

**NEW YORK STATE DEPARTMENT OF HEALTH**  
**PUBLIC HEALTH AND HEALTH PLANNING COUNCIL**  
**FULL COUNCIL MEETING**  
**JULY 28, 2022**  
**10:15 AM**  
**ESP, CONCOURSE LEVEL, MEETING ROOM 6, ALBANY**  
**TRANSCRIPT**

**Dr. Boufford** I think we'll begin the formal meeting of the council. I'm Dr. Boufford, the Vice Chair of the council.

**Dr. Boufford** I have the privilege to call us to order Public Health and Health Planning Council and welcome Commissioner Bassett and other staff, colleagues, participants and observers. Again, as to review the reminders for the audience viewing. This is a public meeting on a webcast. There is a form to be filled out to record your attendance at the meetings that's required by the Commission on Ethics and Lobbying and Government according to Executive Order 166 and it's posted on the Department of Health website under Certificate of Need. You're asked to please email completed form to Colleen Leonard at Colleen.Leonard@Health.NY.Gov. We appreciate your cooperation in this. I'd also like to remind council members, staff and the audience that this is a meeting subject to the Open Meetings Law. It's being broadcast over the internet. Some ground rules, which hopefully we're all familiar with. Please keep yourself on mute when you're not speaking. We ask that you avoid rustling papers next to the microphone and avoiding personal conversations as the device will pick up the chatter. This is synchronized captioning, so people are asked not to talk over each other, which makes it more difficult, if not impossible, to sign. The first time you speak, please state your name and briefly identify yourself as a staff member or a member of the council, which will help the broadcasting colleagues. I want to encourage the members, staff and public to join the Department's Certificate of Need Listserv. The unit regularly sends out important council information and notices such as the agenda, meeting dates and policy matters, etc., which will be of interest. There are printed instructions on the reference table out in the entrance area to this room about how to join. The agenda for today's meeting will involve the following. First, under the Department of Health reports, we'll hear from Commissioner Bassett on an overall report of the department's activities. Dr. Ursula Bauer will then provide a report on the activities of the Office of Public Health, followed by Dr. John Morley, who will provide a report on the activities of the Office of Primary Care and Health Systems Management and then we'll move in to the report from Mr. Holt on the Codes Committee and Project Review Recommendations and Establishment Actions report by Mr. Robinson, who will report on a number of CON applications that were reviewed at a meeting of that committee earlier this month. We will and the council and there will be an Executive Session following the adjournment of the council on a personal matter. A reminder for conflicts, members of the council and any guest who regularly attend the meetings are familiar with re-organizing the agenda by topics and categories. This reorganization can include batching has included batching of CON applications. We hope the council members have taken the time to look at the batches and see if there are any particular projects you'd like to pull out or move into a different category for consideration. I'll hold a minute here to see if anyone on the council on the screen or in the room has any such intervention. It doesn't look like it, so we'll move ahead as printed. It's also a great pleasure for me to announce that we have a new council member virtually with us today, Dr. Denise Soffel, who comes with 30 plus years of experience in health care. She helped

found Medicaid Matters New York, a statewide coalition to bring voices and experience of Medicaid consumers into the policy process. She has served as that group's Coordinator throughout her career. Those of us who especially have been in New York City health policy work have known Denise as a very important source of evidence and advocacy for the underserved. We're delighted to welcome you, Denise, to the council. We are also happy that you've decided to join the Health Planning Committee, the Public Health Committee and the Ad Hoc Committee to lead the prevention agenda. I'll look forward to working with you more closely on those committees as well.

**Dr. Boufford** Now, if you want to say a word.

**Denise Soffel** Thank you, Jo.

**Denise Soffel** I was just saying in the pre-meeting, it's really a pleasure to join this group and come across so many colleagues and friends from many years of working in the health policy arena here in New York, including you. I was telling people my first real job was at HHC in the mid-80's. You were Vice President for Medical and Professional Affairs. I went in for my interview, my final interview, and I was petrified and here we are all these years later. You are a very intimidating and suspicious person in those years when I was very young, just out of graduate school looking to start a career. I'm very delighted to be joining you.

**Dr. Boufford** I wish I had known myself to be intimidating at that time. It might have been useful. But anyway, thanks very much and welcome. We're happy to have you.

**Dr. Boufford** I think we'll begin our formal agenda. It's a pleasure to welcome Dr. Bassett and hear from her updating the council on overall departmental activities, which I'm sure are a lot to tell us about.

**Commissioner Bassett** Should I borrow your microphone?

**Commissioner Bassett** Thanks very much, Dr. Boufford.

**Commissioner Bassett** It's a pleasure to have you chairing us today. I'd also like to join in welcoming our newest member. I believe that you occupy the consumer slot and we very much value that voice. I'm going to be brief. As you've heard, I'm Dr. Mary Bassett. I'm the New York State Health Commissioner. All of you know that we have been very busy, particularly in our Office of Public Health and I'll leave it to Dr. Bauer to give you most of that update. As you are all aware, we have been experiencing, particularly Downstate, an increase in COVID cases driven by the BA5 variant, which now comprises the larger share of COVID infections in the state. Additionally, we've had a case of polio diagnosed in Rockland County, which was confirmed by the CDC. This is the first time that we've had a case of polio in the United States in nearly a decade and in the state much longer than that. Additionally, we, of course, are in the midst of a surging number of cases of monkeypox, with the state now reporting over 1,200 cases and with our response limited by limited vaccine supply at federal level. We have been busy with all of these. It's made it clear, I hope, to the public the importance of having a strong health department as we seek to respond to all of these communicable disease threats. Role remains critically important. I hope all of our members understand that public health has never been more important than it is today.

**Commissioner Bassett** With those brief framing remarks, let me turn it over to Dr. Bauer. I would just like to take a moment to acknowledge how hard the team has been working. We have a shallow bench, and many of the same people who've been responding to COVID for over two years are now responding to monkeypox and most recently, polio. I'd like to acknowledge and thank the selfless, continued hard work of the Health Department staff.

**Dr. Bauer** Thank you very much, Dr. Bassett.

**Ann Monroe** May I ask a question?

**Dr. Boufford** We'll pause before we move into the Public Health Committee report and ask for questions for Dr. Bassett.

**Commissioner Bassett** Yes, you are most welcome to ask a question.

**Commissioner Bassett** Yes.

**Ann Monroe** Thank you, Dr. Bassett.

**Ann Monroe** I'm Ann Monroe. I sit in the other consumer seat.

**Commissioner Bassett** Yes.

**Ann Monroe** I'm very happy to have Denise joining us.

**Ann Monroe** You mentioned a shallow bench. That's really my question. Are you hiring as fast as you can to fill those slots? How are you going about building back the striped man power or person power of the department?

**Commissioner Bassett** Well, that's thank you for that question. For the first time, and I understand it quite a long time, the hiring freeze at the department has been lifted and all of our posts are funded posts. That said, hiring in government is not a fast process and it takes some time to bring people into post. We've had some success with leading individuals now recruited. We have some key posts that remain vacant. We do not have the constraint of a hiring freeze, which this department struggled with for years. Our current budget was widely praised including by the legislature as the best budget for public health that's been seen in many years. I don't know if that completely answers your question. We have vacancies and we have the capacity to recruit.

