

MINUTES OF THE PUBLIC HEALTH COUNCIL

Meeting of Wednesday, August 8, 2012

MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH

**THE PUBLIC HEALTH COUNCIL OF
MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH
Henry I. Bowditch Public Health Council Room, 2nd Floor
250 Washington Street, Boston MA**

Docket: Wednesday, August 8, 2012, 9:00 AM

1. ROUTINE ITEMS: No Floor Discussion

- a) Introduction **(No Vote)**
- b) Record of the Public Health Council Meeting of May 9, 2012 **(APPROVED)**

2. PRESENTATION: No Floor Discussion

“Steward Health System Assessment and Monitoring Update”

3. DETERMINATION OF NEED:

**Project Application Number 5-3C12 of Steward Healthcare System –
Transfer of ownership of New England Sinai Hospital (APPROVED)**

- 4. Request to Authorize Remote Participation at Public Health Council
Meetings Under the Open Meeting Law (APPROVED)**

5. No Floor Discussion / Information Only

**Proposed Amendments to 105 CMR 700.000: Implementation of M.G.L. c. 94C
(Controlled Substance Act) (pertaining to the Medication Administration Program)**

6. PRESENTATION: NO FLOOR DISCUSSION

“Enhancing Quality through Public Reporting and Improvement Sciences: An Update
on Bureau Programs”

The Commissioner and the Public Health Council are defined by law as constituting the Department of Public Health. The Council has one regular meeting per month. These meetings are open to public attendance except when the Council meets in Executive Session. The Council’s meetings are not hearings, nor do members of the public have a right to speak or address the Council. The docket will indicate whether or not floor discussions are anticipated. For purposes of fairness since the regular meeting is not a hearing and is not advertised as such, presentations from the floor may require delaying a decision until a subsequent meeting.

Public Health Council

Presented below is a summary of the meeting, including time-keeping, attendance and votes cast.

Date of Meeting: Wednesday, August 8, 2012

Beginning Time: 9:09 AM

Ending Time: 11:19 AM

Attendance and Summary of votes

Board Member	Attended	Item 1b	Item 2	Item 4
		Record of the Public Health Council Meeting of May 9, 2012	Request to authorize remote participation at PHC meetings	DoN Project #5-3C12, Steward Healthcare System
John Auerbach	Yes	Yes	Yes	Yes
Helen Caulton-Harris	Yes	Yes	Yes	Yes
Harold Cox	No			
John Cunningham	No			
Michele David (9:28)	Yes	*	*	Yes
Muriel Gillick	Yes	Yes	Yes	Abstain
Paul Lanzikos	Yes	Yes	Yes	Yes
Denis Leary	No			
Lucilia Prates Ramos	Yes	Yes	Yes	Yes
Jose Rafael Rivera	Yes	Yes (M)	Yes	Yes (2 nd)
Meredith Rosenthal	No			
Albert Sherman	Yes	Yes (2 nd)	Yes (2 nd)	Yes (M)
Michael Wong	No			
Alan Woodward	Yes	Yes	Yes (M)	Yes
Barry Zuckerman	No			
Summary	9 members present	Approved with 8 votes	Approved with 8 votes	Approved with 8 votes

(M): Made motion

(2nd): Seconded motion

*Member attended the meeting but was not present at time of vote (i.e. he/she stepped out of room, had not yet arrived, etc.)

PROCEEDINGS

A regular meeting of the Massachusetts Department of Public Health's Public Health Council (M.G.L. C17, §§ 1, 3) was held on Wednesday, August 8, 2012 at the Massachusetts Department of Public Health, 250 Washington Street, Henry I. Bowditch Public Health Council Room, 2nd Floor, Boston, Massachusetts 02108.

Members present were: Chair John Auerbach, Commissioner, Department of Public Health, Ms. Helen Caulton-Harris, Dr. Michele David, Dr. Muriel Gillick, Mr. Paul Lanzikos, Ms. Lucilia Prates Ramos, Mr. Jose Rafael Rivera, Mr. Albert Sherman, and Dr. Alan Woodward. Absent members were: Mr. Harold Cox, Dr. John Cunningham, Mr. Denis Leary, Dr. Meredith Rosenthal, Dr. Michael Wong, and Dr. Barry Zuckerman. Also in attendance was Attorney Donna Levin, General Counsel, Massachusetts Department of Public Health.

Chair Auerbach called the meeting to order at 9:09 AM and reviewed the agenda.

