

MINUTES OF THE PUBLIC HEALTH COUNCIL

MEETING OF January 11, 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, January 11, 2012, 9:14AM

1. ROUTINE ITEM: No Floor Discussion

- a) Compliance with Massachusetts General Laws, Chapter 30A **(No Vote)**

2. DETERMINATION OF NEED: CATEGORY 1 APPLICATION

Project Application No.1- 3C02 of HealthSouth Rehabilitation Hospital of Western Massachusetts – Replacement and relocation of the exiting 53-bed acute inpatient rehabilitation hospital form 14 Chestnut Street in Ludlow to Parcel A, Ludlow Mills, State Street, within the Ludlow Mills Preservation and Redevelopment Project in Ludlow **(APPROVED)**

3. DETERMINATION OF NEED: COMPLIANCE MEMORANDUM

Previously Approved Project No. 4 – 3B85 of Children’s Hospital – Request for a significant change to increase the project’s Maximum Capital Expenditure in order to equip, furnish and occupy Floors 9 and 10 of the previously approved addition **(APPROVED)**

4. EMERGENCY REGULATION: No Floor Discussion

Emergency Amendments to 105 CMR 100.000, Determination of Need, regarding substantial change in services for ambulatory surgery centers (ASC’s) **(APPROVED)**

5. PRESENTATION: No Floor Discussion

“Mass in Motion: Progress and Partnerships”

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, January 11, 2012

Beginning Time: 9:14 AM

Ending Time: 11:14 AM

Attendance and Summary of votes

Board Member	Attended	Item 1	Item 2	Item 3
		DoN: Category 1 Application – Project Application No. 1 – 3C02 of HealthSouth Rehabilitation Hospital of Western Hospital	DoN: Compliance Memorandum – Previously Approved Project No. 4-3B85 of Children’s Hospital	Emergency Regulation – Emergency Amendments to 105 CMR 100.00
John Auerbach	Yes	Yes	Yes	Yes
Harold Cox				
John Cunningham	Yes	Yes	Yes (M)	Yes
Michele David				
Muriel Gillick	Yes	Yes	Recused from vote	Yes
Helen Caulton - Harris	Yes	Yes	Yes	Yes (M)
Paul Lanzikos	Yes	Yes	Yes	Yes
Denis Leary				
Lucillia Prates Ramos				
Jose Rafael Rivera	Yes	Yes (M)	Yes	Yes (2 nd)
Meredith Rosenthal	Yes	Yes	Yes	Yes
Albert Sherman	Yes (arrived at 9:38 a.m)	Not Present for vote	Objection	Not Present for vote
Michael Wong				
Alan Woodward	Yes	Yes (2 nd)	Yes (2 nd)	Yes
Barry Zuckerman				

Board Member	Attended	Item 1	Item 2	Item 3
		DoN: Category 1 Application – Project Application No. 1 – 3C02 of HealthSouth Rehabilitation Hospital of Western Hospital	DoN: Compliance Memorandum – Previously Approved Project No. 4-3B85 of Children’s Hospital	Emergency Regulation – Emergency Amendments to 105 CMR 100.00
Summary	9 members present	Approved with 8 votes	Approved with 7 votes	Approved with 8 votes

M: Made motion
2nd: Seconded motion

PROCEEDINGS

A regular meeting of the Massachusetts Department of Public Health's Public Health Council (M.G.L. C17, §§ 1, 3) was held on January 11, 2012, at 9:14 a.m., 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, Dr. John Cunningham, Dr. Muriel Gillick, Ms. Helen Caulton–Harris, Mr. Paul Lanzikos, Mr. Jose Rafael Rivera, Dr. Meredith Rosenthal, Mr. Albert Sherman (arrived at 9:38 a.m.), and Dr. Alan Woodward. Absent members were: Mr. Harold Cox, Dr. Michele David, Mr. Denis Leary, Ms. Lucilia Prates Ramos, Dr. Michael Wong and Dr. Barry Zuckerman. Also in attendance was Attorney Donna Levin, General Counsel, Massachusetts Department of Public Health.