**Ann Monroe** Well, that's very good news.

**Dr. Boufford** Other questions for the Commissioner before we move on?

**Dr. Boufford** Colleagues on the screen?

**Dr. Boufford** Anyone here?

**Harvey Lawrence** Yes.

**Harvey Lawrence** Harvey Lawrence.

**Dr. Boufford** Harvey Lawrence.

**Commissioner Bassett** Very nice to see you.

**Harvey Lawrence** I keep getting a promotion here, but I'm not a doctor. I'm not wanting to offend any of the doctors. I know that the state is confronted. You're confronted with a bunch of challenges. Staffing continues to be a big challenge across in our world, especially in terms of the labor force and nursing and a whole host of challenges. As an FQHC, one of the things that's looming large for us is the 340B carve out. I know there's been a moratorium and it's been delayed for two years and supposed to be released, I guess in April or thereabouts of next year. This is an item that could be essentially a perfect storm for all of us because, you know, without the federal support and funding, I think many of the FQHC's and any of the safety net providers would be on life support today. We have a confluence of essentially increased costs, especially labor costs, as you can attest and anyone on this panel will attest, and especially around nursing and providers, essential providers in and out of services to our community. The 340B revenues been really an opportunity for many of our FQHC's and safety net providers to balance the budget and to provide services that would otherwise not be provided in under-served neighborhoods. The prospect of a 340B program being the carve out proceeding and there not being some way to offset that is it's really it just seems like it's a potential disaster for people or for institutions that are providing much needed primary care in neighborhoods and to people that are generally underserved. I would have I know you're a champion for primary care and for FQHC's, but this is a really important item in terms of the safety net and the potential impact on FQHC's and safety net providers across the state.

**Commissioner Bassett** I'm not quite sure how to proceed with that comment. Let me just say that we are well aware of the concerns that have been raised both individually by FQHC leaders, as well as by a coalition of providers who are concerned about the legislative determination that the 340B carve out should end. I have met several times with this coalition. I have given my commitment that we hold harmless in any change in funding structures. I think at this meeting it's a little too in the weeds to try and describe 340B. It is a funding mechanism that as the New York City Commissioner we actively promoted to the FQHC, so I am familiar with it and the fact that it gives you unfettered funding, which has been extremely valuable. And as you note, I truly value the important role that the FQHC's play. These discussions have taken place with the Health Department. They have now involved the executive. It is an active matter. My commitment is that these important care providers should not be harmed by the 340B carve out.

**Harvey Lawrence** Thank you so much.

**Dr. Boufford** Any other questions?

**Dr. Boufford** Dr. Watkins.

**Dr. Watkins** Can I ask the Commissioner a question?

**Dr. Watkins** Dr. Bassett, I know you spoke quickly about the monkeypox outbreak here in New York State. I'm not sure if you talked a lot about the vaccine itself and when rural counties can particularly start to look forward to receiving some vaccines on their end. I was wondering if you can elaborate a little bit more on that.

**Commissioner Bassett** I was going to leave the monkeypox update to Dr. Bauer. I'm happy to answer these questions. We've distributed monkeypox vaccine to where we've identified monkeypox cases in sixteen counties outside of New York City. About half of them have had only one case. We have had a limited supply of monkeypox vaccine. This is not a vaccine that you can go to the market and purchase. The distribution of this vaccine is controlled by the federal government, which has now allocated three tranches. If Senator Schumer's tweet is correct, I've just seen a note that an additional 110,000 doses should be coming to the state. We have been distributing these based on our assessment of populations at risk and our observation of cases. I do want to acknowledge that we have not got as much vaccine as all of us would like. This is not only a state problem. Dr. Bauer will shortly be covering all the numbers, where we've sent doses. All of this is on the public record, and we very much want people to understand what the situation is with our ability to procure the vaccine.

**Tom Holt** Mr. Holt.

**Tom Holt** Thank you.

**Tom Holt** Just kind of carrying forward Mr. Lawrence's comments relative to staffing, to speak about what's happening in the long term care sector. And really just a comment, not so much a question, Doctor, but long term care continues to suffer mightily under this staffing crisis. It's gotten probably only marginally better statewide as we're coming into the Fall when it's projected that the minimum staffing penalties start taking effect. There's just a lot of concern within the long term care sector generally. I wanted to make sure that I said on the record that long term care continues to struggle with what's happening on the staffing side clinically and direct care.

**Commissioner Bassett** Thank you.

**Commissioner Bassett** Noted.

**Dr. Boufford** Any other questions for the commissioner?

**Dr. Boufford** No.

**Dr. Boufford** Thank you.

**Dr. Boufford** They may have some other questions.

**Dr. Boufford** Let me call on Dr. Bauer to present the report of the public health section of department.

**Dr. Bauer** Thank you very much.

**Dr. Bauer** Dr. Ursula Bauer, Deputy Commissioner for Public Health. Pleasure to be here. I have several updates from the Office of Public Health to share with you this morning. Let's just start with COVID. In terms of cases reported to the department and we know there is huge under-reporting with the limited testing that people are doing and much of that at home. We're at around 5,000 cases a day. This is three times higher than at the same time in 2021 and almost an order of magnitude higher than at the same time in 2020. Yet, from a public perception standpoint, we're nearly post COVID. Newly reported COVID hospitalizations. Admissions are likewise higher than in previous Summers, at

roughly two and a half per 100,000 population, compared to fewer than 0.5 per 100,000 in previous Summers. COVID-19 associated deaths are also at modestly higher levels than in previous Summers. This is in the context of proven mitigation measures, including vaccines now available for all age groups and therapeutics in increasingly robust supplies. With BA5, though now the predominant variant in New York and across the US with its high transmissibility and its ability to evade prior immunity and with the lack of interest on the part of the public and protective measures like masking, we are very worried about the Fall. COVID vaccination progress does continue, albeit at a very slow pace. 78% of all New Yorkers and 88% of those 18 or older have completed their COVID vaccine series, and 53% of the eligible population has completed a booster dose. For the six month to four year old age group for whom vaccine was only recently approved. 45,000 children have received one dose. That's about 4% of the population, of which just over 4,000 have completed the series about 0.2% of the population. Among five to eleven year olds, 43% have received one dose, including 38% who have completed the series. As I said, we are very concerned about the Fall. Those low points that we had reached in previous Summers presaged an uptick in the Fall. We are trying to be prepared. In terms of monkeypox, as Dr. Bassett mentioned, we are in the midst of a persistent and growing monkeypox outbreak that began in May of this year. Dr. Bassett noted that as of yesterday, we had 1,228 cases. These are mostly in the New York City metro area, about 94% of cases are in New York City. As Dr. Bassett mentioned, sixteen counties outside of New York have reported at least one case, many of which have been associated with recent travel. Monkeypox is not a new virus, and this is not the first outbreak we've had in New York. However, this monkeypox is spreading and cases of monkeypox are presenting in ways not typically seen in past monkeypox outbreaks. Although the current strain of monkeypox that's circulating in the US is rarely fatal and does not usually cause serious illness, symptoms can be painful and people may have permanent scarring from the characteristic rash. There have been no deaths associated.

