

STATE OF NEW YORK  
PUBLIC HEALTH AND  
HEALTH PLANNING COUNCIL

BYLAWS

I. OFFICERS

Section 1. The officers of the Council shall be a Chairperson, Vice-Chairperson and Secretary. The Chairperson shall be designated by the Governor. The Vice-Chairperson shall be nominated by the Chair and elected by the Council at the annual meeting and shall serve for one year, or until his or her successor has been elected. The Commissioner of Health, upon request of the Council, shall designate an officer or employee of the Department of Health to act as Secretary to the Council.

Section 2. In the absence of the Chairperson and Vice-Chairperson from any Council meeting, the Council may elect one of its members to preside during such absence.

II. DUTIES

Section 1. The officers of the Council shall perform the duties ordinarily associated with their respective offices.

Section 2. The Chairperson shall supervise the work of the Council. He or she shall have power, unless the Council shall have provided for other representation, to represent the Council before the Governor, committees of the Legislature, or other public entities, and may request any other member or members to appear with him or her or in his or her stead.

Section 3. The Vice-Chairperson, in the absence or disability of the Chairperson, shall perform the duties of the Chairperson.

Section 4. The Secretary shall send a copy of the minutes of each meeting of the Council to each Council member as soon as is practicable after the meeting. The minutes, as approved or corrected, shall serve as the record of a meeting of the Council.

Section 5. The Secretary shall prepare and send official notices of actions of the Council and shall administer the daily business of the Council under the general direction of the Chairperson. The Secretary shall make available records requested under the Freedom of Information Law, make announcements to the media and public of scheduled meetings as required by the Open Meetings Law, and otherwise act as the official Council representative under the general direction of the Chairperson.

Section 6. The Secretary shall file a duly certified copy of each regulation adopted by the Council (following the required legal notice under the State Administrative Procedure Act) and approved by the Commissioner of Health, as required, together with the date on which such regulation shall take effect, with the Secretary of State as soon as practicable after the adoption of such regulation. The Commissioner of Health shall ensure that each regulation is disseminated to appropriate persons and entities within the State. The Secretary shall provide for final public notice and such other further publication as the Council may from time to time determine.

### III. CODE OF ETHICS

Section 1. No Council member shall have any interest, financial or otherwise, direct or indirect, in any business, or transaction, or professional activity, or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties as a Council member. Members shall exercise their duties and responsibilities as Council members in the public interest of the inhabitants of the State, regardless of their affiliation with, or relationship to, any facility, agency or program, category of provider or interest group. The principles which shall govern the conduct of the Council members include, but are not limited to, the following:

- (a) A Council member shall endeavor to pursue a course of conduct which will not raise the perception among the public that he or she is likely to be engaged in acts that are in violation of his or her trust as a Council member.
- (b) No Council member shall permit his or her employment to impair his or her independence of judgment in the exercise of his or her duties as a Council member.
- (c) No Council member shall disclose confidential information acquired in the course of his or her duties as a Council member, or by reason of his or her position as a Council member, or use such information to further his or her personal interests.
- (d) No Council member shall use or attempt to use his or her position as a Council member to secure unwarranted privileges or exemptions for himself or herself or others.
- (e) No Council member shall engage in any transaction as a representative or agent of the State with any business entity in which he or she has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his or her duties as a Council member.
- (f) A Council member shall refrain from making personal investments in enterprises which he or she has reason to believe may be directly involved in decisions to be made by him or her as a Council member or which otherwise create substantial conflict between his or her duty as a Council member to act in the public interest and his or her private interest.

Section 2. Council members shall comply with section 74 (Code of Ethics) and section 73-a of the Public Officers Law, as may be amended from time to time.

IV. CONFLICTS OF INTEREST

Section 1. Disclosure of Interests.

- (a) For the purposes of these Bylaws, "interest" shall include any interest, financial or otherwise, whether as owner, officer, director, fiduciary, employee, consultant or supplier of goods or services, in a facility, agency or program. For the purposes of these Bylaws, "family" shall include a spouse, domestic partner, children under twenty one years of age, and any other relative living in the member's household.
- (b) Prior to the annual meeting of the Council, each member shall submit to the Secretary a written statement identifying each medical facility, home care agency or hospice program governed by Articles 28, 36, and 40, respectively, of the Public Health Law and each adult care facility or program governed by the Social Services Law in which he or she or a member of his or her family has an interest. Within thirty days of receipt of such statements, the Secretary shall distribute to each member a copy of such statements submitted by all other members.

Section 2. Pending Applications.