ITEM 2: DETERMINATION OF NEED: CATEGORY 1 APPLICATION – PROJECT APPLICATION NO. 1 – 3C02 of HealthSouth Rehabilitation Hospital of Western Massachusetts

Joan Gorga, Director of the Determination of Need Program (DoN), and Jere Page, DoN Program Analyst discussed the review of the project filed by HealthSouth Rehabilitation Hospital of Western Massachusetts. DoN was seeking approval to construct a single-story 53-bed acute inpatient rehabilitation hospital on parcel A Ludlow Mills on State Street and Ludlow. This construction would replace and relocate the existing 53-bed HealthSouth Rehab Hospital of Western Mass located on 14 Chestnut Place in Ludlow.

The proposed new rehabilitation hospital is intended to address the existing facilities in adequate design as well as the significant repairs and upgrades required at that facility. The applicant expects the proposed new rehabilitation hospital to be fully completed by 2014. The recommended maximum capital expenditure is \$26,247,167 which will be funded with 100% equity from the applicant's parent HealthSouth Corporation. Jere Page stated, "The funding for community initiatives for this project is \$900,000 an equal payment over five years, that's \$180,000 per year. And [that is] involved with initiative to provide primary and preventive health services whether it's population in the African service area."

All of the projects developed with these initiatives will be used to promote wellness, prevent injury and disease, and address the reduction of racial health disparities including social determinative, poor health outcomes in vulnerable communities.

Mr. Rivera made the motion to approve the **Project Application No. 1-3C02 of HealthSouth Rehabilitation Hospital of Western Massachusetts**. Dr. Woodward seconded the motion. After consideration, upon motion made and duly seconded, it was

voted unanimously to approve the application. Chair Auerbach, Dr. Cunningham, Dr. Gillick, Ms. Caulton – Harris, Mr. Lanzikos and Dr. Rosenthal all voted in favor of the motion. Mr. Sherman was not present for the vote. The motion was approved.

Please see verbatim transcript for full discussion between Ms. Gorga, Jere Page, and the Public Health Council.

**ITEM 3: DETERMINATION OF NEED: COMPLIANCE MEMORANDUM –
Previously Approved Project No. 4 – 3B85 of Children’s Hospital**

Joan Gorga, Director of the Determination of Need Program, requested approval of a significant change to a project for new construction of a 10-floor addition to the main inpatient facility which was already approved in August 2010. The approved Maximum Capital Expenditure (MCE) was \$124,781,961. The hospital requested an increase of 3% in order to equip, furnish and occupy the rooms on the 9th and 10th floor, which were already built, but were not equipped in the original application and approval.

It was noted that were not new beds but only beds to replace two-bedded rooms in the main building which were converted to private rooms. The beds will be used as medical surgical units.

The Department’s staff noted the increase in the line item of the adjusted MCE is only in the areas affected by the additional equipment and furnishing. The Amended DoN would require Children’s Hospital to contribute additional community initiative of approximately \$19,463 based on the increase in the MCE. Initiatives will be developed in collaboration with the Office of Healthy Communities not exceeding three months.

Dr. Cunningham made the motion to approve the **Previously Approved Project No. 4-3B85 of Children’s Hospital**. Dr. Woodward seconded the motion. After consideration, upon motion made and duly seconded, it was voted unanimously to approve the application. Chair Auerbach, Ms. Caulton – Harris, Mr. Lanzikos, Mr. Rivera and Dr. Rosenthal all voted in favor of the motion. Mr. Sherman objected the vote. Dr. Gillick recused herself from the vote. The motion was approved.

Please see verbatim transcript for full discussion between Ms. Gorga and the Public Health Council.

Acknowledgement of Joan Gorga Retirement

This presentation was not listed on the docket

Chair Auerbach presented Joan Gorga, Director of the Determination of Need Program, with flowers and a commendation from Governor Patrick saying “On behalf of the citizens of the Commonwealth of Massachusetts we’re pleased to confer upon you the Governor’s

citation in recognition of your outstanding leadership and appreciation of your more than 40 years of dedicated services of the Commonwealth from Governor Patrick and Lieutenant Governor Murray." The Public Health Council also recognized Joan Gorga for her outstanding leadership and contributions to the Department.

