

**MINUTES OF THE PUBLIC HEALTH COUNCIL**

**Meeting of March 21, 2012**

**MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH**

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

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**Docket: Wednesday, March 21, 2012, 9:10 AM**

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**1. ROUTINE ITEMS: No Floor Discussion**

- a) Introduction **(No Vote)**
- b) Record of the Public Health Council Meeting of November 9, 2011 **(Approved)**
- c) Record of the Public Health Council Meeting of December 21, 2011 **(Approved)**

**2. DETERMINATION OF NEED:**

**Project Application Number 4-3C04 of Lahey Clinic Hospital, Inc. –  
Transfer of ownership (Approved)**

**3. DETERMINATION OF NEED:**

**Project Application Number 6-3C05 of Northeast Hospital Corporation -  
Transfer of ownership (Approved)**

**4. REGULATION: No Floor Discussion**

Request for Final Promulgation of Amendments to Regulations at 105 CMR  
700.000: Implementation of M.G.L. c. 94C (Controlled Substance Act) - Fluoride  
Administration **(Approved)**

**5. PRESENTATION: NO FLOOR DISCUSSION**

Sodium Reduction Initiatives: The Massachusetts Experience

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, March 21, 2012

**Beginning Time:** 9:10 AM

**Ending Time:** 11:45 AM

### Attendance and Summary of votes

Board Member	Attended	Item 1b	Item 1c	Item 2	Item 3	Item 4
		Record of the Public Health Council Meeting of November 9, 2011	Record of the Public Health Council Meeting of December 21, 2011	Project Application Number 4-3C04 of Lahey Clinic Hospital, Inc. – Transfer of ownership	Project Application Number 6-3C05 of Northeast Hospital Corporation - Transfer of ownership	Final Promulgation of Amendments to 105 CMR 700.000: Fluoride Administration
John Auerbach	Yes	Yes	Yes	Yes	Yes	Yes
Harold Cox	Yes	Yes	Yes	Yes	Yes	Yes
John Cunningham	Yes	Yes (2 <sup>nd</sup> )	Yes	Yes	Yes	Yes
Michele David	Yes	Yes	Yes	Yes	Yes (M)	Yes
Muriel Gillick	Yes	Yes	Yes	Yes	Yes	Yes (M)
Helen Caulton - Harris	Yes	Yes	Yes	Yes	Yes (2 <sup>nd</sup> )	Yes
Paul Lanzikos	Yes	Yes	Yes	Yes	Yes	Yes
Denis Leary	No					
Lucilia Prates Ramos	Yes	Yes	Yes	Abstain	Abstain	Yes
Jose Rafael Rivera	Yes	Yes (M)	Yes (M)	Yes	Yes	Yes (2 <sup>nd</sup> )
Meredith Rosenthal	Yes	Yes	Yes (2 <sup>nd</sup> )	Yes (2 <sup>nd</sup> )	Yes	Yes
Albert Sherman	No					
Michael Wong	No					
Alan Woodward	Yes	Yes	Yes	Yes (M)	Yes	Yes
Barry Zuckerman	No					
<b>Summary</b>	<b>11 members present</b>	<b>Approved with 11 votes</b>	<b>Approved with 11 votes</b>	<b>Approved with 10 votes</b>	<b>Approved with 10 votes</b>	<b>Approved with 11 votes</b>

## PROCEEDINGS

A regular meeting of the Massachusetts Department of Public Health's Public Health Council (M.G.L. C17, §§ 1, 3) was held on March 21, 2012 at the Massachusetts Department of Public Health, 250 Washington Street, Henry I. Bowditch Public Health Council Room, 2<sup>nd</sup> Floor, Boston, Massachusetts 02108.

Members present were: Chair John Auerbach, Commissioner, Department of Public Health, Ms. Helen Caulton–Harris, Mr. Harold Cox, Dr. John Cunningham, Dr. Michele David, Dr. Muriel Gillick, Mr. Paul Lanzikos, Ms. Lucilia Prates Ramos, Mr. Jose Rafael Rivera, Dr. Meredith Rosenthal, and Dr. Alan Woodward. Members absent were: Mr. Denis Leary, Mr. Albert Sherman, 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 9:10 AM and reviewed the agenda. In anticipation of the public testimony for the two DoN applications, Chair Auerbach asked anyone who intended to address the Council to record his or her name on the sign in sheet.

### **ITEM 1b: RECORD OF THE PUBLIC HEALTH COUNCIL MEETING OF NOVEMBER 9, 2011**

Prior to the vote, Dr. Woodward highlighted an issue that was raised in the November minutes – namely the sale of tobacco products in pharmacies – and asked to be recognized at some point during the meeting to discuss it further. Chair Auerbach agreed to allow time for the discussion following the DoN votes.

