 dialysis center at Queens Boulevard Extended Care facility, a  
10 residential care facility located at 61-11 Queens Boulevard,  
11 Woodside. This is a companion to CON 181286. The Department is  
12 recommending approval with conditions and contingencies, as did  
13 the Committee, and I so move.

14  
15 JEFF KRAUT: I have a second. Any questions from the  
16 Council? All those in favor, aye.

17  
18 [Aye]

19 Opposed? Abstention? The motion carries.

20 I'm going to now call the next one, two... two applications.  
21 Oh, you're going to do it Gary. I'm sorry.

22  
23 GARY KALKUT: And we'll batch the two. Got it. 181405E,  
24 Visiting Nurse Hospice and Palliative Care. There's a conflict

1 declared by Ms. Baumgartner, Mr. Robinson, Mr. Thomas who have  
2 left the room. This is to merge the hospice program of Visiting  
3 Nurse Service of Rochester and Monroe County Inc., and the  
4 Ontario Yates Hospice Program, a Finger Lakes Visiting Nurse  
5 Service and change the corporate name of VNSR and their sole  
6 corporate member. Of note is contingencies 5, 6, 7 have been  
7 added. Department and the Committee recommend approval with  
8 conditions and contingencies, and I so move.

9

10 JEFF KRAUT: Any questions from... you're going to do the  
11 second? Sorry. Gotta do them both.

12

13 GARY KALKUT: 181403E, VNS of Rochester and Monroe County.  
14 Again, conflicts by Ms. Baumgartner, Mr. Robins and Mr. Thomas  
15 who are out of the room. This is to merge Finger Lakes Visiting  
16 Nurse Services into Visiting Nurse Service of Rochester in  
17 Syracuse and incorporate and change the corporate name of VNSR  
18 and their sole corporate member. Contingency number 3 has been  
19 added. Again the Department and the Committee recommended  
20 approval with conditions and contingencies, and now I so move.

21

22 JEFF KRAUT: I have a second by Dr. Gutierrez. Any  
23 questions? Hearing none, all those in favor, aye.

24

1 [Aye]

2 Opposed? Abstention? The motion carries. Could you ask Ms.  
3 Baumgartner, Mr. Thomas and Mr. Robinson to return.

4

5 PETER ROBINSON: OK. So here we go with Shining Star.  
6 Application 171041E, Shining Star Home Health Care in Kings  
7 County. This is request for a three year extension of limited  
8 life for CON 072094E. The Department is recommending approval  
9 with conditions and contingencies and with a three year  
10 extension of the operating certificate from the date of the  
11 Public Health and Health Planning Council recommendation letter.  
12 The Committee also recommended approval with conditions and  
13 contingencies and with a three year extension of the operating  
14 certificate from the date of the Public Health and Health  
15 Planning Council recommendation letter, and I so move.

16

17 JEFF KRAUT: I have a second Dr. Gutierrez. The  
18 Department or any questions on this application? Dr. Berliner.

19

20 HOWARD BERLINER: I have a question for counsel. If this  
21 does not get approved or whatever...

22

23 JEFF KRAUT: If we do not extend the operating  
24 certificate...

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HOWARD BERLINER: What happens?

RICHARD ZAHNLEUTER: I can field that. My name is Richard Zahnleuter, general counsel. Under the State Administrative Procedure Act, when there is a license that expires and when there is also an application for renewal or extension, that license stays in effect for an indefinite period of time until it is either granted again or rejected. And so if in this case it gets rejected, then the license is ended. But under the State Administrative Procedure Act, there's a four month grace period thereafter for the licensee to bring an article 78 petition. So if you reject it today, then what will happen is there will still be four months of life, if you will, but then it will expire unless there's a court action that changes that.

JEFF KRAUT: And just to follow that up, the practical thing is that the applicant would have to give the Department a wind down plan.

RICHARD ZAHNLEUTER: That is correct.

1           JEFF KRAUT:       And you'd monitor compliance that the  
2 patients are handed off effectively and safely. OK. Yes I'm  
3 sorry. Ms. Soto.