Please see verbatim transcript of full acknowledge of Ms. Gorga from the Public Health Council.

EMERGENCY REGULATION: NO FLOOR DISCUSSION

ITEM 4: EMERGENCY AMENDMENT TO 105 CMR 100.00, DETERMINATION OF NEED, regarding substantial change in services for ambulatory surgery center (ASCs)

Carol Balulescu, Deputy General Counsel, Massachusetts Department of Public Health, requested approval of staff's recommendation for emergency amendment 105 CMR 100.000, Determination of Need from the Board. The proposed amendments clarify existing DoN requirements as they relate to changes to Ambulatory Surgery Centers (ASC), particularly those that were grandfathered pursuant to certain provisions of Chapter 305 of the Act of 2008.

The Department's staff proposed to incorporate selected language in the guidelines about single and multi – specialty ASCs into the regulation in order to be consistent with statutory language. Please see staff materials for proposed amendments.

Following the approval of the Board a 30-day notice to legislature would be required by Section 25(f) of Chapter 111, the Department would file the amendment with the Secretary of the Commonwealth for emergency promulgation. Emergency amendments take effect once filed and would remain effect for three months. During the three – month period the Department must comply with all hearing and notice requirements of Chapter 30(a) of the general law.

The Department's staff will conduct a public comment hearing in February and intends to report the testimony to the Public Health Council Board in March or April.

Ms. Caulton - Harris made the motion to approve **Emergency Amendments to 105 CMR 100.000**. Mr. Rivera seconded the motion. After consideration, upon motion made and duly seconded, it was voted unanimously to approve the amendment. Chair Auerbach, Dr. Cunningham, Dr. Gillick, Mr. Lanzikos, Dr. Rosenthal and Dr. Woodward all voted in favor of the motion. Mr. Sherman was not present for the vote. The motion was approved.

Please see verbatim transcript for full presentation and discussion from Carol Balulescu and the Public Health Council Board.

PRESENTATION: NO FLOOR DISCUSSION

ITEM 5: MASS IN MOTION: PROGRESS AND PARTNERSHIPS

Cheryl Bartlett, Director of the Bureau of Community Health and Prevention, began her presentation with an overview of the Mass in Motion campaign and upcoming new grants within their bureau. Presenting with Ms. Bartlett were the two Mass in Motion communities representatives, Steve Winslow from Gloucester and Pauline Himmel from New Bedford. These two representatives shared their Mass in Motion success stories from their communities. They were followed by Dr. Lauren Smith, Medical Director for the Massachusetts Department of Public Health. Dr. Smith presented her research on childhood obesity and her ideas of policy and systems changes in the community while linking it to clinical care.

Please see verbatim transcript for full presentation and discussion from Ms. Bartlett, Steve Winslow, Pauline Himmel, Dr. Smith and the Public Health Council Board.

LIST OF DOCUMENTS PRESENTED TO THE PHC FOR THIS MEETING:

- Docket of the meeting
- Copy of the meeting notices to A&F and Secretary of the Commonwealth
- Determination of Need Pending Projects List
- Memorandum: Staff Summary for Determination of Need Applicant Rehabilitation Institute of Western Massachusetts, LLC d/b/a HealthSouth Rehabilitation Hospital of Western Massachusetts
- Memorandum: Approved DoN Project No. 4-3B85 Children's Hospital Request to Increase the Project's Maximum Capital Expenditure to Equip, Furnish and Occupy Floors 9 and 10 of the Addition
- Memorandum: Request to Promulgate Emergency Amendments to 105 CMR 100.000 (Determination of Need)
- Memorandum: Semi – Annual Report on Adjudicatory Decisions

The meeting adjourned at 11:14 a.m

Chair John Auerbach

