

NEW YORK STATE DEPARTMENT OF HEALTH
PUBLIC HEALTH AND HEALTH PLANNING COUNCIL
COMMITTEE ON CODES, REGULATIONS AND LEGISLATION
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ESP, CONCOURSE LEVEL, MEETING ROOM 6, ALBANY
TRANSCRIPT

Tom Holt Good morning. My name is Tom Holt. I'm the Chair of the Codes and Regulations and Legislation Committee.

Tom Holt I call the meeting to order.

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

Tom Holt I've been advised that there is no one who has signed up to speak on the regulations that are before us today, so we'll move right into we have two regulations for emergency adoption this morning, first being investigation of communicable disease.

Tom Holt Can I have a motion for a recommendation of adoption of this emergency regulation to the Public Health and Health Planning Council?

Tom Holt Dr. Berliner, I'm sorry you're not a member of the Codes Committee.

Tom Holt Dr. Watkins and Dr. Gutierrez.

Tom Holt Thank you.

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

Jason Riegert Good morning. My name is Jason Riegert. I'm an attorney with the Department of Health. I'm here today to ask the council members to vote on the adoption of an emergency regulation concerning investigation of communicable diseases. To briefly summarize this emergency regulation. Amend Section 2.6 of the State Sanitary Code related to communicable diseases to update and clarify existing local health department authority for investigating communicable disease cases. Specifically, updates to Section 2.6 include setting forth specific actions that local health departments must take to investigate a case, suspected case outbreak or unusual disease. Clarifying the authority of the Commissioner of Health to lead disease investigation activities in certain circumstances, such as where multiple jurisdictions within the state or out of the state are affected. And finally, amendments to this section codify the requirement that local health departments send reports to the Department of Health during a disease outbreak. In addition, the emergency regulation also amends Section 405.3 of Title 10 to require hospitals to report syndromic and disease surveillance data during an outbreak of a highly contagious communicable disease, and to allow the Commissioner of Health to direct hospitals to accept patients during such an outbreak. Finally, the emergency regulation adds Section 58-1.4 to clarify clinical laboratory reporting requirements for certain communicable diseases. Of note, the council has seen all of these provisions contained in this emergency regulation and has previously approved them. However, there was a recent decision from a court in Western New York enjoining the department from adopting and enforcing Section 2.13, which was previously a part of this regulatory package. The department is in the process of appealing this decision, but in the meantime, this emergency regulation has been amended to remove Section 2.13, which, if you'll remember, pertained to isolation and quarantine procedures, and also to remove amendments that were made to Section 2.2, which pertains to definitions. We're asking the council today to approve this emergency regulation as it will enable the Department of Health and local health departments to continue effectively monitoring the spread of COVID-19, as well as other highly contagious communicable diseases throughout New York State.

Jason Riegert Thank you.

Tom Holt Thank you, Jason.

Tom Holt Again, I've been advised that we do not have members of the public who have signed up to speak for this. I will ask if there are questions from the members of the committee or the council on this Regulation.

Tom Holt Dr. Berliner.

Dr. Berliner If you're taking out those sections of the prior emergency act if the judge's ruling is stayed or reversed, we would have to approve a new emergency act?

Jason Riegert This is an emergency regulation. It will be in effect for 90 days. There is a possibility that we might come back to the council members before the expiration of this to include those provisions if the judge's decision was stayed or reversed. I would also just note, we do have a notice of proposed rulemaking that was out, that we were in the final stages of assessing the public comments. It included those provisions in, so now we'll kind of have to go back and look to that and reset on that as well. We're still sort of waiting. In the meantime, we wanted to continue these provisions, though.

Dr. Berliner Thank you.

Tom Holt Dr. Watkins.

