

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON HEALTH

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May 5, 2010
Start: 01:00p.m.
Recess: 01:17p.m.

HELD AT: Council Chambers
City Hall

B E F O R E:
MARIA DEL CARMEN ARROYO
Chairperson

COUNCIL MEMBERS:
Inez E. Dickens
Mathieu Eugene
Helen D. Foster
Rose Mendez
Deborah L. Rose
Peter F. Vallone, Jr.
James G. Van Bramer
Albert Vann

A P P E A R A N C E S (CONTINUED)

Daniel Kass
Acting Comm. Of Environmental Services
Dept. of Health and Mental Hygiene

Frank Cresciullo
Asst. Comm. Of the Bureau of Child Care
Dept. of Health and Mental Hygiene

CHAIRPERSON ARROYO: Good

afternoon, my name is Maria Del Carmen Arroyo, Chair of the Committee on Health here in the City Council. Today the Committee will be hearing testimony on three pieces of pre-considered legislation. The first, which I am the prime sponsor of, would make a variety of changes to clean up the health title of the city's administrative code. For example, the bill would renumber sections where there are duplicate section numbers. It would also repeal two sub-chapters that we believe are no longer necessary. These sub-chapters deal with information required of applicants for city permits for the sale and transfer of milk and milk products, and require licenses for medical record storage operators.

The second piece of legislation is also one that I'm sponsoring, and would also update a provision of the administrative code. This bill would repeal the requirement that all sellers of compressed air in tanks used for underwater breathing get a permit from the Department of Health and Mental Hygiene, and the requirement that the city health code contain air

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2 purity standards for compressed air. The pre-
3 considered legislation would replace these
4 requirements with a new mandate that underwater
5 tanks meet the standards of the Compressed Gas
6 Association, and allow DOHMH to create a more
7 stringent standard.

8 The final piece of legislation we
9 are considering today is sponsored by Council
10 Member Annabel Palma. This legislation would
11 reenact and update a reporting requirement on
12 childcare facilities that was originally enacted
13 in 2005, but expired in 2008. Similar to the
14 original legislation, this bill would require
15 DOHMH to provide the Council with a quarterly
16 report with a variety of different information on
17 childcare facilities in the city and the
18 Department's Bureau of Childcare.

19 Before I begin, I would like to
20 thank the staff of the Committee for their hard
21 work for always making me sound so smart. In
22 particular, Adira Siman to my right, who is the
23 counsel to the Committee, and Joe Mancino, who is
24 not with us today, because he's taking an exam in
25 law school, and we wish him great success. I also

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2 want to recognize my colleagues on the Committee,
3 to my extreme left we have Council Member Helen
4 Diane Foster, Council Member Al Vann, I saw Van
5 Bramer, and I know that Council Member Dickens is
6 floating around, she'll be with us shortly. And
7 with that I want to ask I think our only panel to
8 provide testimony today. And we're also trying to
9 break a City Council in holding the shortest
10 hearing in the history of this institution today.
11 The Deputy Commissioner for the Department of
12 Health and Mental Hygiene, Daniel Kass, and you
13 will introduce your colleagues.

14 COMMISSIONER KASS: Thank you. I'm
15 Daniel Kass, acting Deputy Commissioner for
16 Environmental Health, and I'm joined by Frank
17 Cresciullo, the Assistant Commissioner for the
18 Bureau of Child Care. So, well in the spirit of
19 trying to make this quick, I could just say we
20 support it, thank you very much. But I could give
21 you a little more detail as well. So thanks again
22 for the opportunity regarding the pre-considered
23 intros on child care reporting, underwater
24 breathing tanks and the various health ... rather,
25 administrative code changes. We're committed to

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2 eliminating the risk of injury and illness related
3 to environmental health risks by identifying
4 potential hazards and risks to the public,
5 providing the public with the knowledge and skills
6 necessary to create healthier lifestyles in the
7 home and in the work environment, and
8 investigating and monitoring conditions and
9 activities with potential for illness and injury.

10 As part of the Division of Environmental Health,
11 the Bureau of Child Care is committed to insuring
12 safe and healthy environments for all children
13 attending child care. Over the last few years,
14 the Bureau has greatly improved its service
15 delivery to child care providers and families.

16 The Bureau currently converts 60% of all new child
17 care applications into an operating license,
18 that's up from just 24% in 2004. There are
19 virtually no overdue license renewal applications,
20 as the Bureau's timely renewal rate is over 99%.

21 The Bureau now exceeds all state performance
22 standards, as well as our own internal performance
23 requirements in the Department. Although our work
24 involves regulation and enforcement, our Bureau of
25 Child Care also serves as a resource to new and

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2 existing providers, providing technical assistance
3 where needed, orientation training for new
4 providers, and the translation of many of our
5 policies and procedures into multiple languages,
6 in order to improve our communication with child
7 care community. The Bureau has achieved these
8 improvements based on a system of accountability,
9 standard and consistent policies and procedures,
10 and the use of statistical analysis to inform
11 resource and management decisions. For the pre-
12 considered intro on child care reporting, a bill
13 that would require the Department to issue
14 quarterly reports regarding facilities citywide,
15 the Department believes that the report is
16 consistent with our efforts to maintain
17 accountability, and while there are technical
18 changes we would like to suggest, we are
19 supportive of this bill.