Mr. Rivera made the motion to approve the minutes of November 9, 2011. After consideration, upon motion made and duly seconded, it was voted unanimously to approve the minutes as presented.

Voting in the affirmative were Chair Auerbach, Ms. Caulton–Harris, Mr. Cox, Dr. Cunningham, Dr. David, Dr. Gillick, Mr. Lanzikos, Ms. Prates Ramos, Mr. Rivera, Dr. Rosenthal, and Dr. Woodward. There were no abstentions and no votes in opposition.

### **ITEM 1c: RECORD OF THE PUBLIC HEALTH COUNCIL MEETING OF DECEMBER 21, 2011**

Mr. Rivera made the motion to approve the minutes of December 21, 2011. After consideration, upon motion made and duly seconded, it was voted unanimously to approve the minutes as presented.

Voting in the affirmative were Chair Auerbach, Ms. Caulton–Harris, Mr. Cox, Dr. Cunningham, Dr. David, Dr. Gillick, Mr. Lanzikos, Ms. Prates Ramos, Mr. Rivera, Dr. Rosenthal, and Dr. Woodward. There were no abstentions and no votes in opposition.

**Note: For Items 2 and 3, background and questions and answers for the two items were discussed together. In order to approve each application however, votes were taken separately.**

**ITEM 2: PROJECT APPLICATION NUMBER 4-3C04 OF LAHEY CLINIC HOSPITAL, INC. – TRANSFER OF OWNERSHIP**

**AND**

**ITEM 3: DETERMINATION OF NEED: PROJECT APPLICATION NUMBER 6-3C05 OF NORTHEAST HOSPITAL CORPORATION -TRANSFER OF OWNERSHIP**

Dr. Madeleine Biondolillo, Director of the Bureau of Health Care Safety and Quality addressed the Council and provided a brief summary of the DoN process with regard to a transfer of ownership between two non-profit entities.

Mr. Bernard Plovnick gave a more detailed overview of the specifics of the two applications, including a summary of the public hearings and public comment period as further described in the staff summary.

Following this, Chair Auerbach opened the public testimony portion of the meeting, allowing members of the public who had previously participated in the DoN public comment period to address the Council.

The following members of the public addressed the Council:

Mr. Bill Bates (Office of State Representative Ted Speliotis)

Mr. AJ Paglia (Office of State Senator Bruce Tarr)

Ms. Margaret O'Malley

Ms. Beverly Quint

Ms. Sarah Hackett

Ms. Babette Brackett

Ms. Marcia Hart

Ms. Jeanine Burns

Following public comment, Chair Auerbach called Dr. Howard Grant, Chief Executive Officer of Lahey Clinic and Mr. Ken Hanover, President and CEO of Northeast Health Systems to answer questions from the Council.

At the end of the discussion, Chair Auerbach summarized two conditions added to the DoN as follows: "The applicant shall report to the Public Health Council at the end of the

second year on the status of the community needs assessment and the plans with respect to Addison Gilbert Hospital. The fifth condition would be the applicant shall submit a report to the Public Health Council on the community health needs assessment prior - and any actions associated with it prior to the implementation of any changes affecting Addison Gilbert Hospital. "

Please see verbatim transcript for full discussion between Mr. Plovnick, Dr. Biondolillo, Dr. Grant, Mr. Hanover, and the Public Health Council.

Dr. Woodward made the motion to approve the **Project Application No. 4-3CO4 of Lahey Clinic**. After consideration, upon motion made and duly seconded, it was voted to approve the application.

Voting in the affirmative were Chair Auerbach, Ms. Caulton–Harris, Mr. Cox, Dr. Cunningham, Dr. David, Dr. Gillick, Mr. Lanzikos, Mr. Rivera, Dr. Rosenthal, and Dr. Woodward. Ms. Prates Ramos abstained from voting. There were no votes in opposition.

Dr. David made the motion to approve the **Project Application No. 6-3CO5 of Northeast**. After consideration, upon motion made and duly seconded, it was voted to approve the application.

Voting in the affirmative were Chair Auerbach, Ms. Caulton–Harris, Mr. Cox, Dr. Cunningham, Dr. David, Dr. Gillick, Mr. Lanzikos, Mr. Rivera, Dr. Rosenthal, and Dr. Woodward. Ms. Prates Ramos abstained from voting. There were no votes in opposition.

### **DISCUSSION ON SALES OF TOBACCO IN PHARMACIES**

Note: this item was not on the docket.

Chair Auerbach recognized Dr. Woodward who said he wanted to continue a discussion started in November with regard to tobacco sales in pharmacies, saying in part "I think as Public Health Council members and as Public Health leaders in the Commonwealth we have an obligation to stand up on these issues and that we need to work diligently to the end of reducing the sale of tobacco products in all healthcare facilities ... So I would resolve that the Public Health Council ... charge DPH with pursuing all avenues to end the sale of tobacco products in healthcare facilities and also to determine what we can do as the Department of Public Health to focus on this sale to youth.