4  
5           NILDA SOTO:       To continue our earlier conversations on  
6 some of these proposals, I noted that under the need summary,  
7 the agency did not meet the 2 percent charity care required in  
8 any of the five years of operation. But is projecting 2 percent  
9 going forward. So I think this again it's bringing in terms of  
10 the non-compliance of charity care.

11

12           JEFF KRAUT:       And I think there was a discussion at the  
13 Committee level, and the applicant was questioned. I just don't  
14 recall the substance.

15

16           PETER ROBINSON:       We also went into the recommendations  
17 of the ad-hoc committee on ambulatory surgery and the notion of  
18 the blending of Medicaid access and charity care recognizing  
19 that the amount of charity care now is actually much more  
20 limited in terms of its, because of the success of getting more  
21 and more people in the State covered.

22

23           JEFF KRAUT:       So on that basis the Committee voted yes.

24

1 PETER ROBINSON: The Committee did vote yes.

2

3 JEFF KRAUT: Any other questions or comments? Hearing

4 none, I'll call for a vote. All those in favor, aye.

5

6 [Aye]

7 Opposed? Take a roll call vote please.

8

9 Ms. Baumgartner

10 No.

11 Dr. Bennett

12 Yes

13 Dr. Berliner

14 No.

15 Dr. Brown

16 No

17 Ms. Carver-Cheney

18 Yes

19 Dr. Gutierrez

20 Yes

21 Mr. Holt

22 Yes

23 Dr. Kalkut

24 No

- 1 Mr. LaRue
- 2 No
- 3 Mr. Lawrence
- 4 No.
- 5 Dr. Martin
- 6 Yes
- 7 Mr. Rautenberg
- 8 No
- 9 Mr. Robinson
- 10 Yes
- 11 Dr. Ruge
- 12 No
- 13 Ms. Soto
- 14 No
- 15 Dr. Strange
- 16 Yes
- 17 Mr. Thomas
- 18 Yes
- 19 Dr. Torres
- 20 No
- 21 Dr. Watkins
- 22 No
- 23 Dr. Yang
- 24 (?)

1 Peter Robinson

2 No.

3

4 JEFF KRAUT: It's 9-11. 9 yes, 11 no. The motion fails.

5 OK. We need to have in order for this applicant... this is a

6 limbo. So we're the decider, not the Commissioner? Is this an

7 existing providers? This is an extension of a limited life and

8 in order to avail the applicant the right of an article 78

9 hearing there has to be an affirmative action of the Council.

10

11 RICHARD ZAHNLEUTER: Your option is to try another vote with

12 a negative.

13

14 JEFF KRAUT: Yes. So, ...

15

16 GARY KALKUT: INAUDIBLE

17

18 RICHARD ZAHNLEUTER: Well, I don't like the word 'limbo' but

19 that is correct, there is no decision.

20

21 JEFF KRAUT: Again, just to remember, one of the

22 policies...

23

24 HOWARD BERLINER: If it's in limbo, what happens to it?

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24

RICHARD ZAHNLEUTER: If there is no decision then it stays in effect pursuant to the State administrative procedure act.

JEFF KRAUT: So, this is the issue: again, trying to establish consistent policy in this room. What we've had, when we can't reach a conclusion affirmatively for or against an applicant, typically what we've done, we've done one of two things; we've tabled it to allow the applicant more time to talk to the Department and now given the fact this is maybe the third time here, I don't know how productive, what's going to happen. You can just leave it in limbo and have it come back to us at another time for another vote, or you can turn it down, even people who voted to approve it are turning it down to give the applicant the right to go and appeal the decision in an administrative law judge hearing. Correct? So those are your essential choices. If we entertain a motion to turn it down, and it doesn't get turned down, we do not affirmatively vote to disapprove the application, the applicant will continue to operate ... and I don't know how to complete the sentence. Other than they may come back after some period of time where some of the operations have improved that would suggest that we might reconsider at a different point in time. But you're essentially permitting them to continue to operate.

