

**REVISED \* 10/8/2020**

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

**Minutes**  
**July 30, 2020**

The meeting of the Public Health and Health Planning Council was held on Thursday, July 30, 2020 via Zoom and live webcast. Chairman Jeffrey Kraut presided.

**COUNCIL MEMBERS PRESENT**

Dr. Howard Berliner	Dr. Mario Ortiz
Dr. Jo Ivey Boufford	Ms. Ellen Rautenberg
Dr. Lawrence Brown	Mr. Peter Robinson
Ms. Carver-Cheney	Dr. John Ruge
Dr. Angel Gutiérrez	Ms. Nilda Soto
Mr. Thomas Holt	Dr. Theodore Strange
Dr. Gary Kalkut	<b>*Mr. Hugh Thomas</b>
Mr. Jeffrey Kraut	Dr. Anderson Torres
Mr. Scott La Rue	Dr. Kevin Watkins
Mr. Harvey Lawrence	Dr. Patsy Yang
Dr. Glenn Martin	Dr. Howard Zucker – Ex-officio
Dr. Ms. Ann Monroe	

**DEPARTMENT OF HEALTH STAFF PRESENT**

Ms. Nancey Agard	Mr. George Macko
Mr. Michael Bass	Mr. Justin Pfeiffer
Ms. Barbara DelCogliano	Mr. Matthew Potter
Ms. Jada Eberle	Ms. Marthe Ngwashi
Dr. Marcus Friedrich	Mr. Mark Noe
Mr. Mark Furnish	Dr. Margaret Oxtoby
Mr. Brian Gallagher	Ms. Tracy Raleigh
Mr. Gary Ginsberg	Ms. Laura Santilli
Dr. Eugene Heslin	Dr. Roger Sokul
Mr. Stephen Hughes	Mr. Richard Thomas
Mr. Edward Hannon	Ms. Jennifer Treacy
Mr. Brad Hutton	Ms. Kristine Wheeler
Mr. Jonathan Karmel	
Ms. Colleen Leonard	

## **INTRODUCTION**

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

## **APPROVAL OF THE MEETING MINUTES OF FEBRUARY 6, 2020 AND MARCH 9, 2020**

Mr. Kraut asked for a motion to approve the February 6, 2020 Minutes of the Public Health and Health Planning Council meeting. Dr. Torres motioned for approval. Dr. Berliner seconded the motion. The minutes were unanimously adopted. Please refer to page 1 of the attached transcript.

Mr. Kraut asked for a motion to approve the March 9, 2020 Minutes of the Special Public Health and Health Planning Council meeting. Dr. Berliner motioned for approval. Dr. Ortiz seconded the motion. The minutes were unanimously adopted. Please refer to page 2 of the attached transcript.

## **REPORT OF DEPARTMENT OF HEALTH ACTIVITIES**

### **Department of Health Activities**

Mr. Kraut introduced Dr. Zucker to give a report on the Department of Health report.

### **COVID-19**

Dr. Zucker began his report by stating that New York State in partnership with every New Yorker, has truly flattened the curve. We brought down hospitalizations from a high of 18,825 which was on April 12, 2020 619 as of July 29, 2020. That is the lowest number during the pandemic. We brought down the number of fatalities from a tragic high of 800 per day in April to below ten as of July 29, 2020. The broad scale of public cooperation allowed New York to avert the direct epidemiological predictions and prevent a hundred thousand dangerous infections.

Dr. Zucker noted that despite the success, New York and our nation remain a global public health crisis of a magnitude that we truly have not experienced in decades. Unlike New York, other states are seeing an increase in COVID-19 infections because they reopened too soon. They failed to establish the testing and tracing systems and they refused to institute statewide mask mandates. The Department based all of the decisions on facts, on data, on expert analysis. The Department was fully transparent with the public, prioritizing the clear communication and easy access to the most current statewide and county data, prioritized testing and tracing. The Department prepared for the worst case scenario to the best of their ability through critical partnerships. Working with our neighboring states, nonprofits, and with academic institutions.

Dr. Zucker stated that New York slowed the virus spread through an aggressive mitigation measures such as limiting nonessential gatherings, closing schools statewide, shutting down in office, work for non-essential employees helped stop the spread while we identified the emerging hotspots and targeted medical sponsored. New York was the first state to mandate masks in mid April.

