

# EXHIBIT C-1

## NOTICE OF PUBLIC HEARING

**Subject:** Opportunity to Comment on the Proposed Amendment of Article 181 (Protection of Public Health Generally) of the New York City Health Code, found in Title 24 of the Rules of the City of New York.

**Date/Time:** July 23, 2012 / 10 A.M. to 12 P.M.

**Location:** New York City Department of Health and Mental Hygiene  
2 Gotham Center, 14<sup>th</sup> Floor, Room 14-43  
42-09 28<sup>th</sup> Street  
Long Island City, NY 11101-4132

**Contact:** Rena Bryant  
(347) 396-6071

### Instructions

Prior to the hearing, you may submit written comments about the proposed amendment by mail to

New York City Department of Health and Mental Hygiene  
Board of Health  
Office of the Secretary to the Board  
Attention: Rena Bryant  
2 Gotham Center, 14<sup>th</sup> Floor, Room 14-15, Box 31  
Long Island City, NY 11101-4132

or electronically through NYC RULES at <http://www.nyc.gov/html/nycrules> or by email to [RESOLUTIONCOMMENTS@HEALTH.NYC.GOV](mailto:RESOLUTIONCOMMENTS@HEALTH.NYC.GOV) or online (without attachments) at <http://www.nyc.gov/html/doh/html/notice.shtml> on or before 5:00 P.M., on July 23, 2012.

To request a sign language interpreter or other form of reasonable accommodation for a disability at the hearing, please contact Rena Bryant at the phone number shown above by July 9, 2012.

Copies of written comments and a summary of oral comments received at the hearing will be available within a reasonable time after receipt between the hours of 9:00 A.M. and 5:00 P.M. at the

New York City Department of Health and Mental Hygiene  
Office of the Secretary to the Board  
Attention: Rena Bryant  
2 Gotham Center, 14<sup>th</sup> Floor, Room 14-15, CN 31  
Long Island City, NY 11101-4132

### Proposed Amendment

The Department of Health and Mental Hygiene is proposing that the Board of Health amend Article 181 of the Health Code to add a new §181.21 to require written consent for performance of circumcision when such circumcisions involve the performance of direct oral suction. This proposal was not included in the Department's Regulatory Agenda for FY '12 because the Department did not determine that it was needed until after the Regulatory Agenda was promulgated.

### **Statement of Basis and Purpose**

#### *Statutory Authority*

These proposed amendments to the Health Code are promulgated pursuant to §§ 558 and 1043 of the Charter.

- Sections 558(b) and (c) of the Charter empower the Board of Health to amend the Health Code and to include in the Health Code all matters to which the authority of the Department of Health and Mental Hygiene (the “Department” or “DOHMH”) extends.
- Section 1043 grants the Department rule-making authority.

The amendment is also proposed pursuant to the Department’s historic power to supervise the control of communicable disease in New York City. Section 556 of the Charter provides the Department with broad jurisdiction to regulate all matters affecting health in the City of New York. The control of communicable disease is a core public health function.

#### *Purpose of the Proposed Amendment*

The purpose of the proposed amendment is to require informed consent from a parent or legal guardian when direct oral suction will be performed during his or her son’s circumcision. A written informed consent will be required, which would provide information about the risks involved, including possible infection with herpes simplex virus and its potentially serious consequences, such as brain damage and death. Knowing the risks posed by direct oral suction, a parent or legal guardian can then make an informed choice about whether it should be performed as part of the circumcision.

The proposed amendment will require practitioners of oral suction during circumcision to retain copies of informed consent forms for at least one year and to make them available to the Department upon request.

#### *Background*

Male circumcision, which involves cutting off skin and leaving an open wound on the penis, carries a risk for infection, bleeding and penile injury to infants under 60 days of age. Therefore circumcision should be performed under sterile conditions to protect the open wound from infection. A practice known as *metzitzah b’peh*, involves direct contact between the mouth of a person performing circumcision and the infant’s circumcised penis (“direct oral suction”). When direct oral suction is performed as part of circumcision, there is a risk that the person performing direct oral suction will transmit herpes simplex virus or other infectious disease to the infant being circumcised.

Between 2004 and 2011, the Department learned of 11 cases of laboratory-confirmed herpes simplex virus infection in male infants following circumcisions that were likely to have been associated with direct oral suction. Two of these infants died, and at least two others suffered brain damage. The parents of some of these infants have said that they did not know before their child’s circumcision that direct oral suction would be performed. In addition, since 2004, the Department has received multiple complaints from parents whose children may not have been infected who were also not aware that direct oral suction was going to be performed as part of their sons’ circumcisions.

