

COMMISSION ON HEALTH CARE FACILITIES IN THE
TWENTY-FIRST CENTURY
BYLAWS

ARTICLE I. OFFICERS

Section 1. The officers of the Commission shall be a Chair and a Vice-Chair. The Chair and Vice-Chair shall be appointed by the Governor from among the statewide members of the Commission.

Section 2. In the absence of the Chair and Vice-Chair the Governor may select a statewide member of the Commission to preside at meetings of the Commission.

ARTICLE II

CODE OF ETHICS AND CONFLICTS OF INTEREST

Section 1. Code of Ethics. No member of the Commission should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties as a Commission member. Members should exercise their duties and responsibilities as Commission members in the public interest of the inhabitants of the State, regardless of their affiliation with, or relationship to, any facility, agency or program, category of

provider, or interest group. The principles which should guide the conduct of Commission members include but are not limited to the following:

- (a) A Commission member should endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust as a Commission member.
- (b) No Commission member should permit his or her employment to impair his or her independence of judgment in the exercise of his or her duties as a Commission member.
- (c) No Commission member should disclose confidential information acquired by him or her in the course of his or her duties as a Commission member or by reason of his or her position as a Commission member nor use such information to further his or her personal interests.
- (d) No Commission member should use or attempt to use his or her position as a Commission member to secure unwarranted privileges or exemptions for himself or herself or others.
- (e) No Commission member should engage in any transaction as a representative or agent of the state with any business entity in which he or she has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his or her duties as a Commission member.
- (f) A Commission member should refrain from making personal investments in enterprises which he or she has reason to believe may be directly involved in decisions to be made by him or her as a Commission member or which will otherwise create substantial conflict between his or her duty as a Commission member to act in the public interest and his or her private interest.

Section 2. Statement of Interest. Within 30 days of appointment to the Commission, each member shall submit to the Chair a written statement identifying each medical facility, home care services agency or hospice program, governed by Articles 28, 36 and 40, respectively,

of the Public Health Law and each adult care facility and program governed by the Social Services Law in which he or she or a member of his or her family has an interest, financial or otherwise, whether as owner, officer, director, fiduciary employee, consultant or supplier of goods or services. For purposes of this Article, “family” shall include a spouse, children under 21 years of age, and any other relative living in the member’s household. Within 30 days of receipt of such statements, the Chair shall distribute to each member a copy of such statements submitted by all other members.

Section 3. Disclosure and Disqualification.

(a) Absolute Disqualification. When a member or his or her family has an interest, financial or otherwise, whether as owner, officer, director, fiduciary employee, consultant or supplier of goods or services regarding a facility which is the subject of a proposed course of action before the Commission that member shall (i) refrain from discussing such matter with any member of the Commission at any time prior to or at any Commission meeting when the matter is to be considered in a manner that could reasonably be interpreted as an attempt to influence the vote of any Commission member, (ii) identify such interest to the Commission at any meeting when the matter is to be considered, (iii) absent himself or herself from any portion of any meeting when such matter is considered, and (iv) not participate in any vote of the Commission on that matter.

(b) Disclosure and Possible Disqualification. When a member or his or her family has any of the above noted interests in a medical facility, agency or program the status of which might reasonably be affected by another facility, agency or program which is the subject of a proposed course of action before the Commission and which serves or is proposed to serve the same community or service area as does the facility, agency or program in which the member or his or her family has an interest, or when a member has an interest or association which might

reasonably be construed as tending to embarrass the Commission or elicit public suspicion that he or she might be engaged in acts in violation of his trust as a Commission member, he or she shall, at the time of formal consideration of such matter by the Commission, disclose such interest or association so that the Chair and, if necessary, the Commission can then determine whether his or her participation in the discussion of such matter or the vote of the Commission would be proper.

(c) Procedure. After a motion is made concerning a recommendation or a proposed course of action and prior to discussion or vote, and at the request of the Chair, the Commission members shall disclose all actual or potential conflicts and, when appropriate, explain the conflicts. When a member does not disclose an actual or potential conflict, the Chair may remind such member of such actual or potential conflict. In the case of conflicts constituting Absolute Disqualification, the members with such conflicts shall immediately leave the meeting and remain absent during the period when the matter in question is under consideration. In the case of conflicts constituting possible disqualification, the Chair shall rule upon such conflicts subject to appeal by motion to the Commission which may override the Chair's decision by the affirmative vote of a majority of those statewide members present, excluding those members who are the subject of the vote.

(d) Prior to any discussion or vote on a matter under review, the Chair may, at his or her discretion, request members to disclose any conversation or correspondence they have had with the facility, any competitor of the facility, any Commission members, any official of the Department of Health or any official of the Dormitory of the State of New York regarding the matter in question.

Section 4. The minutes of each meeting of the Commission shall reflect all

disclosures, discussions, votes and abstentions regarding conflicts of interest.

ARTICLE III. DUTIES

Section 1. The officers of the Commission shall perform the duties ordinarily associated with their respective offices.

Section 2. The Chair shall supervise the Commission's work. He or she shall have the power, unless otherwise provided by the Commission, to represent the Commission before the Governor, committees of the Legislature, or other public authorities.

