

**NEW YORK STATE DEPARTMENT OF HEALTH**  
**SPECIAL PUBLIC HEALTH AND HEALTH PLANNING COUNCIL MEETING**  
**NOVEMBER 17, 2022 10:15 AM**  
**ESP, CONCOURSE LEVEL, MEETING ROOM 6 ALBANY**  
**90 CHURCH STREET, 4TH FLOOR, CONFERENCE ROOMS 4A AND 4B, NYC**  
**TRANSCRIPT**

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**Mr. Kraut** I want to thank the staff and I want to thank Mr. Holt and all the members of the committee who participated in that. We'll continue to address this in the next meeting. My name is Jeff Kraut. I am calling to meeting a special Public Health and Health Planning Council meeting on this day, November 17th, 2022. I'd like to welcome everybody. I am not going to repeat the issues regarding webcasting that Mr. Holt did at the beginning of the meeting. Most importantly, please make sure that you don't speak over each other. If you do speak, please identify yourself before you do. Anybody attending today's special meeting should have filled out a record of appearance form as you entered the room.

**Mr. Kraut** I am now going to turn the meeting over to Mr. Holt to give a report on the actions of the Committee on Codes, Regulation and Legislation.

**Mr. Kraut** Mr. Holt.

**Mr. Holt** Thank you, Mr. Kraut.

**Mr. Holt** Good afternoon. Today's meeting of the Committee on Codes, Regulations and Legislation. The committee reviewed and voted to recommend adoption of the following regulations for approval before the full council. First, hospital and nursing home personal protective equipment requirements. Ms. Jaclyn Sheltry and Mr. Jonathan Karmel of the department have presented this regulation for emergency adoption to the Committee on Codes and are available for the council should there be any questions from the membership.

**Mr. Holt** I so move.

**Mr. Kraut** I have a motion.

**Mr. Kraut** May I have a second?

**Mr. Kraut** I have a second, Mr. Thomas.

**Mr. Kraut** Are there any additional questions on this item?

**Mr. Kraut** There are none in New York. I don't hear any up in Albany.

**Mr. Holt** No.

**Mr. Kraut** If that's correct, I will 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** All voted in favor.

**Mr. Holt** The next item before us is surge and flex coordination system. Again, Ms. Jaclyn Sheltry and Jonathan Karmel from the Department have presented this regulation for both emergency and final adoption to the Committee on Codes and are available to the council should there be any questions of the members.

**Mr. Holt** I so move to accept this regulation.

**Mr. Kraut** I have a motion by Mr. Holt.

**Mr. Kraut** Can I have a second, please?

**Mr. Kraut** Dr. Kalkut.

**Mr. Kraut** We just lost the video.

**Mr. Kraut** The video is back.

**Mr. Kraut** I have a second by Dr. Kalkut. I had an original motion by Mr. Holt.

**Mr. Kraut** Are there any questions from any of the council members?

**Mr. Kraut** I don't see any here in New York. I am not aware of any in Albany.

**Mr. Holt** None here.

**Mr. Kraut** All those in favor?

**All Aye.**

**Mr. Kraut** Opposed?

**Mr. Kraut** Abstention?

**Mr. Kraut** The motion carries.

**Mr. Holt** Thank you, Mr. Kraut.

**Mr. Holt** Next we have nursing home minimum direct resident care spending. Mr. Herbst, Mr. Furnish and Mr. Karmel of the department presented this regulation for adoption to the Committee on Codes and are available should the council have any questions at this point in time.

**Mr. Holt** I so move the adoption of this regulation.

**Mr. Kraut** I have a motion by Mr. Holt. I have a second by Dr. Kalkut.

**Mr. Kraut** I'm just going to make a statement before we start. During the course of the conversation at the Codes Committee, Mr. Lawrence suggested that we adopt a resolution to express some of the concerns of the comments of the meetings of the regulations, this one and the next one. What I'm going to do, Mr. Lawrence, is I'm going to wait till we go through the two regs, approve that, and then I'll turn the floor over to you to make a resolution. I'll crack some of the language for your suggestion.