**Dr. Bauer** Thank you, Dr. Morley.

**Dr. Bauer** There have been no deaths in the current outbreak in the US. As you probably know, monkeypox is spread by close physical contact, including intimate contact. So far the community most affected has been those who identify as men who have sex with men. Preventive measures include avoiding close contact with those who have MPX and avoiding household items like clothing, towels and bedding that have been used by those who have MPX. The smallpox vaccine is effective at preventing monkeypox and reducing symptoms, as far as we know in those who have been recently infected. We don't have good efficacy data for the current outbreak. As Dr. Bassett noted, the vaccine is in very limited supply. New York State and New York City have each received shipments of the vaccine. New York City has received four shipments. New York State has received three. Those have been distributed to close contacts of known cases and to those who are at high risk of a recent exposure to monkeypox. We expect availability of the vaccine to increase in the coming days and weeks. We're expecting announcement of a new allocation shortly. Apparently, it's already been leaked on Twitter. We hope with this much larger allotment that we will be able to meet the at least a higher portion of the need and the demand. The monkeypox vaccine is a two dose vaccine administered 28 days apart. We do have to be cognizant as we allot our doses, that we have enough to meet that demand that we are now creating for that second dose 28 days after the first administration. To date, we have distributed our New York State vaccine to eight counties based on the number of monkeypox cases, based on the proportion of the estimated eligible community, men who have sex with men who are potentially at high risk, based on things like prep prescription for HIV, for example. We hope to be able, per Dr. Watkins

question, to expand our distribution of vaccine as we get more in this next shipment and then later on in the year. I'll turn quickly to polio. Things come in threes, I guess. We now have a polio outbreak centered in Rockland County with one confirmed case of vaccine derived paralytic polio in an unvaccinated resident. Sequencing performed by the Wadsworth Center and confirmed by CDC. This indicates a transmission chain from an individual who received the oral polio vaccine, which is no longer administered here in the U.S. Indeed, the Global Polio Laboratory Network has confirmed that the vaccine derived polio virus too isolated from this Rockland County case, is genetically linked to Type Two isolates collected from environmental samples in early June in New York and in Greater Jerusalem, Israel. Further investigations, both genetic and epidemiological are ongoing to determine possible spread of the virus and potential risk associated with these isolates. As you know, polio is a vaccine preventable disease. Completing the vaccine series is required for school entry. Because most people are vaccinated against polio, we consider the public to be at low risk, but we are very concerned about those who are unvaccinated. The State Department of Health is coordinating with the Rockland County Department of Health and with the New York City Department of Health and Mental Hygiene to continue the case investigation and to protect communities against spread by urging vaccination for those who are unvaccinated against polio or those who may have been exposed and may benefit from a booster. We've also advised medical practitioners and health care providers to be vigilant for additional cases. I think I'll close with an announcement on the bright side. In terms of hiring, I am very pleased to share with you that we now have a Medical Director for the Office of Public Health. Dr. Jim McDonald started with us on July 11th and comes to us from the Rhode Island Department of Health, where he served most recently as the Interim Director of the department and as Medical Director of the COVID unit and as Medical Director for Consumer Services. Dr. McDonald comes with a wealth of experience with the Rhode Island Board of Medical Licensure and Discipline, the Division of Policy, Information and Communications, the Drug Overdose Program, the Medical Marijuana Program, the Prescription Drug Monitoring Program. He is board certified in pediatric medicine and preventive medicine.

**Dr. Bauer** I think with that, I will open it for questions.

**Dr. Bauer** Thank you.

**Dr. Boufford** I have a first question I want to this is a kind of smaller and larger question focusing on the routine childhood vaccinations. I mean, there are some very distressing numbers coming out, I think because of COVID and vaccine resistance movements that some upwards of 20 some odd percent of the population are saying they won't get their kids vaccinated routinely unless the schools require it. I wondered if there's any thought about public information campaigns, school, etc just what your thinking is about trying to prevent that from happening in the state going forward.

**Dr. Bauer** That is a grave concern. We do have a public education campaign, if you will, and a vaccine hesitancy working group that is creating those messages. Our public affairs group has been disseminating messages. We have a return to school campaign and are working with our school districts to remind parents and guardians that we have these requirements and to be prepared. We do feel as though we've lost ground during COVID, when it was just harder for children to stay current with their routine vaccines, let alone with the COVID vaccine. We do need those reminders to start the school year off on the right foot.

**Commissioner Bassett** Just to also add to this, we do have school requirements and the ability to exclude children from school if they have not received appropriate vaccinations. In Rockland County, we've looked at both public and nonpublic schools. The vaccination rates are relatively high. We're reminding people that this is a requirement and that children can be excluded from school if they haven't received their vaccines. The problem is that the vaccine schedule for polio begins with very young infants. We begin vaccinating children at two months. When we get to school age children, that's not the time that we want to see children getting vaccinated. We're also concerned, although it's not easy to always have a window on this about delayed vaccination with the result that younger children are being left unvaccinated until they go to school. So, that's also part of what we're looking at as a department.

**Dr. Boufford** Just one quick follow up. I assume also, again, the other issue would be the sort of supply chain for the routine vaccines is not interrupted. I think this is part of having just spent a week overseas last week this is a big issue globally, but that would not seem to be an issue here in the U.S. and in New York, one hopes.

**Dr. Boufford** Other questions for Dr. Bauer?

**Dr. Boufford** Dr. Kalkut.

**Dr. Kalkut** Thank you, Jo.

**Dr. Kalkut** My name is Gary Kalkut. I'm a member of the council. The question I have is about Tesco one of the treatments that is available for monkeypox. Trade name is T Pox. My understanding is decision making at a federal level is necessary to afford greater access to the drug. Right now, it's under an expanded access and requires approval and consenting for each patient which completely sensible until we get to an outbreak like this. I realize it's not a state issue, but I was wondering if you had any insight into how that might change. I think what it requires is a declaration of the public health emergency for monkeypox as the WHO has done, and then an FDA decision making.

**Dr. Bauer** Thank you very much for that question. I'm going to turn to Dr. Heslin, our Chief Medical Officer, who has been on top of this issue to reply.

**Dr. Bauer** Thank you, Dr. Heslin.

**Dr. Heslin** Good to see you again, Dr. Kalkut.

**Dr. Heslin** The answer is that it is extremely complicated. As you know, this is indicated for smallpox, but not indicated for monkeypox. There have been no randomized, double blind controlled trials done on this medication, and it was approved through an animal study venue. As such, you're right that it could potentially get approved through the FDA process. What we're hearing is, is that that's not going to happen, that the DA IND, which the CDC holds, which is the vehicle under which we're able to now get this out to the community. The five page informed consent form and the multiple visits that are required for this are the same as any other research or investigational medication. They simplified that process from 124 page process and document and multiple persons down to a twenty-one page process with two visits. Those can now be done by telehealth, so it's improved. The CDC from our conversations have indicated that they continue to evaluate that process to make it simpler. In talking both with CDC and with the company that has developed this medication, they think it's going to be months, if not longer, before that

process will be changing. In New York, what we're doing is we've engaged a number of the hospitals as well as other outpatient providers, and frankly, anybody that's interested in becoming an investigator to be able to proceed forward in that path. We're assisting people in both getting signed up and also in forward deploying out to the communities, so that it is available. Unfortunately, we cannot change the process of informed consent or those visits, so it is onerous. I do encourage institutions and community providers who are interested and willing to take that on to make the approach. I think is extremely important to have this forward deployed to communities.

**Dr. Kalkut** Thank you so much.

**Dr. Kalkut** That's very helpful. We're doing just that and trying to get people to provide what is needed to prescribe this drug under the CDC IND.

**Dr. Kalkut** Thanks for the information.

**Dr. Boufford** I think we have questions from our virtual participants; Dr. Strange, Ms. Monroe, Dr. Gutierrez.

**Dr. Strange** Thank you, Mary. Thank you to the Commissioner. My question deals with the monoclonal antibody access for COVID-19. As we know, as was stated, we've seen an increase in incidence down here in the Downstate area with the variant coming into California. I know there's been now a shortage of the monoclonal antibody availability. Obviously, I know is the first line of choice, but as a somebody working in acute care setting community, there are indications monoclonal antibody when those that can't be given the medication are there or drug interactions and so on. There is now a major shortage, I'm told, of that. Is there any sort or any way that you would work with the federal government to increase that, especially in areas where we've seen this increase?