*The proposed amendment*

A new Health Code provision, §181.21 -- Consent for direct oral suction as a part of circumcision, would require that if direct oral suction is to be performed as part of a circumcision, the person performing the direct oral suction must obtain prior written informed consent from a parent or legal guardian. The written consent would document that a parent has been given notice that direct oral suction is to be performed and that the parent has been informed of the risk of transmission to the infant of herpes simplex virus infection and other diseases. A copy of the signed consent form would have to be given to the parent or legal guardian signing the consent, and the person performing direct oral suction as part of the circumcision would have to maintain the original for at least one year after the circumcision is performed, and make it available for inspection at the request of the Department.

The proposal is as follows:

Note- matter in [ ] brackets to be deleted;

Matter underlined is new.

RESOLVED, that Article 181 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, and the same hereby is, amended, by adding a new §181.21, to be printed together with explanatory notes, to read as follows:

**§ 181.21 Consent for direct oral suction as part of a circumcision.**

(a) Direct oral suction means contact between the mouth of a person performing a circumcision and the infant's circumcised penis.

(b) Written informed consent required. A person may not perform a circumcision that involves direct oral suction on a child under one year of age without obtaining, prior to the circumcision, the written informed consent of a parent or legal guardian of the child who is being circumcised in a form approved or provided by the Department. The written informed consent must include notice that direct oral suction exposes the infant to the risk of transmission of herpes simplex virus infection and other infectious diseases.

(c) Retention of consent forms. The person performing the circumcision must give the parent or legal guardian a copy of the signed consent form and retain the original for one year from the date of the circumcision, making it available for inspection if requested by the Department.

Notes: §181.21 was added to Article 181 by resolution adopted XXX to require that persons who perform circumcisions on children under one year of age that involve the application of direct oral suction obtain the written informed consent of a parent and warn of the risks of infection posed by direct oral suction prior to performance of the circumcision.

RESOLVED, that the Table of Section Headings of Article 181 of the New York City Health Code, found in Title 24 of the Rules of the City of New York be, and the same hereby is, amended, to be printed together with explanatory notes, to read as follows:

ARTICLE 181

PROTECTION OF PUBLIC HEALTH GENERALLY

§181.01       **Definitions.**

\*       \*       \*

§181.21       **Consent for direct oral suction as part of a circumcision.**

Notes: Article 181 was amended by resolution adopted XXX adding a new §181.21 requiring written parental consent for circumcisions performed on an infant under one year of age that involve the application of direct oral suction in view of the risks of transmission of infection to such infants through the practice of direct oral suction.

**NEW YORK CITY LAW DEPARTMENT**

**DIVISION OF LEGAL COUNSEL**

**100 CHURCH STREET**

**NEW YORK, NY 10007**

**212-788-1087**

**CERTIFICATION PURSUANT TO**

**CHARTER §1043(d)**

**RULE TITLE: Consent for Non-Medical Circumcision (Health Code Article 181)**

**REFERENCE NUMBER: 2012 RG 053**

**RULEMAKING AGENCY: Department of Health and Mental Hygiene**

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN  
Acting Corporation Counsel

Date: June 5, 2012

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1400**

**CERTIFICATION / ANALYSIS  
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE: Consent for Non-Medical Circumcision (Health Code Article 181)**

**REFERENCE NUMBER: DOHMH-23**

**RULEMAKING AGENCY: DOHMH**

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco Navarro  
Mayor's Office of Operations

June 5, 2012  
Date

# EXHIBIT C-2



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# THE CITY RECORD

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## TABLE OF CONTENTS

### PUBLIC HEARINGS & MEETINGS

Brooklyn Borough President ..... 2593  
 Citywide Administrative Services ..... 2593  
 City Planning Commission ..... 2593  
 Community Boards ..... 2593  
 Consumer Affairs ..... 2594  
 Employees Retirement System ..... 2594  
 Landmarks Preservation Commission ..... 2594  
 Office of the Mayor ..... 2595  
 Transportation ..... 2595

### COURT NOTICE

Supreme Court ..... 2595  
 New York County ..... 2595

### PROPERTY DISPOSITION

Citywide Administrative Services ..... 2595  
 Office of Citywide Purchasing ..... 2595  
 Police ..... 2595

### PROCUREMENT

Administration for Children's Services ..... 2596  
 Aging ..... 2596  
 Brooklyn Navy Yard ..... 2596  
 Engineering ..... 2596  
 Citywide Administrative Services ..... 2596  
 Office of Citywide Purchasing ..... 2596  
 Municipal Supply Services ..... 2596  
 Vendor Lists ..... 2596  
 Comptroller ..... 2596  
 Asset Management ..... 2596

Design and Construction ..... 2596  
 Contracts ..... 2596  
 Economic Development Corporation ..... 2596  
 Contracts ..... 2596  
 Education ..... 2597  
 Office of Emergency Management ..... 2597  
 Health and Hospitals Corporation ..... 2597  
 Housing Authority ..... 2597  
 General Services ..... 2597  
 Risk Finance ..... 2597  
 Human Resources Administration ..... 2597  
 Agency Chief Contracting Officer/Contracts ..... 2597  
 Labor Relations ..... 2597  
 Law ..... 2597  
 Parks and Recreation ..... 2597

