

NEW YORK STATE DEPARTMENT OF HEALTH
SPECIAL PUBLIC HEALTH AND HEALTH PLANNING COUNCIL
JANUARY 11, 2022
CONCOURSE MEETING ROOM 6, ALBANY AND ZOOM

Mr. Kraut I'm Jeffrey Kraut. I have the privilege to call to order a special meeting of the Public Health and Health Planning Council. Going welcome members, participants and observers on January 11th, 2022. We have one item today for our meeting. Dr. Gutierrez will present regulations for emergency adoption. Before I turn to Dr. Gutierrez, I just want to acknowledge for your information. We've received several comments concerning nursing home visitation protocols and COVID testing for visitors. None of those emergency regulations proposed for adoption today concern the nursing home visitation or COVID testing for visitors.

Mr. Kraut I'll now turn to Dr. Gutierrez, who will give a report on the Codes, Regulation and Legislation Committee.

Mr. Kraut Dr. Gutierrez.

Dr. Gutierrez Thank you very much.

Dr. Gutierrez Good afternoon. At today's meeting of the Committee on Codes, Regulation and Legislation, the committee review and voted to recommend adoption of the following four regulation proposals for approval before the full Council. For Emergency Adoption was hospital and nursing home Personal Protective Equipment Requirements. Mark Furnish and Jonathan Karmel from the department are present should there be any questions from the members.

Dr. Gutierrez I move to accept this regulation.

Mr. Kraut I have a motion from Dr. Gutierrez.

Mr. Kraut May I have a second?

Mr. Kraut I have a second by Dr. Torres.

Mr. Kraut Any questions from the committee?

Mr. Kraut Hearing none, I'll call for a vote.

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut All those opposed?

Mr. Kraut Any abstentions?

Mr. Kraut The motion carries.

Dr. Gutierrez For Emergency Adoption also is COVID-19 vaccination of nursing home on adult care facility residents and personnel. Again, Jonathan Karmel and Dr. Emily Lutterloh from the Department are present should there be any questions from the members.

Dr. Gutierrez I move to accept this regulation.

Mr. Kraut I have a motion. I have a motion from Dr. Gutierrez.

Mr. Kraut I have a second by Dr. Yang.

Mr. Kraut Are there any questions from the council or comments?

Mr. Kraut Hearing none. I'll call for a vote.

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Abstentions?

Mr. Kraut The motion carries

Dr. Gutierrez Third for Emergency adoption as the Surge and Flex Health Coordination System. Mark Furnish and Jonathan Karmel from the department are present should there be any questions.

Dr. Gutierrez I move to accept this regulation.

Mr. Kraut I have a motion from Dr. Gutierrez.

Mr. Kraut A second by Dr. Berliner.

Mr. Kraut Are there any questions? Comments?

Mr. Kraut Ms. Monroe.

Ms. Monroe My question is still outstanding about who this covers, that doesn't cover. I would expect an answer that won't affect my vote, but I will want an answer why a significant amount of residential services for older people are not covered.

Mr. Kraut On the surge and flex regulation?

Ms. Monroe That's the one we're on, right?

Mr. Kraut Yes, that's correct. I'm just clarifying.

Ms. Monroe Yes.

Mr. Furnish And just for the record, this, you know, this deals with hospitals and not I think you said. You're very hard to hear today, but I think you said assisted living facilities. Is that correct?

Ms. Monroe Yes.

Mr. Kraut Is that correct? Does this apply to assisted living, the surge and flex?

NYSDOH Albany No.

Mr. Kraut Is it specific to hospitals? It does not apply to assisted living facilities.

Ms. Monroe That's correct. That was my question as to why not?

Mr. Kraut Okay.

Mr. Furnis We can get an answer as to why that's not included as a package, but this deals with just hospital, this regulation and it's the same regulation we've passed two times already. It just deals with hospitals surge and flex.

Mr. Kraut Yeah.