1

2 [indefinitely]

3

4 PETER ROBINSON: On that basis, I'm going to make a  
5 motion for disapproval.

6

7 JEFF KRAUT: I have a motion for disapproval of this  
8 application. I have a second, Dr. Kalkut. Does anybody want to  
9 have any other discussion or understanding this motion will  
10 disapprove, not accept the Department's recommendation and not  
11 accept the application of the establishment committee. We're  
12 going to say no. And then that applicant has a right within the  
13 time period that was described by Mr. Zahnleuter to seek an  
14 appeal of that decision. And they'll continue to operate until  
15 they exhaust all those appeals. And then if they fail, the  
16 Department will act to an orderly shutdown of that entity.  
17 That's what, when you're voting yes to disapprove, that's what  
18 you're voting for. Yes, Mr. Lawrence.

19

20 HARVEY LAWRENCE: I'm not a parliamentarian and so what  
21 happened to the vote that was just taken?

22

23 JEFF KRAUT: It failed to...

24

1 RICHARD ZAHNLEUTER: The vote to approve the application  
2 failed.

3

4 JEFF KRAUT: Failed by three votes? Three or four votes.  
5 Four votes.

6

7 HARVEY LAWRENCE: So that means that it, so we get a do-  
8 over?

9

10 JEFF KRAUT: Now you're turning it... no, now you're  
11 turning it down. You're basically saying they're not going to  
12 extend the life of this entity. Hold on. I want to make sure Mr.  
13 Lawrence gets all his questions answered.

14

15 HARVEY LAWRENCE: Ok, so we ... there was an impass on the  
16 earlier vote. It didn't move.

17

18 RICHARD ZAHNLEUTER: It did not approve.

19

20 HARVEY LAWRENCE: And so we get another crack at this  
21 because it wasn't approved.

22

23 RICHARD ZAHNLEUTER: But the other crack is a reverse. It's  
24 a negative. It's the motion to disapprove.

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JEFF KRAUT: Essentially the Council chose not to accept the recommendation of the Project Review Committee and the Department. Yes, Dr. Rugge.

JOHN RUGGE: It seems like this is one more occasion the Council should take a look at its own procedures or the procedures given to it, and here we have a vote not to extend the life and the impact of that vote is to extend the life indefinitely, and this is ...

JEFF KRAUT: Well, if you don't vote on this next motion, it will be.

JOHN RUGGE: No, and we will vote on that. But it would seem a rather absurd need for an extra step when the Council just rendered a decision but the impact of the decision if it were left to stand is the exact reverse of what the vote indicated. We need to improve our procedures.

JEFF KRAUT: I will give it over to the legal scholars of why this is the case.

1           PETER ROBINSON:       This is actually in state regulation  
2 how this has to work. I don't think it's just a Council  
3 operating decision.

4  
5           JOHN RUGGE:       No, but the Council can certainly make a  
6 recommendation to the legislature and the Governor how to  
7 straighten out a procedure so they're more rational and  
8 impactful.

9  
10          JEFF KRAUT:       This goes back to the Long Island hand case.  
11 That's what we're trying to avoid for those of you who are  
12 students of history.

13  
14          HOWARD BERLINER:    Just a question for counsel. How long  
15 does an applicant have to go for the article 78 hearings?

16  
17          JEFF KRAUT:       They have to file.

18  
19          HOWARD BERLINER:    30 days?

20  
21          RICHARD ZAHNLEUTER: The period of time is four months form  
22 the date of the decision.

23

1           JEFF KRAUT:       I don't want to complicate it, but how long  
2 does the administrative law judge have to render a decision?  
3 That's another variable.

4  
5           RICHARD ZAHNLEUTER: I'm sorry, what was the variable?

6  
7           JEFF KRAUT:       From the date an application is filed, when  
8 would an administrative law judge rule? And you don't know the  
9 answer to that question.

10  
11          RICHARD ZAHNLEUTER: That's to be determined by that  
12 administrative law judge.