Contract Administration ..... 2597  
**AGENCY PUBLIC HEARINGS**  
 Aging ..... 2598  
 Environmental Protection ..... 2599  
**AGENCY RULES**  
 Health and Mental Hygiene ..... 2599  
 Housing Preservation and Development ..... 2603  
**SPECIAL MATERIALS**  
 Citywide Administrative Services ..... 2604  
 Distracting Commission ..... 2604  
 Mayor's Office of Environmental  
 Remediation ..... 2604  
 Probation ..... 2604  
 Changes in Personnel ..... 2604  
**LATE NOTICE**  
 City Council ..... 2604

## THE CITY RECORD

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EDNA WELLS HANDY, Commissioner, Department of Citywide Administrative Services.  
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## PUBLIC HEARINGS AND MEETINGS

See Also: Procurement; Agency Rules

### BROOKLYN BOROUGH PRESIDENT

#### ■ PUBLIC HEARINGS

#### UNIFORM LAND USE REVIEW PROCEDURE

NOTICE IS HEREBY GIVEN that, pursuant to Sections 82 and 197-C of the New York City Charter, the Brooklyn Borough President will hold a public hearing on the following matters in the Borough President's Court Room, Brooklyn Borough Hall, 209 Jerusalem Street, Brooklyn, New York 11201, commencing at 4:00 P.M. on Thursday, September 27, 2012.

#### CALENDAR ITEM 1 MAPLE LANES VIEWS ZONING MAP AMENDMENT COMMUNITY DISTRICT 12 090154 ZMK

In the matter of an application submitted by Fairmont Lanes, LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map changing from an M1-1 District to an R6A District property bounded by the southerly boundary line of the Long Island Railroad right-of-way, 60th Street, 16th Avenue, and 61st Street. This rezoning would result in the development Maple Lanes Views a mixed-use community facility and multi-family residential project consisting 112 units and 56 parking spaces within twenty-five buildings, one of which includes a House of Worship, with varying heights from four to seven stories among the residential properties.

Note: To request a sign language interpreter, or to request TDD services, call Mr. Kevin Parris at (718) 802-3856 at least five business days before the day of the hearing.

### CITYWIDE ADMINISTRATIVE SERVICES

#### ■ PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN THAT A REAL PROPERTY ACQUISITIONS AND DISPOSITIONS PUBLIC HEARING, in accordance with Section 824 of the New York City Charter, will be held at 10:30 A.M. on October 10, 2012 in the 2nd floor conference room, 22 Reade Street, in Manhattan in the matter of a proposed lease for the City of New York, as tenant, of approximately 173,595 rentable square feet of space on part of the 1st floor, part of the mezzanine, part of the basement and part of the sub-basement in a building located at 890 Garrison Avenue (Block 2739, Lot 15) in the Borough of Bronx, to be used for general and administrative offices and related accessory use by the

Human Resources Administration or such other successor agency as the Commissioner of the Department of Citywide Administrative Services may determine.

The proposed use was approved by the City Planning Commission pursuant to NYC Charter Section 195 on November 16, 2012 (CPC Appl. No. N 120084 PXX) Calendar No. 9.

The proposed Lease shall be for a period of approximately twenty (20) years commencing on the earlier of (1) the date of occupancy or (2) Substantial Completion of alterations and improvements. Rent shall commence ninety (90) days after lease commencement (Rent Commencement Date) at an annual rental of \$3,860,678.00 (\$22.24 per square foot) for first two (2) years, \$5,946,403.00 (\$34.25 per square foot) for the following three (3) years, \$6,038,740.00 (\$34.79 per square foot) for the following five (5) years, \$6,315,753.00 (\$36.38 per square foot) for the following five (5) years and \$6,685,103.00 (\$38.51 per square foot) for the last five (5) years, payable in equal monthly installments at the end of each month.

Tenant shall have the right to terminate the Lease in its entirety or in part, effective on the tenth (10th) anniversary of the Rent Commencement Date, or at any time thereafter, upon either eighteen (18) or twelve (12) months prior written notice to Landlord, all as more specifically set forth in the Lease. If the Tenant elects to terminate the Lease in its entirety or in part, Tenant will pay to Landlord a termination fee, all as more specifically set forth in the Lease.

The Tenant shall have the right renew the Lease for two periods of five (5) years each at the greater of 95% Fair Market Value or the then escalated rent, upon eighteen (18) months prior written notice to the Landlord, all as more specifically set forth in the Lease.