ITEM 1b: Record of the Public Health Council meeting of May 9, 2012

Chair Auerbach asked if there were any changes to the minutes of the Public Health Council meeting of May 9, 2012. Mr. Rivera made the motion to approve the minutes of May 9, 2011. After consideration, upon motion made and duly seconded by Mr. Sherman, it was voted unanimously to approve the minutes as presented.

Voting in the affirmative were all **8** present members, namely Chair Auerbach, Ms. Caulton-Harris, Dr. Gillick, Mr. Lanzikos, Ms. Prates Ramos, Mr. Rivera, Mr. Sherman, and Dr. Woodward. There were no abstentions and no votes in opposition.

ITEM 2: REQUEST TO AUTHORIZE REMOTE PARTICIPATION AT PHC MEETINGS UNDER THE OPEN MEETING LAW

Ms. Lisa Snellings, Deputy General Counsel of the Massachusetts Department of Public Health provided an overview of a new option for participation in PHC meetings allowed by the recent revisions to the Open Meeting Law.

Ms. Snellings began, "In 2010 the Open Meeting Law was extensively revised by the legislature as part of the 2009 Ethics Bill. Responsibility for enforcement of the Open Meeting Law was centralized in the Attorney General's Office for local, state and regional public bodies...The revisions to the Open Meeting Law for the first time provided authorization to the Attorney General to authorize remote participation of members of public bodies at their meetings."

Ms. Snellings described the five reasons allowed by regulation for a member to participate remotely. They include personal illness, emergency, geographic distance, military service and personal disability. In addition, provisions of the regulations stipulate that the Chair will approve requests to participate remotely; the public body in question (i.e. the Public Health Council) must vote to authorize remote participation by members; a quorum of the PHC including the Chair, must be physically present in the room when remote participation is authorized at the meeting; members who participate remotely may vote at the meeting and all votes will be by a roll call vote. Further with regard to technology, all members present in the meeting room and

those participating remotely must be clearly audible to each other. Non-acceptable technology includes text messaging, instant messaging, email and Web chat without audio.

After the presentation, Council members asked questions to clarify specifics of the new procedure, including obtaining a quorum, definition of disability, use of TTY and how the body would act in the case of a declared emergency. Please see transcript for full discussion.

Dr. Woodward made the motion to adopt remote participation as an option at Public Health Council meetings. After consideration, upon motion made and duly seconded by Mr. Sherman, it was voted unanimously to approve proposal as presented.

Voting in the affirmative were all **8** present members, namely Chair Auerbach, Ms. Caulton-Harris, Dr. Gillick, Mr. Lanzikos, Ms. Prates Ramos, Mr. Rivera, Mr. Sherman, and Dr. Woodward. There were no abstentions and no votes in opposition.

ITEM 3: PRESENTATION: "STEWARD HEALTH SYSTEM ASSESSMENT AND MONITORING UPDATE"

[Note: For the record, Dr. David arrived at the meeting during the presentation of Item 3.]

Dr. Madeleine Biondolillo, Director of the Bureau of Health Care Quality and Safety began the presentation and introduced Mr. James Conway, a consultant to the Department. The Department is monitoring Steward Health Care as stipulated in an agreement made during the transfer of ownership of the Caritas hospitals to Steward Health Care in October 2011.

Mr. Conway described the goals of the monitoring plan saying, "the Department was asked to put together a monitoring and assessment plan around the accessibility and availability of healthcare services. We took as given the definition of those healthcare services as services that are safe, effective, patient centered, timely, efficient, equitable. We also added to that the two dimensions that the quality and cost council had added called, integrated and affordable."

Mr. Conway outlined for the Council the types and numbers of documents reviewed by the Department, covering the areas of leadership, governance, clinical and patient outcomes, quality of care plans, community benefits and more. Dr. Biondolillo continued the discussion of the monitoring plan by reviewing Departmental regulatory interaction with Steward's member hospitals. She reviewed some health care quality data such as health care associated infections, interpreter services, and influenza vaccination rates. She also reviewed some of the specifics of the original Steward agreement, indicating that no hospitals or critical services have been eliminated, and that Steward is proceeding with many of the capital construction projects they committed to at the time of the original transfer.

Both Dr. Biondolillo and Mr. Conway noted that this represents the beginning of the monitoring plan and more information will become available in the future.

