

# HEALTH LAW BULLETIN

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## The State Hospital Review and Planning Council and the Public Health Council Merged into the Public Health and Health Planning Council

BY BENJAMIN P. MALERBA

As of December 1, 2010, the State Hospital Review and Planning Council (SHRPC) and the Public Health Council (PHC) will be combined into what will be known as the Public Health and Planning Council (PHHCP). The PHHCP will consist of the commissioner of health and 24 members appointed by the Governor with the approval of the Senate.

The PHHCP will have broad authority over health facilities and public health matters in New York. Specifically, the PHHCP will have the authority to: 1) approve the establishment of medical facilities licensed under Public Health Law Article 28, Article 36 and Article 40; 2) approve applications for the establishment of medical review and approve any transfer, assignment or other disposition of 10 percent or more of the stock or voting rights of a corporation that is the operator of an Article 28, Article 36 or Article 40 facility; 3) revoke, limit or annual the establish of an Article 28 or Article 40 facility; 4) approve the establishment of any business corporation or not-for-profit corporation that has among its purposes raising funds for the establishment or operation of an Article 28 facility; 5) approve a change in the name of any Article 28 facility; and 6) approve any certificate of amend-

ment that makes a substantial change in the corporate purposes and powers set forth in the certificate of incorporation of an Article 28 facility.



HEALTH Ambulatory Surgery Center, Inc., an Article 28-licensed ambulatory surgery center, in a dispute with its former Director of Anesthesiology, Kevin Glassman, M.D.

The Court of Appeals ruled in the action entitled, Kevin Glassman M.D. v. ProHEALTH Ambulatory Surgery Center, Inc., that the employment agreement between Dr. Glassman and ProHEALTH was enforceable. The contract permitted ProHEALTH to receive and collect fees for anesthesia services provided to patients treated by him outside of ProHEALTH. Dr. Glassman had argued that paying the fees amounted to fee-splitting. The Court of Appeals determined that the provision of off-site medical services did

The Department of Health estimates that the combination of these two councils will result in considerable savings to the state and help to shorten and streamline the burdensome regulatory review process for CON applications.

not mandate the voiding of an employment agreement that was freely entered into by ProHEALTH and Dr. Glassman.

### The New York State Court of Appeals Clarifies Fee-Splitting Laws for ASCs

In a decision that clarifies fee-splitting and employment arrangements under New York law, the New York State Court of Appeals recently ruled in favor of Pro-

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Benjamin Malerba is a Partner in Rivkin Radler's Health Services Practice Group. He can be reached at: Benjamin.Malerba@rivkin.com or 516-357-3128.