**Dr. Heslin** I'll handle that question as well.

**Dr. Heslin** You're 100% right. Is currently the only indicated monoclonal antibody for the treatment of COVID. We do have ---, which is a prophylactic monoclonal antibody. Is currently under an EUA and is only distributed through the Federal Government. As you know, through earlier this year, federal funding for treatment was not put through Congress and as such, the federal funding for this particular component, the monoclonal antibodies, has run out. The Federal Government has indicated that they are going to run out of supplies in, I think August 22nd is now the date that they're going to run out of supply. To that end, the amounts that they've been distributing nationally, which is based upon population and disease burden, has become a smaller amount across the entire nation. To put that into perspective, we received this past week 1,500 treatment courses. We received 15,000 requests or --- to be distributed throughout New York State. That is unfortunately a quandary and this is a national problem. What's happening is --- is working with the federal government to be able to offer this as a commercial venue. It is anticipated that it will become commercially available for purchase somewhere around August 15th. That was new information that was just published. We do not have any further details on that published data. As you know, is the first choice, obviously, and with complications and side effects. The second choice currently advocated by the federal government is ---. Third choice is the ---. Again, in your population, the monoclonal are certainly indicated and widely used. As we get more information, we will be updating. That information was literally put out to us yesterday.

**Commissioner Bassett** Can you just tell the virtual audience and the members of the council about the 1-888 number for access?

**Dr. Heslin** Oh, yes.

**Dr. Heslin** Thank you.

**Commissioner Bassett** Thank you.

**Commissioner Bassett** This was just reflecting your efforts, so please.

**Dr. Heslin** Thank you.

**Dr. Heslin** New York State has engaged in partnership with Health and Hospitals Corporation Development 888 Treat New York. That is the phone number for a virtual care that any person in New York state can access to be able to receive a full virtual emergency care visit, which includes a not only the entry, but also a fifteen to twenty minute clinical visit to determine whether or not you are a candidate for receiving one of the oral antivirals. You are tested by attestation and so that is available. There is also a link on our website that allows you to do this as a web link that is available in over 200 languages to provide language access to anybody who would like to access that as well. We're excited by that. It has been used so far and I will point out that about 40% of people that have access have commercial insurance, but 33% of people have no insurance. We think that this is providing access to the communities.

**Dr. Boufford** Ms. Monroe.

**Ann Monroe** Yes.

**Ann Monroe** Thank you.

**Ann Monroe** I'm of an age where I don't have to worry about my children or grandchildren getting vaccinated for school, but I just have a clarifying question. Are all schools, public and private, required to have their students vaccinated before they start school? Does that apply to homeschooled children as well? What do you do with a child whose family refuses to vaccinate them? Could you just give me a little nugget about how that works?

**Dr. Bauer** Yes.

**Dr. Bauer** Thank you.

**Dr. Bauer** So, yes, the law does apply to all public, private, charter schools. I don't know the answer to homeschooling and whether it applies there for a child who is schooled at home with no other children invited into the home. When a child is identified as not being up to date on vaccine, of course, the local health department works with the family to provide education and to help them figure out how to get that child up to date. If they refuse, the child is excluded from school.

**Ann Monroe** Because that's where many of those kids will default, I believe, is to hold the homeschooling. I just didn't know if it applied there as well.

**Ann Monroe** Thank you.

**Dr. Boufford** Dr. Gutierrez and then Mr. Lawrence.

**Dr. Boufford** You had your hand up before, but your mahogany is kind of blending with the color, so it looks like you took it down.

**Dr. Boufford** Did you have a question?

**Dr. Boufford** No.

**Dr. Boufford** Mr. Lawrence.

**Harvey Lawrence** I guess my question or concerns are around monkeypox and the narrative that apparently, at least at this point, the science is created around. It sounds strikingly familiar to what we heard at the outset of HIV. At some point there was a crossover into the general population. From where I see it in the neighborhoods, we don't want anyone to sort of just say, well, that's just, you know, something for them to be concerned about. Because from what I'm hearing is that the risk here is not just a sort of a sexual transmission, but also I'm hearing about clothing and, you know, bed linens and all of those things. That seems to be something a lot different from what I understood about HIV and also the ease of transmission. At some point I don't know if we want to get ahead of the science, but at some point, there's some concern that failure to educate and to inform people early on that there may be a potential risk here, so that they don't shut that down and say, well, I shouldn't be concerned about this, because it's those folks and these types of behaviors that are at risk. I don't know, you know, what type of public health campaign, education campaign that will reach people in the neighborhoods so that they will understand that this is something that they should be concerned about and should follow and should pay attention to on a daily basis, because it could be a flip of a switch when all of this changes. I guess that sort of gets to an ounce of prevention is worth a pound of cure that we can have all of the medicines and the treatments. Again, if we can just get the word out in neighborhoods and let folks know that, yeah, you need to be concerned. You don't have to be alarmed at this point, but you need to pay attention.

**Dr. Bauer** Thanks very much.

**Dr. Bauer** I think you said it exactly. We want all New Yorkers to be aware, but we don't want all New Yorkers to be alarmed. We want New Yorkers to be aware of monkeypox, to be aware of how monkeypox spreads, to be aware of the symptoms of monkeypox. This is where contact tracing becomes particularly important with the cases that have been identified, where we want to make sure that we are educating cases, we are identifying close contacts, we are identifying opportunities for that spread, potential spread through household items, so that we can do the prevention work that we need to do.

**Harvey Lawrence** What about a public health campaign? Is it too soon to have that kind of an educational campaign?

**Dr. Bauer** Yes. We are trying to get the word out without alarming the public. We are trying to make sure that the people are aware of what monkeypox is, how it's transmitted and how to prevent it.

**Dr. Boufford** Mr. Lawrence, are you satisfied with that? Do you have any follow ups or not?

**Harvey Lawrence** Well, I guess when people in the neighborhood are aware of the risks and the potential risks, then I'll be satisfied. So often what happens is that they're the last to know and to learn and they, as a consequence, suffer as a result of that. So, getting that information down and out into neighborhoods, especially neighborhoods that are already been impacted adversely, I think it's really important that there be an aggressive posture in doing so, not to alarm people, but to alert them that this is a potential risk.

**Dr. Boufford** Yeah, I think the angle that you emphasized in your question, Mr. Lawrence, is really important, because obviously, to the degree that there are people in apartments, multiple people, crowded apartments, this issue of spread through linen, clothing, etc., is something that isn't getting that much emphasis and probably at least needs to be part of the conversation routinely, not just the sort of diagnostic category or the need for sort of more scientific epidemiologic testing and other things would be really important for prevention, I would think.