Mr. Kraut Somebody should go on mute. We're hearing your private conversation on the phone and your New Year plans.

Mr. Furnish Plus, I'd like to see the letter. I'd like to see the letter because I'm going. I haven't read the letter and I'd like to see the exact question, but I think that's the answer.

Mr. Kraut Colleen will send you the letter.

Ms. Monroe Are nursing homes covered by this surge and flex regulation?

Mr. Furnish Its hospitals, general hospitals Article 28.

Ms. Monroe Well, then my question is broader, and we could talk back to it at another time.

Mr. Kraut Okay.

Mr. Kraut Dr. Boufford.

Dr. Boufford Yeah, I'd just like to extend Ann's question. I think the question we've been raising systematically is that most of these regulations and access questions and ways of dealing with COVID response more effectively have applied only to hospitals in need. We have asked several times for clarification around why and how they might be extended to long term care facilities, as well as primary care and local health departments.

Dr. Boufford Thank you.

Mr. Kraut Okay.

Mr. Kraut Any other questions? Comments?

Mr. Kraut Hearing none. I'll call for a vote.

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut Abstentions?

Mr. Kraut The motion carries.

Mr. Kraut Dr. Gutierrez, you're on mute.

Mr. Kraut Thank you.

Dr. Gutierrez Last for Emergency Adoption is COVID-19 transmission by covered entities. Jonathan Karmel and Dr. Emily Lutterloh from the department are present should there be any questions from the members.

Dr. Gutierrez I move to accept this regulation.

Mr. Kraut I have a motion by Dr. Gutierrez.

Mr. Kraut A second by Dr. Yang.

Mr. Kraut I would say that since this has engendered quite a bit of comments, any additional comments that we have from the council, I will put in a letter to the department, so there's a record of the concerns that we've raised, but I think just for the benefit, it would be helpful for anybody else to add those comments or to reiterate them.

Mr. Kraut Mr. Holt.

Mr. Holt Thanks.

Mr. Holt Member of the council. As was discussed in committee meeting, a lot of concern remains around implementation and just want to reiterate those points made and encourage the Health Department or request the Health Department work with the provider community on the implementation of this actual regulation.

Mr. Holt Thank you.

Mr. Kraut Thanks, Mr. Holt.

Mr. Kraut Mr. Thomas.

Mr. Thomas Thank you, Jeff.

Mr. Thomas Just again, to reiterate the comments I made during the committee meeting. We support the vaccine mandate that was adopted in the Fall. Not a question of supporting the science. We're beyond that conversation, but the implementation of this mandate, the booster change at this time will have very dramatic, could have very dramatic effects on the ground and very, very strenuous situations across our state, but in particular in our region, possibly driving staff out at the wrong time. And therefore, I would urge the Department of Health to take that into consideration in the balancing act that they

have been describing today as you decide to implement or how to implement what is a very complex situation from a care perspective, HR perspective and governance perspective.

Mr. Thomas Thank you.

Mr. Kraut Any other comments?

Mr. Kraut Hearing, I'll call for a vote.

Mr. Kraut All those in favor?

All Aye.

Mr. Kraut Opposed?

Mr. Kraut I'm sorry, Dr. Berliner, you voted aye. I'm sorry. You voted yes.

Mr. Kraut Okay.

Mr. Kraut Opposed?

Mr. Kraut Abstentions?

Mr. Kraut I see an abstention from Dr Watkins.

Mr. Kraut The motion passes.

Mr. Kraut I want to thank the committee. I want to thank the department for helping us sort through some of this issue. I would also thank the public who we received over 200 emails of letters from professional associations and we heard testimony here today. I want to thank you all.

Mr. Kraut I'll have a motion to adjourn.

Mr. Kraut The motion to adjourn, Dr. Strange.

Mr. Kraut A second by Dr. Berliner.

Mr. Kraut We are adjourned and we reconvene a little later next month for the next regular meeting of the council.

Mr. Kraut Thank you very much for your time.

Mr. Kraut Thank you for the day.