Dr. Woodward proposed an initiative promoting this effort, with four components, namely:

1. A letter from the Public Health Council to all of the legislators and the governor
2. Support all the other appropriate tobacco initiatives
3. A letter from the Public Health Council to the Board of Pharmacy

4. A letter from the Public Health Council to the Board of Directors of the major pharmacy chains selling tobacco products in Massachusetts

Please see verbatim transcript for full discussion between Dr. Woodward and the Public Health Council.

At the end of the discussion, Council members voted to support Dr. Woodward's initiative. Voting in the affirmative were Chair Auerbach, Ms. Caulton–Harris, Mr. Cox, Dr. Cunningham, Dr. David, Dr. Gillick, Mr. Lanzikos, Ms. Prates Ramos, Mr. Rivera, Dr. Rosenthal, and Dr. Woodward. There were no votes in opposition.

**ITEM 4: REGULATION: REQUEST FOR FINAL PROMULGATION OF AMENDMENTS TO REGULATIONS AT 105 CMR 700.000: IMPLEMENTATION OF M.G.L. C. 94C (CONTROLLED SUBSTANCE ACT) - FLUORIDE ADMINISTRATION**

Ms. Lynn Bethel, Director of the Oral Health Program addressed the Council and provided an overview of the regulation, summarizing the regulation, the public comment period and requesting a final vote on the amendments.

This regulation was originally presented to the Public Health Council at its regular meeting of December 21, 2011. Comments and testimony received during the public comment period were in favor of the amendments, and no changes were incorporated to the regulation based on public comments. As noted in a handout distributed during the meeting, minor edits correcting typographical errors were added.

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

Dr. Gillick made the motion to promulgate amendments to regulations at 104 CMR 700.00: Implementation of M.G.L. c. 94C (Controlled Substance Act) - Fluoride Administration. After consideration, upon motion made and duly seconded, it was voted unanimously to approve the regulation as presented.

Voting in the affirmative were Chair Auerbach, Ms. Caulton–Harris, Mr. Cox, Dr. Cunningham, Dr. David, Dr. Gillick, Mr. Lanzikos, Ms. Prates Ramos, Mr. Rivera, Dr. Rosenthal, and Dr. Woodward. There were no abstentions and no votes in opposition.

**DISCUSSION ON COMMUNITY FLUORIDATION**

Note: this item was not on the docket.

Following the vote by the Council, Mr. Cox raised the issue of community fluoridation in Massachusetts and the recent incidents where towns were voting to un-fluoridate the town's water systems. In response, Mr. Cox urged that the Council "take a strong stand

that says we support fluoridation and as we can to actually help those communities that are actually trying to move forward fluoridation of water." The Department agreed to draft a letter for consideration by the Council at a future meeting.

Please see verbatim transcript for full discussion between Mr. Cox, Ms. Bethel and the Public Health Council.

At the end of the discussion, Council members voted to support Mr. Cox's initiative. Voting in the affirmative were Chair Auerbach, Ms. Caulton–Harris, Mr. Cox, Dr. Cunningham, Dr. David, Dr. Gillick, Mr. Lanzikos, Ms. Prates Ramos, Mr. Rivera, Dr. Rosenthal, and Dr. Woodward. There were no votes in opposition.

### **ITEM 5: SODIUM REDUCTION INITIATIVES: THE MASSACHUSETTS EXPERIENCE**

Dr. Lauren Smith, Medical Director of the Department provided an informational presentation on the initiatives taking place in Massachusetts to reduce sodium intake by residents.

Please see verbatim transcript for full discussion between Dr. Smith and the Public Health Council.

### **LIST OF DOCUMENTS PRESENTED TO THE PHC FOR THIS MEETING:**

1. Docket of the meeting
2. Copy of the meeting notices to the Executive Office of Administration and Finance and the Secretary of the Commonwealth
3. Public health Council Meeting Minutes from November 9, 2011
4. Public health Council Meeting Minutes from December 21, 2011
5. Determination of Need Pending Projects List
6. Memorandum: Staff Summary for Determination of Need Applicant Lahey Clinic
7. Memorandum: Staff Summary for Determination of Need Applicant Northeast Hospital Corporation
8. Memorandum: Request for Final Promulgation of Amendments to Regulations at 105 CMR 700.000: Implementation of M.G.L. c. 94C (Controlled Substance Act) - Fluoride Administration
9. Amendment to memorandum (#8) containing typographical corrections to the Fluoride regulation

The meeting adjourned at 11:45 am.

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Chair John Auerbach