

MINUTES OF THE PUBLIC HEALTH COUNCIL

Meeting of February 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, February 8, 2012, 9:18AM

1. ROUTINE ITEM: No Floor Discussion

- a) Introduction **(No Vote)**
- b) Record of the Public Health Council Meeting of October 12, 2011 **(APPROVED)**

2. DETERMINATION OF NEED: CATEGORY 1 APPLICATION

Project Application No. 4-4943 of Middlesex Endoscopy Center, LLC – Transfer of ownership of a single specialty ambulatory surgery center **(APPROVED)**

3. REGULATION

Request for Approval for Final Promulgation of Amendments to 105 CMR 120.000: Massachusetts regulations for the Control of Radiation **(APPROVED)**

4. PRESENTATION: No Floor Discussion

“Healthcare Associated Infections in Massachusetts Acute Care Hospitals”

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, February 8, 2012

Beginning Time: 9:18 AM

Ending Time: 11:00 AM

Attendance and Summary of votes

Board Member	Attended	Item 1	Item 2	Item 3
		Record of the Public Health Council Meeting Minutes October 12, 2011	DoN: Category 1 Application – Project Application No. 1 – 4-4943 of Middlesex Endoscopy Center, LLC	Regulation – Final Promulgation of Amendments to 105 CMR 120.000: Massachusetts Regulations for the Control of Radiation
John Auerbach	Yes	Yes	Yes	Yes
Harold Cox	Yes	Yes	Yes	Yes
John Cunningham	Yes	Yes	Yes	Yes
Michele David	No			
Muriel Gillick	Yes	Yes	Yes	Yes
Helen Caulton - Harris	No			
Paul Lanzikos	Yes	Yes	Yes	Yes
Denis Leary	Yes	Yes	Yes	Yes
Lucillia Prates Ramos	No			
Jose Rafael Rivera	Yes	Yes (2 nd)	Yes (2 nd)	Yes
Meredith Rosenthal	Yes (arrived at 9:20 am)	Yes	Yes	Yes (2 nd)
Albert Sherman	Yes	Yes (M)	Yes (M)	Yes (M)
Michael Wong	Yes	Yes	Yes	Yes
Alan Woodward	Yes	Yes	Recused from vote	Yes
Barry Zuckerman	Yes	Yes	Yes	Yes
Summary	12 members present	Approved with 12 votes	Approved with 11 votes	Approved with 12 votes

PROCEEDINGS

A regular meeting of the Massachusetts Department of Public Health's Public Health Council (M.G.L. C17, §§ 1, 3) was held on February 8, 2012, at 9:18 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, Mr. Harold Cox, Dr. John Cunningham, Dr. Muriel Gillick, Mr. Paul Lanzikos, Mr. Denis Leary, Mr. Jose Rafael Rivera, Dr. Meredith Rosenthal (arrived at 9:20 AM), Mr. Albert Sherman, Dr. Michael Wong, Dr. Alan Woodward and Dr. Barry Zuckerman. Absent members were: Dr. Michele David, Ms. Helen Caulton-Harris and Ms. Lucillia Prates Ramos. Also in attendance was Attorney Donna Levin, General Counsel, Massachusetts Department of Public Health.

ITEM 1: RECORD OF THE PUBLIC HEALTH COUNCIL MEETING OF OCTOBER 12, 2011

Mr. Sherman made the motion to approve the minutes of October 12, 2011. Mr. Rivera seconded the motion. After consideration, upon motion made and duly seconded, it was voted unanimously to approve the application. Chair Auerbach, Mr. Cox, Ms. Caulton-Harris, Dr. Cunningham, Dr. Gillick, Mr. Lanzikos, Mr. Leary, Dr. Rosenthal, Mr. Sherman, Dr. Wong, Dr. Woodward and Dr. Zuckerman voted and the motion was approved.

ITEM 2: DETERMINATION OF NEED: COMPLIANCE MEMORANDUM – Previously Approved Project No. 4 – 4-4943 of Middlesex Endoscopy Center, LLC

Bernie Plovnick, Program Analyst, Determination of Need, and Dr. Madeleine Biondolillo, Director of the Bureau of Health Care Safety and Quality, presented to the Council the application for transfer of ownership of Middlesex Endoscopy Center, LLC. This center is a physician owned, multi-specialty ambulatory surgery center located at 45-A Discovery Way in Acton. The applicant is a Tennessee Limited Liability Company to be formed having the same name as the existing surgery center.