- (a) Absolute Disqualification. When a member or his or her family has an interest in a facility, agency or program that is the subject of an application (e.g., in connection with a sale or purchase) under Articles 28, 36, and 40 of the Public Health Law, that is or will be before the Council is or will be before the Council or a committee of the Council for consideration or determination, or when a member or his or her family has an interest in a facility which is the subject of a pending complaint under section 2801-b of the Public Health Law; that member shall:
  - (i) disclose such interest in writing to the Secretary no later than five days prior to the date of the meeting;
  - (ii) refrain from discussing such application or complaint with any member of the Council or any Department of Health staff at any time prior to or at any Council or committee meeting when the application or complaint is to be considered, except as required by clauses (i) and (iii) of this paragraph;
  - (iii) identify such interest to the Council or committee at any meeting when the application or complaint is to be considered;
  - (iv) absent himself or herself from any portion of any meeting when such application or complaint is considered; and,

- (v) not participate in any vote of the Council or committee on that application or complaint.
- (b) Disclosure and Possible Disqualification. When a member or his or her family has any of the following interests or association, he or she shall disclose such interest or association (including the nature of such interest or association) in writing to the Secretary no later than five days prior to the date of the meeting; and at the time of formal consideration of such application by the Council or a committee, the member shall disclose such interest or association and its nature:
- (i) an interest in an Article 28, 36, or 40 facility, agency or program, the status of which might reasonably be affected by another facility, agency or program, the application of which is before the Council or a committee of the Council (for example, when the applicant proposes to serve the same community or service area as does the facility, agency or program in which the member or his or her family has an interest);
  - (ii) when a member has any other interest or association which might reasonably be construed as tending to embarrass the Council or elicit the public perception that he or she might be engaged in acts in violation of his or her trust as a Council member.
- (c) Procedure. Prior to any discussion concerning an application or section 2801-b complaint, at a Council meeting or a committee meeting:
- (i) the Council members shall disclose all interests set forth in this section and, if the member does not intend to recuse himself or herself, explain such interest.
  - (ii) when a member does not disclose an interest, the Chairperson or committee chair may remind the member of such interest.
  - (iii) the Chairperson or committee chair, and if necessary, the Council or committee, may determine whether the member's participation in the discussion of such application or complaint, or in the vote of the Council or committee thereon, would be proper and consistent with the procedure.
  - (iv) In the case of interests triggering an Absolute Disqualification, the members with such interests shall immediately leave the meeting and remain absent during the period when the application or complaint is under consideration.

- (v) In the case of interests triggering possible disqualification, or an absolute disqualification that is disputed, the Chairperson at Council meetings or the committee chair at committee meetings shall rule upon such disqualification. This ruling may be subject to appeal by motion to the Council or committee. The affirmative vote or a majority of members present at the meeting (except for the member who is subject to the vote) shall prevail.

Section 3. Pending Regulations and Policy Matters - Committees.

- (a) Disclosure at committee meetings. When a member of a committee of the Council or his or her family has an interest in an Article 28, 36 or 40 facility, agency or program, or an association representing such entities, the status of which might reasonably be affected by a regulation or policy matter which is before the committee, or when a member has an interest in or association which might reasonably be construed as tending to embarrass the Council or committee or elicit the public perception that he or she might be engaged in acts in violation of his or her trust, he or she shall, at the time of formal consideration of such regulation or policy matter by the committee disclose such interest or association to the committee so that the committee is fully aware of such member's interest or association. A committee member who discloses such interest or association may, but shall not be required to, abstain from participation in the discussion or vote on such regulation or policy matter at the committee meeting.
- (b) Disclosure at Council meetings. When the chairperson of any committee that considered a regulation or policy matter reports the committee's deliberations and recommendations to the Council, the committee chair shall indicate in the report all interests or associations disclosed by committee members and state how such members voted with respect to the committee's recommendations. A committee member who disclosed such interest or association may, but shall not be required to, abstain from participation in the discussion of or on such regulation or policy matter at the Council meeting.

Section 4. The minutes of each meeting of the Council and committee meeting shall reflect all disclosures, discussion vote and abstentions regarding conflicts of interest.

Section 5. Violation of provisions. If a Council member knowingly and intentionally violates the provisions of these Bylaws, the Council or its Chairperson shall refer the matter the Commissioner of Health or the Governor for further action, which may include removal from Council membership. In addition, at any regular meeting, the Chairperson may request a motion that the Council recommend to the Governor that action be initiated, consistent with the requirements of the Public Officers Law, to remove a member from the office as a Council member, if the member changes his or her primary residency to a location other than New York State, or is convicted of a felony or other crime or violates Article III of these Bylaws.

V. MEETINGS OF THE COUNCIL

Section 1. The regular meetings of the Council shall be held at least twice annually unless otherwise determined by the Council or the Chairperson, who shall notify the Secretary at least seven business days in advance of each meeting.

Section 2. Additional meetings may be called by the Chairperson or by the Commissioner of Health, at his or her discretion.

Section 3. The Chairperson shall notify the Secretary at least seven business days prior to any meeting other than a regularly scheduled meeting. The Secretary shall send notice electronically to each Council member at his or her usual electronic mail address not less than five days before the meeting.

Section 4. The annual meeting of the Council shall be the regular meeting held in February.

Section 5. Council members are expected to attend all meetings of the Council. If a Council member is not able to attend a meeting, he or she shall give the Chairperson or Secretary at least twenty four hours prior notice, except in emergency situations in which notice shall be provided as soon as it is practicable.