Further information, including public inspection of the proposed lease may be obtained at One Centre Street, Room 2000 North, New York, NY 10007. To schedule an inspection, please contact Chris Fleming at (212) 386-0315.

Individuals requesting Sign Language Interpreters should contact the Mayor's Office of Contract Services, Public Hearings Unit, 253 Broadway, Room 915, New York, NY 10007, (212) 788-7490, no later than FIVE (5) BUSINESS DAYS PRIOR TO THE PUBLIC HEARING.

TDD users should call VERIZON relay services.

### ASSET MANAGEMENT

#### ■ PUBLIC HEARINGS

PUBLIC NOTICE IS HEREBY GIVEN THAT a Voluntary Public Hearing will be held on Wednesday, October 24, 2012 at 22 Reade Street, 2nd Floor Conference Room, Borough of Manhattan, commencing at 10:00 A.M., in the matter of removing a deed restriction on a property in the Borough of Manhattan.

The Department of Citywide Administrative Services, proposes to remove the Not-For-Profit school uses restriction that limits the use and the development of Block 422, Lot 43, located in the Borough of Manhattan. This action is intended to promote the productive use of this property. Consideration for this action is \$540,000.

If approved by the Mayor of the City of New York, the Department of Citywide Administrative Services shall be authorized to modify this deed.

The calendar document for the voluntary public hearing is available for inspection by the public at the Department of Citywide Administrative Services office at 1 Centre Street, 20th Floor North, New York, NY 10007, Attention: Joseph Valentino (212) 386-0611.

Note: Individuals requesting Sign Language Interpreters should contact the Mayor's Office of Contract Services, Public Hearing Unit, 253 Broadway, 9th Floor, New York, NY 10007, (212) 788-7490, no later than SEVEN (7) BUSINESS DAYS PRIOR TO THE PUBLIC HEARING. TDD users should call Verizon relay services.

1 Parcel

Borough of Manhattan  
 Block 422, Lot 43

### CITY PLANNING COMMISSION

#### ■ PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN THAT RESOLUTIONS Have been adopted by the City Planning Commission Scheduling public hearings on the following matters to be held at Spector Hall, 22 Reade Street, New York, NY, on Wednesday, October 3, 2012 at 10:00 A.M.

#### BOROUGH OF MANHATTAN

No. 1  
**BAILEY HOUSE**  
 CD 11 C 100179 ZSM  
**IN THE MATTER OF** an application submitted by Park 121 Realty, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-921 of the Zoning Resolution to allow a non-profit institution without sleeping accommodations (Use Group 4A), on a portion of the ground floor and on the third and fourth floors of an existing 4-story building on property located at 1741-1751 Park Avenue (Block 1770, Lots 1, 101, 2, 3, 4 and 72), in an M1-4 District.

Plans for this proposal are on file with the City Planning Commission and may be seen in Room 3N, 22 Reade Street, New York, NY 10007.

YVETTE V. GRUEL, Calendar Officer  
 City Planning Commission  
 22 Reade Street, Room 2E  
 New York, New York 10007  
 Telephone (212) 720-3370

s20-o3

### COMMUNITY BOARDS

#### ■ PUBLIC HEARINGS

PUBLIC NOTICE IS HEREBY GIVEN THAT the following matters have been scheduled for public hearing by Community Boards:

#### BOROUGH OF BROOKLYN

COMMUNITY BOARD NO. 13 - Thursday, September 27, 2012 at 7:00 P.M., Coney Island Hospital, 2601 Ocean Parkway, (2nd Fl. Auditorium), Brooklyn, NY

Public Hearing on list of priorities for Capital and Expense Budget items for 2014

**BSA# 214-12-BZ**  
 2784 Coney Island Avenue  
 Application for special permit pursuant to Zoning Resolution 11-411 and 11-412, an existing automotive laundry use. Application to reinstate and extend the term of the previous BSA, and to amend previous approval to permit the elimination of lot 72 and the gasoline service use.

**BSA# 256-12-BZ**  
 247-249/3062/3063/89 Brighton Beach Avenue  
 Application to permit enlargement of existing buildings to contain commercial and community facility uses that exceeds permitted FAR, located commercial use above the 1st story ceiling and does not provide required accessory parking.

■ #21-27

with or suspected of being affected with any of the diseases mentioned in this section shall submit to an approved laboratory, or to the laboratory of the State Department of Health, for examination of such specimens as may be designated by the State Commissioner of Health, together with data concerning the history and clinical manifestations pertinent to the examination (in cases of): ... Herpes infection in infants aged 60 days or younger (neonatal) ... The State Sanitary Code clearly states the authority of the State Commissioner of Health to require submission of such specimens, and the Department believes that a similar provision is necessary in the City's Health Code. The Department does not intend that this requirement result in delaying necessary treatment.