**Commissioner Bassett** I'm not sure where we are on the agenda, but let me just say a few things about this. One is that the department has been careful to point out that skin to skin contact is related to human behavior. It's not a risk only for men who have sex with men. The group that is currently experiencing the vast majority of cases, not only in this country but around the world, so that skin to skin, face to face contact means that anybody can get monkeypox. That said, the group, the social networks in which this virus has taken hold and is spreading is overwhelmingly men who have sex with men. Our department, given our limited supply of vaccination has worked to particularly get the message out to that community and to do so in a way that we hope is non stigmatizing. We want people to be aware that there are high risk situations in which there has been spread. Some analysis suggests that 95% of infections have been spread through sexual contact, often in settings in which their high rates of partner change among people who are having anonymous partners. These are high risk situations that people who live in areas where monkeypox is spreading, which obviously New York City probably has more cases than any city in the world, at least diagnosed cases. People need to be aware that these are high risk situations. We're balancing the need to get the word out to the group that is at highest risk with not alarming everyone. We want people to be aware of monkeypox, but fear has never been a very good public health tool. We want to make sure that we don't approach this with fear. This is difficult. We have a group that has been stigmatized and discriminated against that is experiencing the bulk of infections. We need to reach men who identify as men who have sex with men. At the same time, we need to make it clear that this is not a gay disease. This is a virus that made it into a social network in which it is currently spreading. I agree with you completely that prevention, meaning reduction of exposure, is always the best public health approach. Vaccination and treatment are important, but not getting exposed in the first place is absolutely critical if we're going to address monkeypox and keep it from becoming endemic.

**Commissioner Bassett** Does that help, Mr. Lawrence?

**Harvey Lawrence** It helps. I guess what's driving this is that I had a conversation with a colleague, African American women, who also shared that pretty much what happened with HIV was that in essence, they were bisexual men who ended up transmitting the disease to a lot of African American women. That there was a concern that this could potentially, again, follow track that pattern. What I guess I am asking is that whatever aggressive campaign without doing it to still in fear, but education. That people are aware, so that they are on notice that this is a potential risk that they should be mindful of.

Because so often by the time we get the data and we're monitoring an event that has already happened and already in process. It's not like we get ahead of things. We're looking really at collecting information, analyzing that information and then making some determinations. Real people are impacted along the way. That's my only concern that if that we have the information out in such a way that people are at least aware of the potential risk that's involved.

**Commissioner Bassett** Thanks very much. I appreciate that comment.

**Commissioner Bassett** My final word is that everyone should be able to have frank conversations with their partners and to talk with them about their health, about the presence of rashes. This is good advice for anyone, regardless of who they have sex with.

**Dr. Boufford** Any other questions on this for Dr. Bauer?

**Dr. Boufford** Why don't we move on, then?

**Dr. Boufford** Thank you very much, Dr. Bauer, Dr. Bassett, for your additional comments.

**Dr. Boufford** Dr. Morley, who's going to report on the activities of the Office of Primary Care and Health Systems Management.

**Dr. Morley** Thanks very much, Madam Chairman.

**Dr. Morley** I will attempt to keep my remarks brief.

**Dr. Morley** Monkeypox, just to pick up on where we left off. On Friday, we issued a Dear Administrator letter reminding health care facilities to encourage staff not to report to work if they are exhibiting signs or symptoms of any viral illness, e.g. COVID or monkeypox. This week we issued an advisory on monkeypox to congregate health care and non-health care facilities on monkeypox precautions, including waste management, infection control and visitation. Our Bureau of Narcotic Enforcement. On June 8th, the department approved two proposals for Drug Takeback Programs in New York State. They're being operated. They will soon be placing drop boxes in chain pharmacies with ten or more locations. They will offer pre-paid envelopes or vouchers for envelopes, so patients can simply mail back their medications from home. They'll give patients safe and environmentally friendly ways to get dangerous medications, especially opioids, out of their medicine cabinets, which are a major source of diversion. We're working on improving the Prescription Monitoring Program, using suggestions from focus groups of New York State practitioners, including adding visual indicators to flag for prescribers the presence of overlapping opioid and benzodiazepine prescriptions and multiple provider episodes, also known as doctor shopping. The PMP is now interoperable in thirty-three states, as well as the District of Columbia, Puerto Rico, the Military Health Service and the VHA. The Center for Health Care Policy and Resource Development is working on the NANY program, Nurses Across New York. The Loan Repayment Program Stakeholder workgroup is moving forward. They had the first workgroup meeting earlier this month and the next one is scheduled for August 11th and September 13th. The 2023 budget includes an appropriation of two and a half million dollars for NANY that will provide loan repayment for RN's and LPN's working in underserved areas. The workgroup is comprised of associations representing nurses, general hospitals and other health care organizations and is comprised from representatives from twenty organizations. Stakeholder recommendations are due to the department on September the 30th and will inform the

program in terms of areas of need in the industry and how this loan repayment program may best address the identified needs. Solicitation of interest will be announced in the form. From the Home Care Division of OPCHSM, Infusion Services, Quorum and Optum, two of the largest infusion providers in New York have determined to limit infusion services to specialty drugs, eliminating parenteral nutrition, antibiotics and cancer drug infusion. Optum completed the transfer of all of their patients. Has 528 patients awaiting transfer or discharged before the end of September. We're working to ensure that care continues. Capacity for service. There's been an increase in requests to add counties to licenses by the licensed home care agencies who are seeking to expand their geographic footprint. The department is witnessing a decrease in the capacity, however, of certified home health care agencies and hospices due to lack of resources, staff and funding. Two hospices will be closing in Westchester and Putnam, bringing the total to thirty-nine hospices for the state. The moratorium on new has ended and the applications will be posted at the end of August with receiving applications in the future following character and competence and financial feasibility review. The department expects a lot of activity in this areas, as there are over 1,000 in the state. EMS. The World University Games scheduled for Lake Placid in 2023. Meetings with event promoters and stakeholders continues. The first draft of the Special Event Emergency Operations Plan will be submitted at the end of July. The New York State Fair plans have been submitted and are under review. Discussions with hospitals regarding the impact in that area, specifically related to ongoing emergency department diversion in Syracuse are ongoing. Meetings have been held in the month of July, the 19th and 20th. The Sustainability Technical Advisory Group reported that they've made considerable progress in the development of a paper for long term EMS sustainability. Increasing concerns of hospital offload times and ambulances being asked to wait until the ER is ready to initiate contact have increased. Incidents range from thirty minutes to several hours, holding ambulances in the ER. Are reviewing and will be providing recommendations to the department. They are currently working on regulation reform for EMS education process. Are the September 21st and 22nd. The department continues to work to provide guidance to EMS providers and agencies on the treatment of patients with suspected monkeypox. The EMS Memorial will take place on September 20th. Recent legislation created the Rural Ambulance Task Force. The task force membership will be appointed. Members will be appointed by each house of the Legislature; the Governor's Office, EMS, DOH and the Office of Fire Prevention. The task force will be studying EMS services in the rural counties over the next one to two years. OPCHSM and participants from most of the other areas of the department continue to review the statewide transformation grants and continue to hear from hospitals who express concerns related to increase in staffing costs. We continue to work with financially distressed hospitals.

**Dr. Morley** That ends my report.

**Dr. Morley** I'll be happy to take any questions you may have.

**Dr. Boufford** Thank you. Dr. Worley.

**Dr. Boufford** Any questions from members of council?

**Dr. Boufford** I just wanted to ask, when you mentioned on the workforce issue, this has been an issue that this council has been concerned about for some time. I wanted to ask and you've talked about activities going on relative to clinical workforce, and we've seen in the budget topping up salaries and others. Can you talk a little bit about plans, discussions

on the public health workforce, or if it hasn't begun yet, what the thinking is about some update of looking at that and looking at some of the needs might be.

**Dr. Morley** There is some money in the budget. The legislature has forwarded and the Governor signed off on legislation to create the Center for Workforce Innovation. That's a team that will likely be based in the department, but they really making a concerted effort to make sure that it crosses across all of the state agencies. The primary focus being health care. The Empire State Development Office has also got workforce innovation efforts ongoing. We want to make sure that we align with them and not step on anything and work with them as closely as we possibly can. That's in its earliest stages. The office has got an assignment of about nine or ten people assigned to it and resources to support the efforts.