**Mr. Kraut** Are there any questions on these regs or comments other than what had already been expressed at the Codes Committee?

**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. Holt** Lastly, we have minimum staffing requirements for nursing homes. Again, Mr. Herbst, Furnish and Karmel from the department have presented this regulation for adoption to the Committee on Codes and are available to the council should there be any questions.

**Mr. Holt** I so move the adoption of this regulation.

**Mr. Kraut** I have a motion for Mr. Holt.

**Mr. Kraut** May I have a second?

**Mr. Kraut** The second, Dr. Lim.

**Mr. Kraut** Any questions or comments about this regulation?

**Mr. Kraut** There are none in New York. I do not hear any in Albany.

**Mr. Kraut** All those in favor?

All Aye.

**Mr. Kraut** Opposed?

**Mr. Kraut** Abstentions?

**Mr. Kraut** The motion carries.

**Mr. Kraut** I'm now going to ask Mr. Lawrence to make a statement about his recommendation that came out of the Codes for the full council to consider.

**Mr. Lawrence** Listening to the comments about regulations and the legislation that was adopted, it appears that both the department, in promulgating the regulations were trying to work through to make a a legislation work, where, in fact, the realities of change on the ground in a way that they don't continue to work. I think it's important for us to get back to the legislature and let the legislature know that although the intent, the good intents that were planned when the legislation was adopted now have been outstripped by the reality of what has happened on the ground. There may be a need at this juncture to look at the legislation and to revise or to amend it in a way that reflects the current conditions that in terms of labor force and cost within the state on these issues.

**Mr. Kraut** I would ask for a motion to authorize me to prepare a draft resolution from the council to the legislature to be reviewed at our next meeting, which will be on December 8th expressing the concerns that were raised during the meeting and for the legislators to revisit some of the language in the statute. Just to be clear, we are supporting the legislation. We have issues on what has been written.

**Mr. Lawrence** I think what I heard is that it needs to be updated to reflect the current reality operating realities.

**Mr. Kraut** I just need an authorization. I'll make the motion. Let me just be clear. I'm making a motion that the Chair be authorized to draft a resolution to the legislatures

about the comments on these two pieces of enabling statute. That draft is to be circulated among us for consensus to be presented at our 12/8 meeting.

**Mr. Kraut** That's the motion.

**Mr. Kraut** Second by Dr. Berliner.

**Mr. Kraut** All those in favor?

**All** Aye.

**Mr. Kraut** Opposed?

**Mr. Kraut** Abstentions?

**Mr. Kraut** The motion carries.

**Mr. Kraut** I just want to close today's special meeting. Many of you have commented to me and expressed concern of how that we've been placed in this kind of regulatory box and has asked that we revisit the process by which codes are brought to this council and the timing of that. One of you mentioned that this has never happened in the dozen or more years we've been on the council. It's a challenge. The circumstances are unique, as you're all aware. I will talk to the department about that process of drafting and reviewing codes and we'll revisit. We'll see what can be done. I just want to just acknowledge I've heard your comments.

**Mr. Kraut** With that being said, I'd call for a motion to adjourn.

**Mr. Kraut** I have a motion. I have a second.

**Mr. Kraut** We're adjourned.

**Mr. Kraut** The full meeting of the Public Health and Health Planning Council is adjourned. Our next Codes Committee and full council meeting will be held on Thursday, December 8th, both in Albany and in New York City.

**Mr. Kraut** With that, we are adjourned.

**Mr. Kraut** I'll now turn it over to Mr. Robinson, who will Chair the Establishment and Project Review Committee. On behalf of the full council, I just want to wish everybody a meaningful and restful and peaceful Thanksgiving surrounded by family, love and happiness. Thank you very much. Thank you for all the work you've done. I know it's been a tough couple of months. To the department as well. They've worked really hard.

**Mr. Kraut** Mr. Robinson.