The language of the original proposal has been clarified in response to a comment received, indicating that there could be possible confusion about where positive and negative results should be forwarded and stating that results of analyses by Wadsworth Center laboratories are to be sent to the Department.

#### Amendment of Article 13

NYC neonatal herpes surveillance data, collected since 2006 when the disease was made reportable, are used for local and national provider education and to support investigations to determine if cases are related. However, even when infection is laboratory-confirmed as HSV infection, viral type (indicating whether infection is due to HSV type 1 or HSV type 2) is unknown approximately 15% of the time. Data regarding viral type will help the Department understand factors associated with infection, factors associated with virulence of each type, and the impact that future vaccines are likely to have on neonatal HSV infection.

Accordingly, the Board is also amending Article 13 to add a new §13.09 to require that clinical laboratories detecting HSV in any specimen from infants sixty days of age or less submit such specimens and derived materials to the Wadsworth Center laboratories for such further testing as the Department determines may be needed. The language originally proposed, which used only the term testing "as needed" has been clarified to provide explicitly that the Department will specify what testing, if any will be conducted and that both positive and negative results of testing should be sent to the Department. If the specimen has already been identified as positive for HSV, the Department may determine that no further testing is needed. In addition, the phrase "unless otherwise directed by the Department has been added so that the Department may require that specimens be sent to other laboratories for testing if the Wadsworth Center laboratories become unavailable for any reason.

The resolution is as follows:

Matter to be deleted is in brackets [ ]  
New matter is underlined

RESOLVED, that Article 11 (Reportable Diseases and Conditions) of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be amended, adding a new §11.10, to be printed together with explanatory notes as follows:

**§11.10 Neonatal herpes simplex. At or before initiating treatment for a suspected case of herpes simplex virus infection occurring in a child aged sixty days or less, the health care provider initiating treatment shall collect specimens from one or more vesicles or from any skin lesions suggestive of herpetic disease. Unless otherwise directed by the Department, all such specimens shall be sent by the provider to the New York State Department of Health Wadsworth Center laboratories for diagnostic testing using molecular methods, and reports of positive and negative results shall be forwarded to the Department by the Wadsworth Center laboratories.**

Notes: §11.10 was added to Article 11 by resolution adopted September 13, 2012. It requires physicians and other health care providers to obtain specimens from vesicular skin lesions on infants suspected of having neonatal herpes simplex virus at or before starting anti-viral treatment to enable prompt and accurate diagnosis. It also requires such health care provider to submit the specimens to New York State Department of Health for testing unless otherwise directed by the Department.

RESOLVED, that the Table of Section Headings in Article 11 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be amended, adding a new §11.10, to be printed together with explanatory notes as follows:

#### ARTICLE 11 REPORTABLE DISEASES AND CONDITIONS

§11.01	Definitions.
§11.09	Blood Lead Reporting and Children's Blood Lead Registry.
§11.10	Neonatal herpes simplex.
§11.11	Confidentiality of reports and records.

Notes: Article 11 was amended by resolution adopted September 13, 2012 to add a new §11.10 that requires physicians and other health care providers to obtain specimens from vesicular skin lesions on infants suspected of having neonatal herpes simplex virus at or before starting anti-viral treatment to enable prompt and accurate diagnosis, and submit the specimens to the New York State Department of Health for testing.

RESOLVED, that Article 13 (Clinical Laboratories) of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be amended, adding a new §13.09, to be printed together with explanatory notes as follows:

**§13.09 Neonatal herpes simplex specimens. When a clinical laboratory detects herpes simplex virus in a specimen collected from a child 60 days of age or less, the laboratory shall, unless otherwise directed by the Department, send the original specimen and any derived materials to the New York State Department of Health Wadsworth Center laboratories, or another laboratory determined by the Department for further testing as specified by the Department. If testing is conducted, positive and negative test results shall be forwarded to the Department.**

Notes: §13.09 was added to Article 13 by resolution adopted September 13, 2012. It requires clinical laboratories to forward portions of specimens from infants in which herpes simplex virus is detected to the New York State Department of Health Wadsworth Center or other laboratories for such testing as the Department determines is needed.

RESOLVED, that the Table of Section Headings in Article 13 of the New York City Health Code, found in Title 24 of the

Rules of the City of New York, be amended, adding a new §13.09, to be printed together with explanatory notes as follows:

#### ARTICLE 13 CLINICAL LABORATORIES

§13.01	Definitions.
§13.07	Reporting of Hemoglobin A1C.
§13.09	Neonatal herpes simplex specimens.

Notes: Article 13 was amended by resolution adopted September 13, 2012 to add a new §13.09 that requires clinical laboratories to forward portions of specimens from infants in which herpes simplex virus is detected to the New York State Department of Health Wadsworth Center laboratories for further testing as may be specified by the Department.