**Dr. Boufford** That will be something we'll want to hear more about as the progress goes on.

**Dr. Boufford** Thanks.

**Dr. Boufford** Other questions for Dr. Morley?

**Dr. Boufford** I think we're ready to move on.

**Dr. Boufford** Thank you all very much, Commissioner and Dr. Morley, Dr. Bauer. You're welcome to stay as long as you wish.

**Dr. Boufford** We're going to move into the regular agenda now.

**Dr. Boufford** Let me ask Mr. Holt to give a report on Codes, Regulation and Legislation Committee.

**Tom Holt** Thank you, Dr. Boufford.

**Tom Holt** Good morning. At today's meeting of the Committee on Codes, Regulations and Legislation, the Committee reviewed and voted to recommend adoption the following emergency regulation proposals for the approval before the full council. First being the investigation of communicable disease. Mr. Jason Riegert and Dr. Emily Lutterloh from the Department are present should there be any questions of the members.

**Tom Holt** I move the adoption of this regulation.

**Dr. Boufford** Second from Dr. Gutierrez.

**Dr. Boufford** Any discussion?

**Dr. Boufford** Questions, discussion?

**Dr. Boufford** All in favor, say aye or indicate aye, if you will.

**Dr. Boufford** Any opposed?

**Dr. Boufford** Any abstentions?

**Dr. Boufford** The motion passes.

**Tom Holt** Thank you.

**Tom Holt** The next emergency regulation face coverings for COVID-19 prevention. Mr. William and Dr. Emily Lutterloh from the Department or present should there be any questions of the members of the Council.

**Tom Holt** I move to accept this regulation for full adoption.

**Dr. Boufford** Dr. Gutierrez got his hand up first.

**Dr. Boufford** Any questions or concerns?

**Dr. Boufford** All in favor, say aye or indicate aye, please.

**Dr. Boufford** Any opposed?

**Dr. Boufford** Any abstentions?

**Dr. Boufford** Seeing none, the motion passes.

**Tom Holt** And then just to note, the clinical staffing in general hospitals was removed from the agenda this morning.

**Tom Holt** That concludes my report.

**Tom Holt** Thank you.

**Dr. Boufford** Thank you very much.

**Dr. Boufford** We'll move on now to Project Review. Mr. Robinson to give us a report on the actions of the Establishment and Project Review Committee from their earlier meeting.

**Peter Robinson** Thank you very much.

**Peter Robinson** Good morning. Good morning, everyone. As Dr. Boufford mentioned at the start of the meeting, where possible, we're going to be batching the review of these applications at the full council meeting. The first four, though, will be taken individually for reasons related to individual recusals, etc.

**Peter Robinson** The first application I'm bringing forward is application 2 1 2 2 7 1 C, Ambulatory Surgery Center of Niagara in Niagara County. This is to convert from single specialty, which was ophthalmology, ambulatory surgery to multi-specialty ambulatory surgery and perform requisite renovations. I want to note that the following contingency has been added at the committee's request, which is submission of a signed commitment and a plan by the applicant to increase the utilization of their services by those who are Medicaid and Medicare eligible. The plan should include, but not necessarily be limited to ways in which the facility will identify and reach out to the community resources that serve medically underserved populations. With that, I would note that the department and the committee recommend approval with conditions and contingencies.

**Peter Robinson** I so move.

**Dr. Boufford** Is there a second?

**Dr. Boufford** Dr. Berliner.

**Dr. Boufford** Any questions?

**Dr. Boufford** Discussion on this item?

**Dr. Boufford** Seeing none, all in favor?

**Ann Monroe** No, wait. I have a question.

**Dr. Boufford** Oh, I'm sorry. I didn't see you. That little yellow hand is hard to see without a screen. Please, your question before we vote.

**Dr. Boufford** Ann Monroe.

**Ann Monroe** I just want to make a comment about how I think this commission can really play in the important role in things that are happening. At the last meeting to make sure that this facility not only take paid folks, but Medicaid as well. I just want to thank my fellow members of the committee for agreeing to that, because it would easily have slipped through the cracks if we had't been playing close attention. I just want to really thank Mr. Robinson and the folks at the committee for bringing that contingency to the front and giving it the formality that it has that took it beyond the comment, but actually to a condition of this approval. I just want to say thank you to my colleagues on the committee for doing that.

**Dr. Boufford** Thanks for that comment, Ann.

**Dr. Boufford** I think this had been a focus in most review processes routinely.

**Peter Robinson** We've been trying to make sure, especially in ambulatory surgery settings, that there is no skimming of the private pay population and that access is afforded to all who need it.

**Dr. Boufford** That's great. I think in the review, this is an area that has been emphasized historically. We want to be sure it doesn't lose ground. I know with all a lot of churning in the staff support for many of these areas, this is one that I'm glad it was highlighted by the committee.

**Dr. Boufford** Thank you.

**Dr. Boufford** All in favor?

**Dr. Boufford** Any opposed?

**Dr. Boufford** Any abstentions?

**Dr. Boufford** Seeing none, the motion passes.

**Peter Robinson** Thank you.

**Peter Robinson** Dr. Lawrence, if you could step away from your screen for this application. Everybody keeps promoting you. You might as well take the honor.

**Dr. Boufford** I demoted him afterwards and you promoted him again.

**Peter Robinson** I know. I did it again.

**Peter Robinson** This is application 2 1 2 1 0 5 C, Rutland Nursing Home Inc in Kings County. Noting again the conflict and recusal by Mr. Lawrence. To certify an 80 bed young adult demonstration program with no changes in total certified beds and perform requisite renovations. The department and the committee recommend approval with conditions and contingencies.

**Peter Robinson** I so move.

**Dr. Boufford** A second motion?

**Dr. Boufford** Dr. Berliner.

**Dr. Boufford** Any questions for staff or other concerns?

**Dr. Boufford** Seeing none, all in favor?

**Dr. Boufford** Any opposed?

**Dr. Boufford** Any abstentions?

**Dr. Boufford** Seeing none, the motion passes.

**Peter Robinson** Thank you.

**Peter Robinson** Mr. Lawrence, if you hear me. Come on back.

**Peter Robinson** Application 2 1 2 2 8 2 C, Auburn Community Hospital. I will note an interest that I have in this application. Construct a radiation oncology center with a linear accelerator on the hospital campus and certify radiation therapeutic outpatient services. The department recommends approval with conditions and contingencies, as did the committee.

**Peter Robinson** I move that application.

**Dr. Boufford** Can I have a second, please?

**Dr. Boufford** Dr. Berliner.

**Dr. Boufford** Any questions or concerns?

**Dr. Boufford** Seeing none, all in favor?

**Dr. Boufford** Any opposed?

**Dr. Boufford** Any abstentions?

**Dr. Boufford** Motion passes.

**Peter Robinson** Thank you.

**Peter Robinson** Dr. Kalkut, would you take this next application?

**Dr. Kalkut** Sure thing.

**Dr. Kalkut** This application is 2 2 1 1 0 5 C, Strong Memorial Hospital in Monroe County. There's a conflict and recusal by Mr. Robinson, who's left the room and an interest by Mr. Thomas. This is to construct an inpatient bed towers, certified nine intensive care beds and thirty-five medical surgical beds and perform renovations to expand and modernize the emergency department. Both the department and the committee recommended approval with conditions and contingencies.