Dr. Zucker advised that the Department of Health key pandemic response operations have focused on diagnostic testing, on contact tracing and hospital initiatives to maintain bed capacity, PPE and personnel. The Department has learned that the most effective way to contain the virus is to identify the positive cases through diagnostic testing, to trace and test the context of those who test positive and isolate those who are infected. New York leads the nation and the world in per capita diagnostic testing. There have been 5.7 seven million persons that have been tested to date, we test on average between 16,000 thousand persons per day. The Department has partnered with Bloomberg Philanthropies to build a nationally reputable COVID-19 contact tracing program. As New York's COVID-19 surge began in March, the Department increased capacity at our existing hospitals by at least fifty percent in some hospitals to one hundred percent and canceled all elective surgeries statewide. New York partnered with FEMA and the Army Corps of Engineers to create four equipped and staffed temporary hospitals downstate. The Department integrated the state's 23 three public and 200 private hospitals into a single surge.

Dr. Zucker noted that New York State's core priorities in battling the pandemic was reopening strategy. The Department developed a system reopening based on the metrics within the ten designated regions, and our plan to continually monitor communities to keep the infection rate below 1.0. With all ten regions and phase four reopening, the Department is encouraging New Yorkers to maintain safe and healthy behaviors as they re-enter workplaces and congregate spaces. New York has gone from the worst afflicted to best managed state. New York's record for the state with the most corona virus cases was recently eclipsed by California and Florida as well as Texas. New York after coming down from the mountain of the outbreak curve and focusing on keeping infection rates low, we must visually maintain our defenses. A single super spreader is at a wedding, at a sporting event or the large gathering can lead to dozens of infections and overnight crises that unchecked could send this back up the mountain.

Dr. Zucker explained that the State established a multiagency task force to conduct daily compliance checks at restaurants and bars. As of July 30, 2020, 57 liquor licenses have been suspended. 534 charges have been filed in process as part of our New York forward plan. The Department has developed guardrails to prevent virus transmission from other states experiencing significant spread. Any person arriving from a state with a positive test higher than 10 per 100,000 residents over a seven day rolling average, or a state with ten percent or higher positivity rate over seven day averages well must quarantine for fourteen days. As of July 30, 2020, there are 34 states, plus the District of Columbia and Puerto Rico that have met the metrics to qualify for this travel advisory. New York has managed to get ahead of the virus and rapidly catching up behind it, and we are determined not to lose this advantage as we work to assure that New York remains safe. This is a difficult time, the Department is working hard along with everyone to make sure we all stay safe and ahead of this curve and really lead the nation. The

Governor has communicated its message to the to the public, not just in New York, but around the nation and shared all the information on a daily basis for four months and continues to do this quite regularly.

Dr. Zucker concluded his report. To read the complete report and questions from the Members, please see pages 2 through 15 of the attached transcript.

## **REGULATION**

Mr. Kraut thanked Commissioner Zucker for his report and introduced Dr. Gutiérrez to give his Report of the Committee on Codes, Regulations and Legislation.

### **Report of the Committee on Codes, Regulation and Legislation**

#### **For Adoption**

19-39 Amendment of Sections 404.12, 405.3, 415.26, 751.6, 763.13, 766.11, 794.3 and 1001.11 of Title 10 NYCRR (Reducing Annual Tuberculosis Testing of Health Care Workers)

19-40 Amendment of Section 709.14 of Title 10 NYCRR (Cardiac Services)

19-04 Amendment of Subpart 5-1 of Title 10 NYCRR (Maximum Contaminant Levels (MCLs))

Dr. Gutiérrez described For Adoption Amendment of Sections 404.12, 405.3, 415.26, 751.6, 763.13, 766.11, 794.3 and 1001.11 of Title 10 NYCRR (Reducing Annual Tuberculosis Testing of Health Care Workers). Mr. Thomas motioned for approval of the adoption. Dr. Kalkut seconded the motion. The motion to adopt passed. Please see page 15 of the transcript.

Dr. Gutiérrez described For Adoption Amendment of Section 709.14 of Title 10 NYCRR (Cardiac Services) and motioned for approval of the adoption. Dr. Kalkut seconded the motion. The motion to adopt passed. Please see pages 15 and 16 of the transcript.

Dr. Gutiérrez described For Adoption Amendment of Subpart 5-1 of Title 10 NYCRR (Maximum Contaminant Levels (MCLs)) and motioned for approval of the adoption. Dr. Kalkut seconded the motion. The motion to adopt passed. Please see pages 16 and 17 of the transcript.

Dr. Gutiérrez concluded his report.