Dr. Watkins Where it pertains in Part 2 amendment for local health departments to work with New York State Department of Health. In that amendment, it codifies regulations that requires local health departments to send reports to the department during the outbreak, but it doesn't say what type of reports that you're going to require, how many reports are going to be required. Oftentimes when local health departments get into these communicable disease outbreaks, it really takes quite a number of their staff to assist and at least mitigating the spread in the community. If you're requiring a lot of reports, it would be helpful if we knew what type of reports or how many reports would be required for these local health departments.

Tom Holt I'm sorry. If you would just identify yourself, so it's picked up.

Tom Holt Thanks.

Dr. Lutterloh Yeah.

Dr. Lutterloh My name is Emily Lutterloh. I'm the Director of our Division of Epidemiology here in New York State Department of Health. So, that depends very much on the type and the magnitude of the investigation. If it's, you know, a relatively small investigation, it could be something as simple as, you know, a summary of the relevant laboratory information or epidemiological information. If it's a more extensive investigation, it could be a more extensive report. It's very dependent upon the needs based on what outbreak is going on.

Tom Holt Dr. Watkins, was that responsive?

Dr. Watkins I guess. We have several outbreaks that are going on now. For instance, the monkeypox outbreak. It doesn't tell a lot of work on behalf of these local health departments. It really would be helpful if we were able to work together with state DOH, but having these require report placed into law or a regulatory means, it really puts a lot

of pressure on these local health departments to do a lot of work and they're still understaffed. That's just the point I'm just trying to make.

Tom Holt Thank you, Dr. Watkins.

Tom Holt Are there other questions or comments from the members of the council?

Tom Holt Hearing none, I'd call the question.

Tom Holt All in favor?

Tom Holt This is just the committee.

All Aye.

Tom Holt Opposed?

Tom Holt Abstentions?

Tom Holt Motion carries.

Tom Holt Thank you.

Tom Holt This regulation now goes to the full council for its adoption.

Tom Holt Second, regulation that we had before us today for emergency adoption is face coverings for COVID-19 prevention.

Tom Holt Can I have a motion for a recommendation of adoption of this emergency regulation to the full Public Health and Health Planning Council?

Tom Holt Dr. Watkins.

Tom Holt And a second?

Tom Holt Dr. Gutierrez.

Tom Holt Mr. William Sacks and Dr. Emily Lutterloh of the Department are available and will provide us with information on this proposal.

Mr. Sacks Good morning. I'm here this morning to ask the council members to vote on a renewal of this emergency regulation that added Section 2.60 to Part 2 of the State Sanitary Code concerning face coverings to prevent transmission of COVID-19. The expressed terms of the regulation are the same as when you voted on this provision at the June meeting. The 60 day comment period following the notice of proposed permanent rulemaking generated over 6,000 discrete comments. We are in the final

stages of reviewing and generating responses. This emergency regulation permits the Commissioner to issue determinations to require face coverings in certain settings based on COVID-19 incidence and prevalence, as well as any other public health or clinical risk factors related to the transmission of COVID-19. The current commissioner's determination issued pursuant to this emergency regulation requires masking in the following circumstances or situations; health care settings regulated by the Department of Health, adult care facilities, correctional facilities, homeless shelters and public transportation conveniences and transportation hubs. We are asking council members to vote on a renewal of the emergency regulation to allow the Commissioner to continue to determine whether face masks should be worn in specific settings, as the Department continues to closely monitor the incidence and prevalence of COVID-19.

Mr. Sacks Thank you.

Tom Holt Thank you.

Tom Holt Again, I've been advised that we do not have members of the public who have signed up to speak for this proposal, so I will turn to the council and members of the committee to see if there are questions.

Tom Holt Hearing none, then I call the question.

Tom Holt All in favor?

Tom Holt Opposed?

Tom Holt Abstentions?

Tom Holt And that motion carries.

Tom Holt Thank you.

Tom Holt And that regulation now goes to the full council for its adoption.

Tom Holt Just a note that clinical staffing and general hospitals had been removed from today's agenda.

Tom Holt That closes this morning's meeting of the Codes Committee on Regulations and Legislation.

Tom Holt Thank you