**Dr. Kalkut** I so move.

**Dr. Boufford** Dr. Gutierrez.

**Dr. Boufford** Any questions or concerns from the committee?

**Dr. Boufford** All in favor, please?

**All** Aye.

**Dr. Boufford** Opposed?

**Dr. Boufford** Any abstentions?

**Dr. Boufford** I'd like to make one comment about these two applications before we leave them. Having looked at the segment of the acute hospital applications, referring to the prevention agenda. We haven't talked about this in a while, and it was something that this council had requested be attached to acute hospital applications. I thought it was probably worth the, the text was fairly brief. For the Auburn Community Hospital indicating they have not really invested in community benefit, the community health improvement category. I wasn't able to say there was anything wrong with it, because I couldn't remember exactly the level of discussion that's supposed to take place. I wondered if we could plan a briefing next time for the council just to review the document that currently exists asking hospitals to speak to their involvement in the prevention agenda. We had also indicated some time ago the desire to see that conditionality are linked to the prevention agenda, attached to ambulatory care applications and eventually to long term care and obviously in the long term care area. I just want to ask if we can arrange to have that next time.

**Dr. Morley** I looked at my colleagues across the room from the CON world and they were all nodding yes. We'll take care of that for the next time.

**Dr. Boufford** Just to make sure we have the sort of original language as it currently exists that you're holding them accountable for, that would be really helpful.

**Dr. Boufford** A comment, Scott.

**Scott La Rue** Good morning. Scott La Rue, member of the council. I just wanted to assure you at the committee level, I did ask questions about this and the group had extensive feedback about it that satisfied the committee at that time.

**Dr. Boufford** I appreciate that. I think the council has been very active in this space, but it's been... Well, it has been about three years since this started. I think probably it may be worth review at any rate. Our original idea that there might be an extension beyond the acute hospital.

**Dr. Boufford** Thanks for that, Mr. La Rue. I appreciate that.

**Dr. Boufford** We're going on to our next item here.

**Dr. Boufford** Mr. Robinson can come back. I guess he's still outside.

**Peter Robinson** Now, we go through some batching here. Let me just run through them. As Dr. Boufford noted, if you do want to pull out any application for a separate discussion, please indicate so and I'll be glad to do that. Application 2 2 1 1 1 5 E, Apex Surgical Center transferring a total of 48.87% ownership interest from three withdrawing members and four existing members to two new individual members. One New Member LLC comprised of multiple individual members and two existing members. Here, the department recommends approval with a condition and contingencies, as did the committee. Application 2 2 1 0 7 0 B, Pinpoint Medical LLC in Kings County to establish the Diagnostic and Treatment Center at 649 39th Street in Brooklyn. Here again, the department and the committee recommend approval with conditions and contingencies. Application 1 9 2 0 2 7 E, Crest OpCo LLC doing business as Cress Manor Living and Rehabilitation Center in Monroe County to establish Crest OpCo LLC as the new operator of the 80 bed residential health care facility located at 6745 Pittsford Palmira Road in Fairport. Here, the department recommends approval with a condition and contingencies, as does the committee. Application 2 2 1 0 8 4 E, Hilaire Farm Skilled Living and Rehabilitation Center LLC doing business as Hilaire Rehab and Nursing in Suffolk County. This application transfers 33.3% ownership interest from one deceased member to one new member. Department here recommends approval with a condition, as does the committee. Application 1 9 2 3 3 2 E, EDRNC Operating LLC doing business as Eden Rehabilitation and Nursing Center. This is in Erie County to establish EDRNC Operating LLC as the new operator of the 40 bed residential health care facility located at 2806 George Street in Eden, currently operated by Absolute Center for Nursing and Rehabilitation at Eden LLC. Here again, the department and the committee recommend approval with a condition and a contingency. Application 1 9 2 3 3 3 E, HORNC Operating LLC doing business as Houlton Rehabilitation and Nursing Center in Allegheny County establishing HORNC Operating LLC as the new operator of the 100 bed residential health care facility located at 9876 Lucky Drive in Houlton, currently operated by the Absolute Center for Nursing and Rehabilitation. The department recommends approval with a condition and contingencies, as does the committee.

**Peter Robinson** I move that batch.

**Dr. Boufford** Thank you very much.

**Dr. Boufford** Second?

**Dr. Boufford** Dr. Gutierrez.

**Dr. Boufford** Any comments or questions about any of these items?

**Dr. Boufford** Seeing none, all in favor?

**Dr. Boufford** Any negatives or any nays?

**Dr. Boufford** Any abstentions?

**Dr. Boufford** Seeing none, unanimously approved.

**Peter Robinson** Thank you.

**Peter Robinson** This next application is 1 9 2 3 3 5 E, SARNC Operating LLC doing business as Salamanca Rehabilitation and Nursing Center. I want to note here Dr. Watkins is expressing an interest and will be abstaining. Also, Mr. Holt expressed an interest. This is to establish SARNCoperating LLC as the new operator of the 120 bed residential health care facility located at 451 Broad Street, Salamanca, currently operated by the Absolute Center for Nursing and Rehabilitation at Salamanca LLC. The department and the committee recommend approval with a condition and contingencies.

**Peter Robinson** I so move.

**Dr. Boufford** I see Dr. Kalkut's hand up.

**Dr. Boufford** Any questions on this item?

**Dr. Boufford** Ms. Monroe.

**Peter Robinson** You're on mute, I think.

**Peter Robinson** There you go.

**Ann Monroe** I just had a question about how people express an interest. Does that mean that they have a comment to make that we should take into account with our decision. When you express an interest, what does that mean?

**Peter Robinson** We can let the council answer that.

**Marthe Ngwashi** Good morning. I'm an attorney at the Department of Health and counsel to the Public Health and Health Planning Council.

**Dr. Boufford** Please bring the mic closer to your mouth.

**Marthe Ngwashi** Good morning. I'm an attorney at the Department of Health and also counsel to the Public Health and Health Planning Council. When a member declares an interest, it could be for a financial or otherwise reason, but it relates to something that they may view as potentially giving an appearance of impropriety, but it doesn't fall or rise to the level of requiring the member to abstain or recuse from voting. It's a part of your ethical

duty as a member. We can talk about it a little bit more if you need some additional guidance on when it's appropriate to declare an interest.

**Peter Robinson** If I can elaborate, Ann.

**Dr. Boufford** Ms. Monroe, why don't you complete your question.

**Ann Monroe** What I would say was two relevant people from that area expressed an interest. They are appropriate to comment or to help us give us any guidance on this decision. Is that correct?

**Dr. Boufford** No.

**Peter Robinson** Not necessarily. I think the interest would be... I'll sort of explain with my interest in the Auburn application. Our health system at one point recently operated a program at Auburn Memorial Hospital. There was an organizational link that did not from my point of view, create a conflict, but I wanted to declare that there was some kind of a relationship that existed so that there wasn't any misunderstanding of the nature of that relationship. So, that's why I expressed an interest in that application. I felt free to vote on the basis of the merits of the application. It's a connection from my standpoint, but that doesn't create a conflict.

**Dr. Boufford** Let's go back. Maybe we'll have another lawyer comment.

**Dr. Boufford** I'm trying to sort of balance the traffic here. Ann, do you want to respond to Peter, because a lawyer's ready to say something else specifically about this question.