13  
14          JEFF KRAUT:       But it's a process. You have to permit the  
15 applicant to avail themselves of the process. Once it leaves  
16 here, it is the process that controls when the Department acts.  
17 This will never come back to us unless there's a ruling from the  
18 administrative law judge to direct us otherwise. Because if  
19 they affirm our decision, it will not come back to the Council.  
20 They will notify us that it was affirmed, but we are not voting  
21 again after this.

22  
23          RICHARD ZAHNLEUTER: The administrative law judge will  
24 conduct a hearing, if requested to do so by the applicant, and

1 then make a recommendation, and that will come back to the  
2 Council.

3

4 JEFF KRAUT: But if they affirm it? It still comes back  
5 to us?

6

7 RICHARD ZAHNLEUTER: Whatever the recommendation is. Yes.

8

9 JEFF KRAUT: I hope that thoroughly...

10

11 HARVEY LAWRENCE: So would a better outcome be to delay  
12 and provide this applicant with another opportunity to sort of  
13 pull it all together? As opposed to having it go through this  
14 process and going through an administrative judge and then  
15 having it brought back to us? I mean, they are a small operation  
16 I guess and they are running a business. And I think this is an  
17 applicant as I recall had some financial difficulties early on  
18 and so to work through those difficulties and sort of put  
19 themselves on a pathway to maybe being able to meet the charity  
20 and the Medicaid goals or criterias.

21 I think this is a pretty small operation as I understand  
22 it. And I suppose that would be...

23

1           PETER ROBINSON:        So, Mr. Lawrence, that's an alternative  
2 motion that I guess the Council could consider which is to table  
3 this and have the applicant go back. I just don't know what the  
4 reasons were for members of the Council who voted against the  
5 application. You're getting into each persons' rationale for  
6 their decision and whether or not that will produce a result  
7 that's going to be satisfactory.

8

9           JOHN RUGGE:        Just by way of providing a rationale, over  
10 and again, we've considered what kind of threshold there should  
11 be for indigent care. Here we have an operator who is not  
12 running a successful business who also has been unable to get to  
13 two percent of indigent care. If we're ever going to set an  
14 example and make it clear, we have expectations and we expect  
15 the providers that we are licensing to live up to those  
16 expectations they pledge to, this is that opportunity.

17

18           JEFF KRAUT:        Can I call the question? Please? Just to  
19 see where we end up here and because this at least starts the  
20 process. It may come back to us as you heard.

21           All those in favor of the motion to disapprove this  
22 application, 171041E, ... no the motion was made and seconded.  
23 You (Mr. Robinson) made the motion. Dr. Kalkut seconded.  
24 Disapproval. So we have that motion. All those in favor say aye.

1

2 [Aye]

3 Opposed? Abstaining? The motion carries. Continue.

4

5 PETER ROBINSON: This is going to be another batch.

6 Beginning with applications for residential healthcare

7 facilities for establishment and construction. 181293E, Carthage

8 Center for Rehabilitation and Nursing in Jefferson County.

9 Transfer a total of 88 percent ownership interest from one

10 withdrawing member and one existing member to another existing

11 member and three new members with the Department recommending

12 approval with a condition and contingency. The Committee in this

13 case voted approval with condition and contingency, but with one

14 member opposing.

15 181295E, New Paltz Center for Nursing and Rehabilitation in

16 Ulster County. Transfer a total of 88 percent ownership interest

17 from one withdrawing member and one existing member to another

18 existing member and three new members. The Department

19 recommending approval with a condition and contingency. The

20 Committee did the same, but with one member opposing.

21 Application 181297E, Onondaga Center for Rehabilitation and

22 Nursing in Onondaga County. Again, transferring a total of 88

23 percent ownership interest from one withdrawing member and one

24 existing member to another existing member and three new

1 members. The Department recommending approval with a condition  
2 and contingency as did the Committee with one member opposing.

3 Application 181298E, Schenectady Center for Rehabilitation  
4 and Nursing in Schenectady County. Again, transferring a total  
5 of 88 percent ownership interest from one withdrawing member and  
6 one existing member to another existing member and three new  
7 members. The Department recommending approval with a condition  
8 and contingency as did the Committee with one member opposing.