Section 3. The Chair shall, within amounts available to the Commission for that purpose, appoint an Executive Secretary for the Commission

Section 4. The Chair shall ensure that new Commission members receive orientation regarding the functions of the Commission.

Section 5. All communications made to the Commission from interested parties shall be presented to the Chair or his or her designee and the Chair or his or her designee shall present such communications to all members of the Commission.

Section 6. The Vice-Chair, in the absence or disability of the Chair, shall perform the duties of the Chair.

ARTICLE IV. MEETINGS OF THE COMMISSION

Section 1. Meetings of the Commission shall be held as determined by the Chair.

Section 2. The Chair or his or her designee shall notify each member of all meetings of the Commission not less than five days before the meeting.

Section 3. A quorum shall consist of a majority of those members who have been

appointed to the Commission and are entitled to vote on the matter under consideration.

Regional members of the Commission shall be counted for purposes of determining a quorum only with regard to matters in which they are entitled to vote, in accordance with section 1 of Article V herein. Approval of any matter shall require the affirmative vote of a majority of the members present and entitled to vote thereon. All meetings shall be conducted in accordance with Robert's Rules of Order, newly revised, and a record of each vote shall be maintained. On the request of any member of the Commission entitled to vote thereon, a roll call vote on any question shall be taken by ayes and nays, abstentions noted, and the name and vote or abstention of each Commission member entered in the minutes.

Section 4. Statewide members of the Commission are expected to attend all meetings of the Commission. Regional members of the Commission are expected to attend all meetings in which matters pertaining to their regions are scheduled for discussion or action. If a Commission member is not able to attend a meeting, he or she shall give the Chair at least 24 hours prior notice, except in emergency situations in which case notice shall be provided as soon as it is practicable.

Section 5. Meetings of the Commission shall be noticed and conducted in accordance with the requirements of Article 7 (Open Meetings Law) of the Public Officers Law, provided, however, that the Commission and any committee thereof shall conduct business in executive session anytime it is addressing in detail the medical, financial, or credit history of a particular general hospital or nursing home. Minutes of each meeting shall be maintained and the Chair may also, within amounts available for that purpose, direct that a transcript of the proceedings be maintained.

ARTICLE V. VOTING

Section 1. Regional members of the Commission shall be entitled to vote only when the Commission is acting on recommendations pertaining specifically to hospitals and/or nursing homes located in the region represented by the regional commissioner. The Chair shall rule with regard to when regional members of the Commission are entitled to vote on any matter, subject to appeal by motion to the statewide members of the Commission which may override the Chair's decision by an affirmative vote of a majority of those statewide members of the Commission present. Regional commissioners shall receive at least one week's notice of any matter in regard to which they, as regional commissioners, are entitled to vote, provided, however, that this requirement may be waived by the Chair if all the regional commissioners who have been appointed and are entitled to vote on an issue are present.

ARTICLE VI. COMMITTEES

Section 1. The Chair may at any time provide for the appointment of ad hoc committees on any subject or subjects. Such ad hoc committees shall continue until discharged by the Chair.

Section 2. When making a report to the Commission, a committee should, in addition to reporting any recommendations of the majority of the committee, endeavor to report any significant deliberations leading to such recommendations as well as any significant comments, opinions or recommendations of committee members who did not support the majority recommendations.

Section 3. Meetings of committees shall be noticed and conducted in accordance with the requirements of Article 7 (Open Meetings Law) of the Public Officers Law and minutes

of such meetings shall be maintained.

ARTICLE VII. OFFICE OF THE COMMISSION

Section 1. The official repository of the originals of the Commission's minutes, transcripts, documents, correspondence and other records shall be the offices of the New York State Department of Health.

Section 2. The Chair or his or her designee shall be responsible for the safekeeping of all minutes, transcripts, documents, correspondence, and other records of the Commission. Every member of the Commission shall have access at all times, during the ordinary office hours of the Department of Health, to all such minutes, transcripts, documents, correspondence, and other records of the Commission.

Section 3. The Chair or his or her designee shall send a copy of the minutes of each meeting of the Commission to each member of the Commission as soon as practicable after the meeting. The minutes, as approved or corrected, and the transcript, if any, as approved and corrected, shall serve as the legal (public) record of a meeting of the Commission.

Section 4. The Chair or his or her designee shall retain on file and have available at each meeting of the Commission a copy of the statement of interest submitted by each Commission member in accordance with section 2 of Article II herein.

Section 5. The Chair or his or her designee shall prepare and send official notices of actions of the Commission, shall administer the daily business of the Commission, shall make available records requested under the Freedom of Information Law, shall make announcements to the media and to the public of scheduled meetings as required by the Open Meetings Law, and shall otherwise act as the official Commission representative.

ARTICLE VIII. AMENDMENT OF BYLAWS

These Bylaws may be amended by the affirmative vote of a majority of the statewide members of the Commission at any meeting, provided that notice of the proposed amendment and the text thereof shall have been given at the previous meeting, and that a copy of the proposed amendment has been sent by the Chair or his or her designee to each member of the Commission.

Dated: 7/13/05