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**

Peter 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**

**Acute Care Services - Construction**

<b><u>Number</u></b>	<b><u>Applicant/Facility</u></b>	<b><u>Council Action</u></b>
192324 C	Good Samaritan Hospital Medical Center (Suffolk County)	Contingent Approval

Mr. Robinson calls application 192324 and motions for approval. Dr. Gutiérrez seconds the motion. The motion to approve carries. Please see page 18 of the 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**

**Acute Care Services - Construction**

<b><u>Number</u></b>	<b><u>Applicant/Facility</u></b>	<b><u>Council Action</u></b>
201062 C	Weill Cornell Imaging at New York Presbyterian (Queens County)	Contingent Approval

Mr. Robinson calls application 201062 and motions for approval. Dr. Gutiérrez seconds the motion. The motion to approve carries. Please see pages 18 and 19 of the 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**

**Acute Care Construction – Construct**

<b><u>Number</u></b>	<b><u>Applicant/Facility</u></b>	<b><u>Council Action</u></b>
192206 C	Samaritan Hospital (Rensselaer County) Dr. Bennett – Interest (not present at meeting)	Contingent Approval

Mr. Robinson calls application 192206 and notes for the record that Dr. Bennett has an interest but is not present at the meeting. Mr. Robinson motions for approval. Dr. Gutiérrez seconds the motion. The motion to approve carries. See pages 19 through 21 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

**NO APPLICATIONS**

**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>
192267 E	The Surgery Center at Orthopedic Associates, LLC (Dutchess County)	
201075 E	Upstate Orthopedics Ambulatory Surgery Center (Onondaga County)	

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

<b><u>Number</u></b>	<b><u>Applicant/Facility</u></b>	<b><u>Council Action</u></b>
191323 E	Century Medical & Dental Center, Inc. (Kings County)	Contingent Approval
192042 B	Ohel Medical, Inc. (Kings County)	Contingent Approval
192120 B	Kerestir Health, LLD d/b/a Kerestir Health Center (Orange County)	Contingent Approval
192223 B	Care365, LLC (Rockland County)	Contingent Approval

Mr. Robinson calls applications 192267, 201075, 191323, 192042, 192120, 192223, and motions for approval. Dr. Gutiérrez seconds the motion. The motion carries. Please see page 21 of the transcript.

**Certificates**

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

<b><u>Applicant</u></b>	<b><u>Council Action</u></b>
Massena Memorial Hospital Foundation, Inc.	Approval

**Certificate of Dissolution**

<b><u>Applicant</u></b>	<b><u>Council Action</u></b>
Hebrew Hospital Home Foundation, Inc.	Approval

Mr. Robinson calls applications Massena Memorial Hospital Foundation, Inc. and Hebrew Hospital Home Foundation, Inc. and motions for approval. Dr. Gutiérrez seconds the motion. The motion carries. Please see page 21 of the 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**

**Ambulatory Surgery Center – Establish/Construct**

<b><u>Number</u></b>	<b><u>Applicant/Facility</u></b>	<b><u>Council Action</u></b>
192298 B	Renal Focus ASC Plainview (Nassau County) Dr. Gutiérrez – Opposed at EPRC	Contingent Approval

Mr. Robinson calls application 192298 and notes for the record that Mr. Kraut has declared an interest and motions for approval. Dr. Gutiérrez seconds the motion. The motion carries. Please see page 22 of the transcript.

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

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

**NO APPLICATIONS**

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

**NO APPLICATIONS**

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

**NO APPLICATIONS**

**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 - Construction**

<b><u>Number</u></b>	<b><u>Applicant/Facility</u></b>	<b><u>Council Action</u></b>
192008 C	NYU Langone Hospitals (New York County) Dr. Kalkut – Recusal	Approval

Mr. Robinson calls application 192008 and notes for the record that Dr. Kalkut has a conflict and has exited the virtual meeting. Mr. Robinson motions for approval. Dr. Gutiérrez seconds the motion. The motion carries. Dr. Kalkut returns to the meeting. Please see pages 22 through 24 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**

**Ambulatory Surgery Center – Establish/Construct**

<b><u>Number</u></b>	<b><u>Applicant/Facility</u></b>	<b><u>Council Action</u></b>
182327 B	23 <sup>rd</sup> Street, SC, LLC d/b/a Hudson Surgery Center (New York County) Dr. Martin - Recusal	Contingent Approval

Mr. Robinson calls application 192008 and notes for the record that Dr. Martin has a conflict and has exited the virtual meeting. Mr. Robinson motions for approval. Dr. Gutiérrez seconds the motion. The motion carries. Dr. Martin returns to the meeting. Please see pages 24 and 25 of the transcript.

**Certificates**

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

<b><u>Applicant</u></b>	<b><u>E.P.R.C. Recommendation</u></b>
Phelps Community Corporation Mr. Kraut – Recusal	Approval

Mr. Robinson calls application Phelps Community Corporation and notes for the record that Mr. Kraut has a conflict and has exited the virtual meeting. Mr. Robinson motions for approval. Dr. Gutiérrez seconds the motion. The motion carries. Mr. Kraut returns to the meeting. Please see page 25 of the transcript.

Mr. Robinson concluded his report.

**ADJOURNMENT:**

Mr. Kraut announced the upcoming PHHPC meetings and adjourned the public portion of the meeting. The Council moved into executive session to act on the Report of the Committee on Health Personnel and Interprofessional Relations.