9 181299E, Slate Valley Center for Rehabilitation and Nursing  
10 in Washington County. You're getting the rhythm here. Transfer a  
11 total of 88 percent ownership interest from one withdrawing  
12 member and one existing member to another existing member and  
13 three new members. The Department recommending approval with a  
14 condition and contingency. But for the Committee one member  
15 opposed.

16 And the last one in the batch, 181300E, Troy Center for  
17 Rehabilitation and Nursing in Rensselaer County. Transfer a  
18 total of 88 percent ownership interest from one withdrawing  
19 member and one existing member to another existing member and  
20 three new members. The Department recommending approval with a  
21 condition and contingency as did the Committee with again one  
22 member opposing. And I so move that batch.

23

1           JEFF KRAUT:       I have a second by Dr. Gutierrez. Any  
2 questions about these applications? All those in favor, aye.

3  
4 [Aye]

5           Opposed? One no. Abstentions? The motion carries.

6  
7           PETER ROBINSON:       Ok, and a final batch. 181294E, Glen  
8 Falls Center for Rehabilitation and Nursing in Warren County.  
9 With an interest and abstention by Dr. Ruge. Transfer a total  
10 of 88 percent ownership interest from one withdrawing member and  
11 one existing member to another existing member and three new  
12 members. The Department recommending approval with a condition  
13 and contingency as did the Committee with one member opposing.  
14 I think I'm going to stop at that one instead of making it a  
15 batch. So I make that motion.

16  
17           JEFF KRAUT:       I have a second, Dr. Gutierrez. Any  
18 questions from the Council? All those in favor, Aye.

19 [Aye]

20           Opposed? Abstention. The motion carries.

21  
22           PETER ROBINSON:       Application 182217E, St. Joseph's Inc.,  
23 in Onondaga County. This is to establish Trinity Health  
24 Corporation as the active parent and co-operator of St. Joseph's

1 Health Center. I declared an interest in this. The Department is  
2 recommending approval with a condition and a contingencies. The  
3 Committee just this morning in special session recommended  
4 approval with a condition and contingencies and I so move.

5

6 JEFF KRAUT: I have a second by Dr. Gutierrez. Any  
7 questions? All those in favor, Aye.

8 [Aye]

9 Opposed? Abstention. The motion carries. I'm sorry... no vote  
10 by Dr. Bennett. Any abstentions? The motion carries.

11

12 PETER ROBINSON: 182030E, Amerita of New York LLC d/b/a  
13 Amerita in Nassau County. This is a serious concern access home  
14 health agency licensure. Applications 182014E, the Mohawk  
15 Homestead Inc., d/b/a the Mohawk Homestead Licensed Homecare  
16 Services Agency in Herkimer County.

17 182076E, the Eliot at Troy, LLC in Rensselaer County, and  
18 182078E, the Sentinel of Amsterdam in Montgomery County. In all  
19 cases the Department is recommending approval with a contingency  
20 as indicated in the staff reports as did the Committee and I so  
21 move.

22

23 JEFF KRAUT: I have a second by Dr. Gutierrez. Any  
24 questions: All those in favor, Aye.

1 [Aye]

2 Opposed? Abstention. The motion carries.

3

4 PETER ROBINSON: That concludes the report of the

5 Establishment and Project Review Committee.

6

7 JEFF KRAUT: Thanks very much Mr. Robinson. The full

8 meeting of the Public Health and Health Planning Council is now

9 going to be adjourned. The next committee day will be on January

10 24 and the full council will convene on February 14 in New York

11 City. Please make sure you check your email to make sure we're

12 confirming the location, time of the meeting. We have to just

13 make sure we have the building is going to be available to us.

14 Thank you so much.

15 I want to wish everybody a happy holiday, a New Year filled

16 with health, happiness and joy, and surrounded by your family,

17 friends, and neighbors. So I hope everything goes well.

18

19 [end of audio]