20 The Bureau of Environmental Disease
21 Prevention, also part of our Division of
22 Environmental Health, promotes the environmental
23 and occupational health of New York City residents
24 and workers through surveillance, investigations,
25 public health assessments, communications and

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2 policy research and development. The Department
3 currently has the authority to regulate the air
4 quality standards for compressed air and
5 underwater breathing tanks. The Compressed Gas
6 Association's air purity specifications, grade E
7 typical use in self-contained underwater breathing
8 apparatus, or SCUBA air, is the industry standard
9 among users and sellers of SCUBA tanks, frequently
10 referenced by leading safety organizations,
11 including the United States Department of Labor
12 Occupational Safety and Health Administration, in
13 their own regulations. The pre-considered intro
14 on underwater breathing tanks represents the
15 current air purity standards recommended by
16 compressed gas associations, specifically CGA, G-
17 7.1-2004, commodity specification for air, fifth
18 edition. And it would be in line with the
19 Department's efforts to remove antiquated SCUBA
20 language from the Health Code in the near future.
21 For this reason the Department supports this bill.

22 The Department also supports the
23 pre-considered intro on technical changes to Title
24 17 of the administrative code, which would
25 modernize various provisions of the administrative

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2 code. It will make technical changes, such as
3 providing a heading of "Death of Homeless Persons
4 an Homeless Shelter Residents" reports to the
5 section of the administrative code, and it will
6 repeal outdated sections of the administrative
7 code that references permits issued pursuant to
8 article 111 of the Health Code. The Department
9 itself will be proposing ... is proposing to repeal
10 article 111, this elimination reflects the modern
11 technological advancements in dairy production,
12 storage and distribution, which are regulated by
13 the United States Department of Agriculture, and
14 by the New York State Department of Agriculture
15 and Markets. This bill will complement the
16 removal of the outdated Health Code requirements
17 for New York City, including milk dating, which
18 was requested recently by a petition from Council
19 Members White, Rivera, Gennaro and Comrie. This
20 bill will also repeal the city's licensing of
21 medical records storage facilities. The State
22 Health Department regulates medical facilities,
23 including the final disposition of medical records
24 when those facilities discontinue operations.
25 Thank you again for the opportunity to testify,

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and I'm happy to answer any questions.

CHAIRPERSON ARROYO: Commissioner, I think you set the record for the fastest testimony. I don't know.

COMMISSIONER KASS: Thank you.

CHAIRPERSON ARROYO: I'm going to have to start clocking this. I want to acknowledge that we've been joined by several of our colleagues, Council Member Dickens, as promised, is all the way at the end to my right. Council Member Debbie Rose, I did see her, yes, hi Debbie. And Council Member Mendez, and Council Member Eugene, Mathieu. Okay, any questions from my colleagues? On all of this very complicated legislation? No, okay. So I'm going to go through a couple of questions, and I guess that they're just for me a test to make sure that we're doing the right thing here. As it relates to the child care reports, the original legislation creating this report, as I mentioned in my opening statement, was created in 2005, after an incident that a child care provider prompted some changes in the Department's Bureau of Day Care. What is your assessment on how the Bureau is doing

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2 currently at processing new and renewal
3 applications and inspecting child care facilities
4 in the city?

5 ASST. COMMISSIONER CRESCIULLO: For
6 the record, I'm Frank Cresciullo, the Assistant
7 Commissioner for the Bureau of Child Care. We've
8 made vast improvement to the processing and
9 service delivery to child care providers and the
10 families of New York City since 2004. We've gone
11 through a complete restructuring of the program.
12 By any measure, state or city, we far exceed all
13 of the performance standards that have been
14 identified as showing that the Bureau is in fact
15 providing top rate service delivery. On initial
16 applications, we currently process, as was stated
17 in the testimony, 60% of all new applications into
18 a license registration for family-based providers
19 and after school programs. I believe that is the
20 highest rate in the entire state. Back in 2004,
21 that rate stood at 24%. A lot of reasons for that
22 improvement, but mainly it's just good service
23 delivery, accountability on the part of the staff
24 at the Bureau of Child Care, and very good
25 management oversight. We use a lot of statistical

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2 analysis on a weekly basis to gauge how we're
3 performing, and we're able to address any
4 deficiencies in a very quick fashion. As far as
5 overdue renewals, which is one of the biggest
6 problems back in 2004, fully 25% of our caseload
7 was overdue. Currently 99 ... actually 99.8% of all
8 renewal applications are completed on time. So a
9 vast, vast improvement, it's reduced wait times
10 for renewal applications from providers. In the
11 midst of all this, we've actually increased the
12 number of providers since 2006. We've added,
13 especially in the group family daycare modality,
14 thousands of slots. So as our service has
15 improved, and the number of applications that we
16 turn into a license has improved, we've also seen
17 a very big increase in the number of providers.