**Ann Monroe** Well, I'm asking only because both of these individuals have a very visible presence in the area where all of these nursing homes are being transferred. And by expressing an interest that they not sharing with the committee or with the council their perspectives on whether or not this is something that should be done or not. I'm just asking what the limits if you declare an interest, what the limits are in terms of your input into the decision that we have to make.

**Dr. Boufford** I think the interest implies that they are declaring it, but they are able to take part in the conversation, which I think is the question you're asking.

**Marthe Ngwashi** That's correct. The fact that an interest is declared does not amount to the same thing as that member not being able to have a discussion about the project. So, as Mr. Robinson outlined, he noted his relationship and why he thought it was appropriate to declare an interest and to disclose it. However, he is still able to participate in discussion, dialogue and also vote on the project.

**Dr. Boufford** Does that answer your question?

**Ann Monroe** Therefore, my last comment would be asking whether Dr. Watkins or Mr. Holt have anything they want to add at this point in the process.

**Marthe Ngwashi** So, for one of the projects, Ms. Monroe, Dr. Watkins had to recuse. When there is a motion about the project and the Chair of the committee asked whether or not there is any comment at that time they'll give a comment. If you have a question at that

time, also, you can ask a question. You can ask it directly to the Chair. You can ask it directly to the individual member.

**Ann Monroe** Well, I've got to let this go. I just would be interested in their perspective, if possible, if it doesn't violate the rule.

**Marthe Ngwashi** You cannot get the perspective from someone that has a conflict and is recusing. You can only gain the perspective from someone on a particular project if they are able to fully vote or if they have declared an interest.

**Dr. Boufford** I think what Ms. Monroe's asking for is, do either of these colleagues wish to add any details at this time, because they indicated interest. They certainly are able to add information before the council vote.

**Marthe Ngwashi** Sure, I understand that. I just wanted to clarify---

**Dr. Boufford** You were very clear.

**Marthe Ngwashi** Somebody had to recuse and would not be able to make a comment.

**Dr. Boufford** That was very clear. I'm just trying to come to closure. I think Ann's just asking if any of the folks that expressed interest have any other information that they like to provide at this point.

**Dr. Kalkut** I participated in the committee meeting. I did not have comment with regard to this application then and I don't now.

**Dr. Boufford** Okay.

**Dr. Boufford** There's no additional information, Ann

**Ann Monroe** Dr. Watkins.

**Dr. Boufford** Dr. Watkins.

**Dr. Watkins** I did express interest as this particular facility is located in the county in which I am a Health Director. Occasionally, this particular facility, we may have complaints of that facility called into the department. At this particular time, I think I need to recuse myself from voting on whether or not this application should go forward.

**Dr. Boufford** We'll ask you to leave before the council takes its vote.

**Ann Monroe** Thank you.

**Peter Robinson** Dr. Watkins, could you just step back?

**Dr. Boufford** Let's repeat what we're voting on now.

**Peter Robinson** Just as a reminder, this is the application 1 9 2 3 3 5 E. This is SARNC Operating LLC doing business as Salamanca Rehabilitation and Nursing Center.

**Dr. Boufford** We were seconded by Dr. Gutierrez.

**Dr. Boufford** Any other comments or questions on this item?

**Dr. Boufford** All in favor, indicate aye.

**Dr. Boufford** Any opposed?

**Dr. Boufford** Any abstentions?

**Dr. Boufford** Motion carries.

**Dr. Boufford** Invite Dr. Watkins back in.

**Peter Robinson** I just will note to get to Ann Monroe's point, I think we had a very vigorous conversation on that application. Not negative, actually, but just emphasizing the need for cultural sensitivity, because of the indigenous populations that are served by that facility, particularly both from a staffing and from a patient standpoint, and appreciated Dr. Gutierrez's very vigorous input into that conversation.

**Marthe Ngwashi** Excuse me, Mr. Robinson. I just wanted to just make a note also again to the council members formally that there is no requirement to disclose all of the information about the reasons for a recusal or conflict or an interest. I just want to make that clear. Those are things that the Executive Secretary and the office undertakes and deals with beforehand. That way, when we get to the meeting, then we already know who may participate and who may not participate.

**Marthe Ngwashi** Thank you.

**Peter Robinson** Thank you very much.

**Peter Robinson** I'm going to continue. This is taking this application separately. 1 9 2 3 3 6 E, DURNC Operating LLC doing business as Dunkirk Rehabilitation and Nursing Center. This is in Chautauqua County. Noting the interest by Mr. Holt. To establish DURNC Operating LLC as the new operator of the 40 bed residential health care facility located at 447-449 Lakeshore Drive West in Dunkirk, currently operated by Absolute Center for Nursing and Rehabilitation at Dunkirk LLC. Here the department recommends approval with a condition and contingencies, as did the committee.

**Peter Robinson** I so move.

**Dr. Boufford** Can I have a second?

**Dr. Boufford** Dr. Gutierrez.

**Dr. Boufford** Any questions or concerns?

**Dr. Boufford** Seeing none, all in favor?

**Dr. Boufford** Any opposed?

**Dr. Boufford** Any abstentions?

**Dr. Boufford** Motion passes.

**Peter Robinson** Thank you.

**Peter Robinson** Now, application 2 0 2 1 1 2 E, Providence Rest Inc in Bronx County. I want to note here a conflict and recusal by Mr. La Rue, who has already left the room. This is to establish Catholic Health Care System as the active parent and co operator of Providence Rest a 200 bed residential health care facility located at 3304 Waterbury Avenue in the Bronx. Department here recommends approval with a condition and contingencies, as did the committee.

**Peter Robinson** I so move.

**Dr. Boufford** Second?

**Dr. Gutierrez** I second that by with a comment.

**Dr. Boufford** Thank you, Dr. Gutierrez.

**Dr. Boufford** Your comment, please.

**Dr. Gutierrez** Mr. Robinson, you read the number of the application wrong. Is a double two, not a double one.

**Peter Robinson** 2 0 2 1 2 2 E.

**Dr. Gutierrez** That's correct now.

**Peter Robinson** Thank you for the correction. I appreciate that.

**Dr. Boufford** Thank you.

**Dr. Boufford** Any other comments?

**Dr. Boufford** Questions about this item?

**Dr. Boufford** All in favor, please indicate aye.

**Dr. Boufford** Negative?

**Dr. Boufford** Abstentions?

**Dr. Boufford** The motion passes.

**Peter Robinson** That concludes unless I have it wrong, the report of the Establishment and Project Review Committee.

**Peter Robinson** I turn it back to you, Dr. Boufford.

**Dr. Boufford** Thank you very much.

**Dr. Boufford** This is the public portion of the Public Health and Health Planning Council meeting. Will be adjourned in a moment. Next regularly scheduled committee day and special full council is on September 15th and the regularly scheduled Codes and full council will convene on October 6th.

**Dr. Boufford** Let me declare the Public Health and Health Planning Council adjourned.

**Dr. Boufford** We will now move into Executive Session to consider a health personnel case. I ask council members to remain and any other staff critical to the discussion here to remain in the room.

**Marthe Ngwashi** Formally, Dr. Boufford, you do have to make a motion to go into Executive Session.

**Dr. Boufford** I'm sorry.

**Marthe Ngwashi** It's required that you make a motion to go into Executive Session prior to adjourning the meeting.

**Dr. Boufford** Thank you.

**Dr. Boufford** May I move to go into Executive Session?

**Dr. Boufford** Dr. Rugge has seconded it.

**Dr. Boufford** All in favor?

**Dr. Boufford** Any opposed?

**Dr. Boufford** Any abstentions?

**Dr. Boufford** We have agreed to go to Executive Session.