AMSURG Holdings is a private, for-profit corporation which specializes in partnering with physicians practices to operate ambulatory centers. Pending approval of this application, AMSURG Holding Incorporated, a wholly owned subsidiary of AMSURG Corporation of Nashville, Tennessee would purchase a 65% share of the assets of Middlesex Endoscopy Center with the existing physician owners retaining 35% share. The new limited liability company would operate the surgery centers in its existing location and under its existing name.

The application was reviewed in accordance with the alternate process for transfer of ownership as set forth in Section 100.600 of the Determination of Need regulation. These regulations required the following: retention of a measure of local control for continued patients served by Medicare, a recommendation from the Office of Health Equity towards the improvement of access for patients with limited English proficiency and maintaining Medicare certification. The applicant has agreed fully with the conditions of approval.

Mr. Sherman made the motion to approve the **Project Application No. 4-4943 of Middlesex Endoscopy Center**. Mr. Rivera seconded the motion. After consideration, upon motion made and duly seconded, it was voted to approve the application. Chair Auerbach, Mr. Cox, Ms. Caulton-Harris, Dr. Cunningham, Dr. Gillick, Mr. Lanzikos, Mr. Leary, Dr. Rosenthal, Mr. Sherman, Dr. Wong and Dr. Zuckerman all voted in favor of the motion. Dr. Woodward recused himself from the vote. The motion was approved.

Please see verbatim transcript for full discussion between Bernie Plovnick, Dr. Madeleine Biondolillo and the Public Health Council.

ITEM 3: REGULATION: Request for Approval of Final Promulgation of Amendments to 105 CMR 120.000: Massachusetts Regulations for the Control of Radiation (APPROVED)

Suzanne Condon, Director of the Bureau of Environmental Health, Robert Gallagher, Assistant Director of the Radiation Control Program, and Jim Ballin, Deputy General Counsel presented the outcome of the public hearing process on the proposed regulatory amendments. The primary purpose of proposing these regulatory amendments were due to new requirements by the Nuclear Regulatory Commission and the US Food and Drug Administration. It provided a new curriculum and training requirements to authorize physician assistants to perform fluoroscopic procedures under their scope of practice agreements.

During the public hearing held on September 6, 2011, Ms. Condon received fifty-one sets of written comments and thirty-two people attended the hearing. Out of the thirty-two people present, five provided oral testimony. After careful review and analysis of the comments, the Radiation Control team in consultation with the Board of Registration of Physician Assistance decided the proposed regulation did not require significant changes although there were modifications based on the comments received.

Karen Farris, Supervisor of X-Ray and Healing Arts, Radiation Control Program, Sally Graham, Board of Professional Licensure and Joelle Stein, Board of Registration of Physician Assistance joined Suzanne Condon, Robert Gallagher and Jim Ballin to answer questions from the Council.

Mr. Sherman made the motion to approve the **Regulation Amendment to 105 CMR 120.000**. Dr. Rosenthal seconded the motion. After consideration, upon motion made and duly seconded, it was voted to approve the application. Chair Auerbach, Ms. Caulton-Harris, Mr. Cox, Dr. Cunningham, Dr. Gillick, Mr. Lanzikos, Mr. Leary, Mr. Rivera, Mr. Sherman, Dr. Wong, Dr. Woodward and Dr. Zuckerman all voted in favor of the motion. The motion was approved.

Please see verbatim transcript for full presentation and discussion from Suzanne Condon, Robert Gallagher, Jim Ballin and the Public Health Council Board.

PRESENTATION: NO FLOOR DISCUSSION

ITEM 4: Healthcare Associated Infections in Massachusetts Acute Care Hospitals

Dr. Madeleine Biondolillo, Director of the Bureau of Health Care Safety and Quality, and Iyah Romm, Special Assistant to the Bureau of Health Care Safety and Quality, presented on Healthcare Associated Infections (HAIs) in acute care hospitals. HAIs are recognized as a critical challenge to patient safety and public health. It has received increased attention due to escalating healthcare costs and patient and family impact. There has been an increase of awareness from national and local efforts to prevent and address HAIs from occurring. The Bureau's long term goals of HAIs reporting are to minimize the number of these occurrences through increased awareness and development of robust systems for error trapping and prevention.

Please see verbatim transcript for full presentation and discussion from Dr. Madeleine Biondolillo, Iyah Romm 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
- Public health Council Meeting Minutes from October 12, 2011
- Determination of Need Pending Projects List
- Memorandum: Staff Summary for Determination of Need Applicant Middlesex Endoscopy Center, LLC
- Memorandum: Request for Approval for Promulgation of Amendments to 105 CMR 120.00 *et seq.*: The Massachusetts Regulation for the Control of Radiation (MRCR)

The meeting adjourned at 11:00 am.

Chair John Auerbach