18 CHAIRPERSON ARROYO: And the
19 compliance rate is totally within the control of
20 the Department, it's not because providers are not
21 responsive and/or there's a problem with a
22 provider whose renewal is up, or something like
23 that?

24 ASST. COMMISSIONER CRESCIULLO:
25 It's not totally in our control. We do have to ...

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2 the providers have a stake in this also, they do
3 have to provide us with the paper in a timely
4 fashion. The numbers I'm providing you is X any
5 enforcement action that we take, and enforcements
6 our providers ... we take against providers who are
7 not cooperating with the renewal process. It's
8 just one way of getting them to give us the paper
9 that we need to renew their license. But actually
10 our enforcement numbers have dropped over the
11 years also, because we are doing a much better job
12 of communicating with the provider community. The
13 last thing we want to do is take a provider
14 through enforcement because we don't have paper.
15 We like to reserve that for incidents where
16 children are at risk. So we've made a lot of
17 effort, put a lot of resources into improving our
18 communication with the provider community,
19 translating a lot of the State's policies and
20 procedures into multiple languages. We provide a
21 lot of training to the providing community,
22 especially on the orientation side. We I think
23 are doing a very good job of identifying new
24 applicants and providing orientation training so
25 they know what to expect when they apply. And

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2 also on the renewal front, we have sent out many
3 of our staff to provide technical assistance and
4 through the use of data analysis identify
5 providers who have been cited at a very high rate
6 for violations, and providing them with some
7 technical assistance, so that when they come up
8 for renewal, they're in better shape to be
9 renewed.

10 CHAIRPERSON ARROYO: Okay. Before
11 I go on to the other pieces of legislation, any
12 questions from my colleagues on this issue? Okay.
13 So let's talk a little bit about the repealing of
14 the provisions related to permits for the sale of,
15 and transfer of, milk and milk products. Are
16 there any current holders of this permit in the
17 city?

18 COMMISSIONER KASS: No.

19 CHAIRPERSON ARROYO: Okay. And no
20 new issuing of ... when was the last time DOH issued
21 a permit?

22 COMMISSIONER KASS: I think I'll
23 have to get back to you on that. I don't ... it's
24 certainly not in recent memory. Not ... did we ...
25 it's been a very long time.

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CHAIRPERSON ARROYO: Adira bet me that you wouldn't have the answer. It's been that long.

COMMISSIONER KASS: Did she think I would or that- -

CHAIRPERSON ARROYO: (Interposing) No, no, I guess the point is that it's been such a long time that there really hasn't been- -

COMMISSIONER KASS: (Interposing) It has been a very long time, yes. It may have been more than ten or fifteen years ago.

CHAIRPERSON ARROYO: Okay, so let's move on to the medical records storage facilities. Are there any current medical records storage facilities licensed by the Department?

COMMISSIONER KASS: There are none.

CHAIRPERSON ARROYO: And if so, how many?

COMMISSIONER KASS: There are none.

CHAIRPERSON ARROYO: None. And like the milk product transfer permit, when was the last time a permit was issued?

COMMISSIONER KASS: I'm not sure we've ever issued a permit for that, no, we've

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2 never ... we never have. I think shortly after, or
3 at least some time ago, as we understand the
4 history of this, the State began to regulate the
5 transfer of medical records from licensed medical
6 facilities. And because they regulate not only
7 the transfer, they regulate, by virtue of
8 requiring a plan for the transfer, the storage,
9 the retention, the accessibility, the State
10 basically manages this at the record creation
11 level and transfer, and not at the storage level.
12 The plans that are submitted by the State-
13 regulated facilities for the transfer address all
14 of the same issues that this original legislation
15 the city did with the ad code.

16 CHAIRPERSON ARROYO: Okay. And I
17 guess the same line of questioning follows for the
18 underwater breathing tanks. Any permits out?
19 When's the last time you issued one?

20 COMMISSIONER KASS: I dare that you
21 bet that I wouldn't know. We have one.

22 CHAIRPERSON ARROYO: One.

23 COMMISSIONER KASS: Yes.

24 CHAIRPERSON ARROYO: And when was
25 that issued?

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COMMISSIONER KASS: Last year it was renewed.

CHAIRPERSON ARROYO: It was renewed?

COMMISSIONER KASS: To my understanding.

CHAIRPERSON ARROYO: Only because it's in the code, someone put in for it?

COMMISSIONER KASS: That's right.

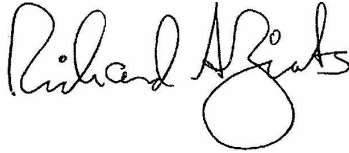
CHAIRPERSON ARROYO: Okay. All right, okay. Well, I have no further questions. I just wanted to make sure that we were all on the same page, and why this made sense for us to move this on, these pieces of legislation forward. For my colleagues, the vote will take place at some point before the next stated Council meeting. So there will be no vote here today. And with that I thank you.

COMMISSIONER KASS: Thank you.

CHAIRPERSON ARROYO: And this hearing is adjourned.

C E R T I F I C A T E

I, Richard A. Ziats, certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.



Signature _____

Date May 11, 2010