After the presentation, Council members asked questions to clarify specifics of the monitoring plan, including if any complaints were received by the Department, more information on Steward's governance structure, the advisory council and the finances of the system. Please see transcript for full discussion.

ITEM 4: DON: "PROJECT APPLICATION #5-3C12 OF STEWARD HEALTHCARE SYSTEM

[Note for the record: Dr. Gillick recused herself from the discussion and vote of this Item.]

Mr. Bernard Plovnick, Director of the DoN Program presented DON Application # 5-3C12 to the Council along with Mr. Jere Page, Sr. Program Analyst for the DoN Program.

Mr. Plovnick began by clarifying something written in the staff summary saying "And I would like to clarify for the record that the Attorney General's Office did not submit formal comments to us. Rather the comments noted on this page represent an interpretation and a summary of DoN staff of discussions held with the Attorney General staff."

Mr. Page proceeded with presenting the specifics of the proposed transaction, summarized as the transfer of ownership of New England Sinai Hospital a 212-bed non acute care hospital located in Stoughton to Steward Health Care System LLC, an affiliate of Cerberus Capital Management, L.P. The transfer also includes the Hospital's licensed satellite facilities at Tufts Medical Center and Carney Hospital.

Mr. Page outlined how the proposed transaction conforms to the DoN criteria required for transfers of ownership. Staff recommended approval of the transaction.

Discussion followed by members of the Council. Ms. Judith Waterson, President and CEO of New England Sinai and Mr. Joshua Putter, Chief Operating Officer at Steward Health Care addressed questions from the Council. Topics discussed included pension liability, satellite sites, and long term investments in capital expenditures. In addition, Chair Auerbach asked for commitment from Steward Health Care to cooperate in providing documents as a part of the Steward Monitoring Program. Mr. Joseph Maher, General Counsel for Steward Health Care reiterated the system's commitment. Please see transcript for full discussion.

Voting in the affirmative were **8** members namely Chair Auerbach, Ms. Caulton-Harris, Dr. David, Mr. Lanzikos, Ms. Prates Ramos, Mr. Rivera, Mr. Sherman, and Dr. Woodward . Dr. Gillick abstained. There were no votes in opposition.

ITEM 5: PROPOSED AMENDMENTS TO 105 CMR 700.000

Grant Carrow, Director of the Departments Drug Control Program presented the proposed amendments to the Medication Administration Program (MAP). As written in the memorandum to the council, "The proposed regulatory amendments will allow staff certified under MAP to administer medications in DCF community residential settings via implementation of a Professional Oversight Model in those settings. Concomitantly, DMH will be implementing a Professional Oversight Model in non-adult DMH community residential settings, as already authorized by current regulations. The regulatory amendments will enable a coherent and high quality approach to provision of medication administration services to youth in these programs."

Dr. Carrow provided an overview of the history of MAP, the number of people served through the program, and efforts to monitor and improve quality of care for patients in the program. He further described the proposed changes to the amendments. Dr. Carrow concluded "Staff feel that when compared to the present practice in programs that serve minors, the implementation of MAP in these programs and the added layer of the professional oversight model will address the unique needs of children by providing greater level of monitoring, greater service quality and a consistent high standard of care."

Frances Carbone from the Department of Children and Families (DCF) joined Dr. Carrow to answer questions from the Council. Please see transcript for full discussion. The Department will proceed with a public comment period and report back to the Council again.

Item 6: Presentation "Quality Improvement Programs & Public reporting: An Update to the Public Health Council"

Dr. Madeleine Biondolillo and Mr. Iyah Romm both from the Bureau of Health Care Quality and Safety updated the Council on the Department's work on primary stroke services and healthcare associated infections. Data was presented on the percentage of eligible ischemic stroke patients who received intravenous tissue plasminogen activator, which showed improvement in several areas. Data was also presented on select healthcare associated infection rates for the years 2009, 2010 and 2011. Please see transcript and related presentation for more information.

LIST OF DOCUMENTS PRESENTED TO THE PHC FOR THIS MEETING:

1. Docket of the meeting
2. Public health Council Meeting Minutes from May 9, 2012
3. Determination of Need Pending Projects List
4. Staff Summary for Determination of Need by the Public Health Council
5. Memo on Authorization of Remote Participation at PHC Meetings
6. Memo on Proposed Amendment to Regulations at 105 CMR 700.000: Implementation of M.G.L. c. 94C (Controlled Substances Act) (Medication Administration Program)
7. Copies of all power point presentations

Chair John Auerbach