#### NOTICE OF ADOPTION OF AN AMENDMENT TO ARTICLE 181 OF THE NEW YORK CITY HEALTH CODE

In compliance with §1043(b) of the New York City Charter (the "Charter") and pursuant to the authority granted to the Board of Health by §568 of said Charter, a notice of intention to amend Article 181 of the New York City Health Code (the "Health Code") was published in the City Record on June 19, 2012 and a public hearing was held on July 23, 2012. At its meeting on September 13, 2012, the Board of Health adopted the following resolution.

#### Statutory Authority

These amendments to the Health Code are promulgated pursuant to §568 and §1043 of the Charter.

- Sections 558(b) and (c) of the Charter empower the Board of Health to amend the Health Code and to include in the Health Code all matters to which the authority of the Department of Health and Mental Hygiene (the "Department" or "DOHMH") extends. Section 1043 grants the Department rule-making authority.

The amendment reflects the Department's historic power to supervise the control of communicable disease in New York City. Section 556 of the Charter provides the Department with broad jurisdiction to regulate all matters affecting health in the City of New York. The control of communicable disease is a core public health function.

#### Statement of Basis and Purpose

The purpose of this amendment is to require written consent from a parent or legal guardian when direct oral suction will be performed during his or her son's circumcision. The written consent will require that the parent or guardian has been told that the Department advises against direct oral suction because of certain risks associated with the practice, including infection with herpes simplex virus and its potentially serious consequences, such as brain damage and death. Knowing the risks posed by direct oral suction, a parent or legal guardian can then make an informed choice about whether it should be performed as part of the circumcision.

The amendment requires persons performing circumcisions which include direct oral suction to retain copies of signed consent forms for at least one year and to make them available to the Department upon request.

#### Background

Male circumcision, which involves cutting off skin and leaving an open wound on the penis, carries a risk for infection. It should be performed under sterile conditions to protect the open wound from infection. There is a practice involving direct contact between the mouth of a person performing or assisting in performing a circumcision and the infant's circumcised penis (direct oral suction). When direct oral suction is performed as part of circumcision, there is a risk that the person performing direct oral suction will transmit herpes simplex virus to the infant being circumcised.

Between 2004 and 2011, the Department learned of 11 cases of laboratory-confirmed herpes simplex virus infections in male infants following circumcisions that were likely to have been associated with direct oral suction. Two of these infants died, and at least two others suffered brain damage. The parents of some of the infants have said that they did not know before their child's circumcision that direct oral suction would be performed. In addition, since 2004, the Department has received multiple complaints from parents whose children may not have been infected with herpes simplex virus or other infectious diseases but who were also not aware that direct oral suction was going to be performed as part of their sons' circumcisions.

#### The amendment

The new Health Code provision, §181.21 — Consent for direct oral suction as part of circumcision — requires that if direct oral suction is to be performed as part of a circumcision, the person performing the circumcision must obtain prior written consent from a parent or legal guardian. The written consent would document that a parent has been given notice that direct oral suction is to be performed and that the parent has been informed that the Department advises against direct oral suction because the practice carries a risk of transmission to the infant of herpes simplex virus infection. A copy of the signed consent form must be given to the parent or legal guardian signing the consent. The person performing the circumcision will have to maintain the original for at least one year after the circumcision is performed, and make it available for inspection at the request of the Department.

In response to comments received, the resolution has been amended to allow use of a consent form other than one approved and provided by the Department if the form used contains certain elements deemed necessary for a parent or legal guardian to document that she or he has given consent. The language of the consent now includes a reference to the Department's concerns about the risks of direct oral suction, and indicates that the consent must be obtained by the person performing the circumcision whenever direct oral suction is performed regardless of whether that person performs direct oral suction himself or it is done by another person assisting him.

The resolution is as follows:

Note - matter in [ ] brackets to be deleted;  
Matter underlined is new.

RESOLVED, that Article 181 of the New York City Health

Code, found in Title 24 of the Rules of the City of New York, and the same hereby is, amended, by adding a new §181.21, to be printed together with explanatory notes, to read as follows:

#### §181.21 Consent for direct oral suction as part of a circumcision.

(a) Direct oral suction means contact between the mouth of a person performing or assisting in the performance of a circumcision and an infant's circumcised penis.

(b) Written consent required. A person may not perform a circumcision that involves direct oral suction on an infant under one year of age, without obtaining, prior to the circumcision, the written signed and dated consent of a parent or legal guardian of the infant being circumcised using a form provided by the Department or a form which shall be labeled "Consent to perform oral suction during circumcision," and which at a minimum shall include the infant's date of birth, the full printed name of the infant's parent(s), the name of the individual performing the circumcision and the following statement: "I understand that direct oral suction will be performed on my child and that the New York City Department of Health and Mental Hygiene advises parents that direct oral suction should not be performed because it exposes an infant to the risk of transmission of herpes simplex virus infection, which may result in brain damage or death."