Section 6. If a Council member fails to attend three consecutive regular meetings of the Council or a total of four such meetings in any calendar year, the Chairperson may request a motion at the next regular meeting that the Council requests such member to resign. If the member does not resign within three months after receiving a copy of a notice reflecting the action taken by the Council and the member fails to attend the next Council meeting, the Chairperson may request a motion at the following regular meeting that the Council recommend to the Governor that action be initiated, consistent with the requirements of the Public Officers Law, to remove the member from the office as a member of the Council and that a replacement member be appointed forthwith.

Section 7. The meetings of the Council shall be noticed and conducted in accordance with the requirements of Article 7 (Open Meetings Law) of the Public Officers Law. Such meetings shall be open to the public, except when otherwise provided for by law. Guidelines for observers may be adopted by the Council.

VI. VOTING

Section 1. Thirteen members of the full Council shall constitute a quorum in accordance with General Construction Law § 41 and Public Officers Law § 102 (1), as amended, and all matters requiring action shall be passed by an affirmative vote of not less than thirteen votes. (Each abstention shall not affect the quorum that has been established prior to the vote.)

Section 2. A majority of committee members designated by the Chairperson to serve on a standing committee shall constitute a quorum, and all matter requiring action shall be

passed by an affirmative vote of not less than a majority of the members appointed to serve on the committee. (Each abstention shall not affect the quorum that has been established prior to the vote.)

Section 3. All meetings shall be conducted in accordance with Robert's Rules of Order Newly Revised, and a record of each vote shall be maintained. The normal method of voting shall be by voice. If any member expresses a doubt about the outcome of a voice vote, such member may require that the vote be verified. To verify a vote, the vote shall be retaken by a show of hands or by rising. On the request of any member, the aye and no votes shall be counted, abstentions noted, and entered in the minutes. On the request of any member, a roll call vote on any question shall be taken by ayes and nays, abstentions noted and a record of how each member voted entered into the minutes.

## VII. COMMITTEES

Section 1. There shall be the following standing committees:

- (a) Establishment and Project Review Committee.
- (b) Public Health Committee.
- (c) Committee on Codes and Legislation.
- (d) Planning Committee.
- (e) Health Personnel and Inter-Professional Relations Committee.

Section 2. Each standing committee shall consist of one or more members of the Council. Unless it is necessary to add or replace committee member at another time during the year, the Chairperson shall appoint all members of standing committees and designate the chairperson and vice-chairperson of each committee at the annual meeting. The Chairperson may, as he or she deems necessary, add or replace committee members at any other meeting of the Council. Standing Committees may invite nonmembers of the Council to attend and speak at standing committees to provide information and advice, but non members shall not vote.

Section 3. The Chairperson may at any time provide for the appointment of ad hoc committees on any subject or subjects. All such ad hoc committees, not previously discharged by the Chairperson, shall be discharged at the next succeeding annual meeting following their appointment, unless the Chairperson shall expressly continue them. The Chairperson may also appoint without regard to membership on the Council, such advisory committees as he believe will further the purposes of the Council.

Section 4. In appointing members to any committee, the Chairperson shall, to the extent practicable, ensure that the composition of such committees include members with diverse expertise and experience, including having capacities identified with consumers of hospital and other health care services.

Section 5. When making a report to the Council, a committee should, in addition to reporting any recommendations of the majority of the committee, endeavor to report any significant deliberations leading to such recommendation as well as any significant comments, opinions or recommendations of committee members who did not support the majority recommendations.Section 6. Committee meetings shall be noticed and conducted in accordance with the requirements of Article 7 (Open Meetings Law) of the Public Officers Law. Such meetings shall be open to the public except when otherwise provided for by law. Guidelines for observers may be adopted by the Council.

#### VIII. OFFICE OF THE COUNCIL

Section 1. The official repository of the official copies of the Council's minutes, transcripts, documents, correspondence and other records shall be the offices of the New York State Department of Health.

Section 2. The Secretary shall be responsible for the safekeeping of all minutes, papers, record, documents correspondence and other things belonging to the Council. Every member of the Council shall have access at all times during the ordinary office hours of the Department of Health, to all minutes, papers, records, documents, and other things belonging to the Council.

Section 3. The Secretary shall retain on file a copy of the current annual statement submitted by each Council member which reflects his or her interests and those of his or her family in any facility, agency or program governed by Article 28, 36 and 40, respectively, of the Public Health Law and a copy of a current list of Council members which indicates the interest or capacity, if any, identified with each member such as that of provider, health systems agency, or consumer.

#### IX. AMENDMENT OF BYLAWS

These Bylaws may be amended by the affirmative vote of thirteen members of the Council at any regular or special meeting, provided that notice of the proposed amendment has been given at a prior meeting and that a copy of the proposed amendment has been sent by the Secretary to each member of the Council at least five days prior to the vote.

Adopted: 6/9/11