(c) Retention of consent forms. The person performing the circumcision must give the parent or legal guardian a copy of the signed consent form and retain the original for one year from the date of the circumcision, making it available for inspection if requested by the Department.

Notes: §181.21 was added to Article 181 by resolution adopted September 13, 2012 to require that persons who perform circumcisions on infants under one year of age that include the application of direct oral suction obtain the written consent of a parent prior to performance of the circumcision and warn the parent of the Department's concerns about the risks of infection posed by direct oral suction.

RESOLVED, that the Table of Section Headings of Article 181 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be, and the same hereby is, amended, to be printed together with explanatory notes, to read as follows:

#### ARTICLE 181 PROTECTION OF PUBLIC HEALTH GENERALLY

#### §181.01 Definitions.

#### §181.21 Consent for direct oral suction as part of a circumcision.

Notes: Article 181 was amended by resolution adopted September 13, 2012 adding a new §181.21 requiring written parental consent for circumcisions performed on an infant under one year of age that includes the application of direct oral suction to the infant's penis in view of the Department's concerns about the risks of transmission of infection to such infants through the practice of direct oral suction.

#### RESOLUTION DATED: SEPTEMBER 13, 2012

At a meeting of the Board of Health of the Department of Health and Mental Hygiene held on September 13, 2012, the following resolution was adopted:

WHEREAS, the Board of Health has found that the following chemical compounds (collectively referred to as "synthetic phenethylamines"), which are not listed as controlled substances on Schedules I through V of §3306 of the Public Health Law and are not approved by the Federal Food and Drug Administration ("FDA"), are commonly marketed as "bath salts", plant food and other ordinary household goods at numerous locations throughout the city:

- 3, 4-Methylenedioxyamphetamine (Methylene);
- 4-Methoxymethcathinone;
- 3-Fluoromethcathinone;
- 4-Fluoromethcathinone; Ethylpropion (Ethcathinone);
- 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E);
- 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D);
- 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C);
- 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I);
- 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2);
- 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4);
- 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H);
- 2-(2,5-Dimethoxy-4-nitrophenyl)ethanamine (2C-N);
- 2-(2,5-Dimethoxy-4-(n-propylphenyl)ethanamine (2C-P); and

WHEREAS, synthetic phenethylamines stimulate the body's nervous system, and cause effects similar to those caused by cocaine and amphetamines, including but not limited to increased heart rate and blood pressure, hallucinations, paranoia, suicidal thoughts, violent behavior, nausea and vomiting; and

WHEREAS, synthetic phenethylamines are designer drugs specifically synthesized with a similar, but slightly modified, structure of a controlled substance in order to avoid existing drug laws and can be continually chemically modified to avoid legal repercussions while maintaining their intended effects and usages; and

WHEREAS, On May 20, 2011, the Commissioner of Health of the State of New York issued an Order banning the sale and distribution of products with

- 3,4-Methylenedioxyamphetamine (Methylene),
- 4-Methylmethcathinone (Mephedrone),
- Methylenedioxypropylvalerone (MDPV),
- 4-Methoxymethcathinone, 3-Fluoromethcathinone,
- 4-Fluoromethcathinone, and compounds structurally related to these synthetic chemical compounds; and

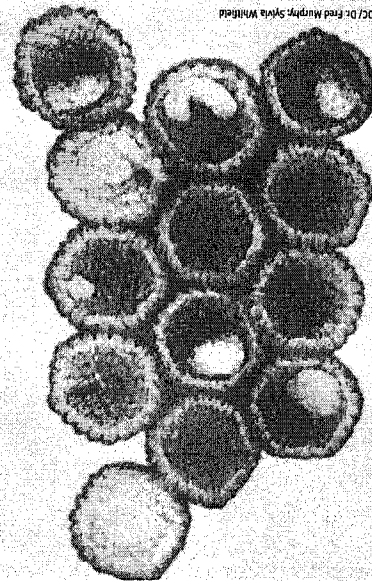
WHEREAS, products containing synthetic phenethylamines, including those named in the May 20, 2011 Order, remain prevalent drugs of abuse and continue to be packaged, distributed and sold throughout the City of New York as "bath salts" and other ordinary household goods; and

WHEREAS, from January 1, 2012 through September 1, 2012, the New York City Poison Control Center received 126 calls regarding poisonings from products containing synthetic phenethylamines; and

WHEREAS, a "cannabinoid" is a class of chemical compounds in the marijuana plant and the cannabinoid  $\Delta$  9-tetrahydrocannabinol (THC) is the primary psychoactive constituent of marijuana. "Synthetic cannabinoids" encompass a wide variety of chemicals that are synthesized and marketed to mimic the action of THC. They are chemical compounds that are cannabinoid receptor agonists, include, but are not limited to, any material, compound, mixture, or preparation that is not listed in the Schedules I

# EXHIBIT C-3

*Metzitzah b'peh* (direct oral suctioning), which is performed during some religious circumcisions, has been associated with transmission of herpes simplex type 1 (HSV-1) virus, the virus that causes common cold sores of the mouth. HSV-1 infection in a baby can be serious and lead to hospitalization and even death. When choosing a *moהל*, the Department of Health and Mental Hygiene recommends that parents ask if he practices *metzitzah b'peh* (direct oral suctioning) and request that direct oral suctioning not be performed.



Electron micrograph of herpes simplex virions

© CDC/Dr. Fred Murphy, Sylvia Whitfield

# Before the Bris

*How to Protect  
Your Baby  
Against Infection*



A practice called *metzizah b'peh* (direct oral suctioning) is performed during some religious circumcisions (*bris*). Direct oral suctioning has been associated with infections and deaths of babies caused by herpes simplex type 1 virus (HSV-1), the virus that causes cold sores of the mouth.

Direct oral suctioning is performed by some *mohelim*, or religious circumcisers, in the Jewish community. With this practice, the *mohel's* mouth and lips come into direct contact with the baby's circumcision wound during the *bris*. The New York State Department of Health and New York City Department of Health and Mental Hygiene have documented a number of cases of HSV-1 infection on or around the genitals in male babies after circumcisions that included direct oral suctioning. Some of these babies became seriously ill. Some developed brain damage, and others have died.

There is no proven way to eliminate the risk of HSV-1 infection from direct oral suctioning.

### How Metzizah B'peh (Direct Oral Suctioning) Can Cause Infection

More than half of adults have oral HSV-1 infection. This infection may cause cold sores in the mouth, but most people with oral HSV-1 do not have cold sores and do not know they are infected. People can spread the virus to others even when they don't have any cold sores. Even though HSV-1 causes cold sores in most people, newborn babies are at risk for severe infection if they are exposed to the virus. This is because their immune systems are still not mature enough to fight off infection. With direct oral suctioning, the *mohel* places his mouth and lips directly on the baby's circumcision

wound to draw blood away from the cut. HSV-1 infection spreads through saliva. This is especially true when saliva touches a cut or a break in the skin, such as occurs with direct oral suctioning. If the *mohel* has HSV-1 infection, he may not know it, and he may transmit HSV-1 to the baby.

### Alternatives to Direct Oral Suctioning

Some religious authorities consider direct oral suctioning the only acceptable way to draw blood away from the circumcision cut. But other religious authorities within the Jewish faith approve different means. For example, sometimes a glass tube or a glass tube attached to a rubber bulb is used to suction blood in a way that does not include contact between the *mohel's* mouth and the baby's cut. Others use a sponge or a sterile gauze pad to suction blood. In contrast to direct oral suctioning, there is no evidence that any of these other practices cause HSV-1 infection.

### Reducing the Risk

While *mohelim* may rinse their mouths with alcohol-containing mouthwash or even take antiviral medications, there is no proof that these strategies reduce the risk of HSV-1 infection associated with direct oral suctioning.

Because a baby's immune system is not mature enough to fight infection, HSV-1 is a very serious risk for babies. If infected, babies will need to be hospitalized for at least two weeks of intravenous medicine to fight the infection. Even with treatment, the infection could result in lifelong disability, and your baby could even die from the infection.

### Ask About Metzizah B'peh (Direct Oral Suctioning) In Advance

Some parents whose babies had direct oral suctioning say they did not know beforehand that the *mohel* would perform direct oral suctioning during the *bris*. The Department of Health and Mental Hygiene is very concerned about the risk of infection and strongly advises that parents not have *metzizah b'peh* (direct oral suctioning) performed during the *bris*. To help you protect your baby, you should ask about direct oral suctioning before the *bris*, while there is time to explore all options.

### Taking Care of Your Baby During and After the Circumcision

Circumcision involves cutting off skin and leaving an open wound. To protect the wound from infection, the circumcision should always be done under sterile conditions. The circumciser's hands should be thoroughly washed and surgical gloves worn. The foreskin should be swabbed with an antiseptic solution. Sterile instruments should be used to cut the foreskin. Sterile gauze can be used to absorb bleeding, and a sterile dressing should be used to cover the incision site.

Regardless of how circumcision is performed, it is important to take good care of the circumcision wound until your baby fully heals. To prevent all types of infection, parents and other caregivers should apply a fresh gauze pad, dabbed with petroleum jelly or other ointment, on the penis during each diaper change. It is also important that parents and other caregivers frequently wash their hands with soap and water, especially before and after changing diapers or dressings for the wound.

For more information about the risk of HSV-1 infection in your baby, talk to your family doctor or pediatrician.

