



## Legislation Text

File #: 18-0310, Version: 1

**AN ORDINANCE AMENDING TITLE 2, ADMINISTRATION, CHAPTER 2, OFFICE OF THE MAYOR AND AGENCIES, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, BY CLARIFYING THE AUTHORITY OF THE FEDERALLY QUALIFIED HEALTH CENTER BOARD OF COMMISSION TO BE CONSISTENT WITH FEDERAL LAW.**

***Deferred 6PSF-a 040418***

**WHEREAS**, in 1998, the City of Newark's (hereinafter, "City") Department of Child and Family Well-Being (hereinafter, "DCFV") now known as the Department of Health and Community Wellness and hereinafter referred to as "DHCW", administered a Homeless Health Care Project that provided services for the homeless that was designated as a Federally Qualified Health Center because it received "Section 330" grants; and

**WHEREAS**, "Section 330" grants are Federal grants authorized by the Public Health Service Act (the "Act"), 42 U.S.C. §254b; and

**WHEREAS**, in 2012, through a New Access Point grant, the DCFV (now known as the DHCW) expanded its Homeless Health Care Project's services to the general population of the City of Newark and this expansion gave FQHC designation to the entire DCFV; and

**WHEREAS**, the Act requires all health centers receiving Section 330 grants to establish a Governing Board, 42 U.S.C. §254b(k)(3)(H); and

**WHEREAS**, after the City renamed the DCFV as the DHCW, the DHCW's medical facility was named the Mary Eliza Mahoney Health Center; and

**WHEREAS**, the DHCW is a public non-profit healthcare organization that meets certain criteria under the Social Security Act, 42 U.S.C.A. § 1396d and 42 U.S.C.A. § 1395x, and receives Section 330 grants authorized by the Public Health Service Act ("Act"), 42 U.S.C. §254b; and

**WHEREAS**, pursuant to and consistent with the Act, as well as 42 C.F.R. § 51c.304, Newark Ordinance 2:2-38 (the "Ordinance") established Newark's FQHC Board of Commission (the "Board"). The Board's objective is to maintain authority to supervise the operations of the FQHC's in a manner that is consistent with 42 C.F.R. § 51c.304.; and

**WHEREAS**, the Mary Eliza Mahoney Health Center's Board is an unincorporated co-applicant for the "Section 330" federal grants; and

**WHEREAS**, pursuant to the Act, 42 U.S.C. §254b(k)(3)(M), Newark's FQHC is a "public center" because it is funded through a "Section 330" grant to a public agency (the City of Newark);

and

**WHEREAS**, 42 C.F.R. § 51c.304 provides guidance on how the FQHC Governing Board should be established and composed; and

**WHEREAS**, although the Act allows the City to establish general policies (including fiscal and general personnel policies) for the Center, Section 330(k)(3)(H) of the Act requires that the FQHC Governing Board approves the selection of a Director for the FQHC as long as doing so is appropriate; and

**WHEREAS**, the Federal Health Resources and Services Administration (HRSA) conducted a site visit of the Mary Eliza Mahoney Health Center from October 24, 2017 through October 26, 2017; and

**WHEREAS**, on or about January 22, 2018, the DHCW received HRSA's Health Center Program Site Visit Report (hereinafter referred to as, the "Report" and attached hereto and made a part hereof) in response to HRSA's aforementioned October site visit and whose purpose included providing the City with guidance in complying with Health Center Program requirements; and

**WHEREAS**, the Report indicated that the City's FQHC failed to meet the Act's requirement that the Governing Board maintains authority and responsibility for:

- Setting hours of operation;
- Setting location of sites;
- Establishing services, beyond those required by law, to be provided;
- Approving the selection (and termination or dismissal, as appropriate) of the Health Center's Project Director/CEO;
- Approving annual Health Center Program budget and applications;
- Approving Health Center services and location and hours of operation of sites; and
- Establishing or adopting policy related to the operations of the Health Center; and

**WHEREAS**, the Report recommend that the City see Chapter 19: Board Authority of HRSA's Health Center Compliance Manual (hereinafter, "Manual") as a means of curing the aforementioned deficiencies cited by the Report; and

**WHEREAS**, the Manual serves as a resource to FQHC's in understanding and showing compliance with FQHC Program requirements; and

**WHEREAS**, the Manual provides that an FQHC would demonstrate compliance with the

Act's Governing Board requirements by possessing by-laws, articles of incorporation, or other appropriate documents that require and authorize the Governing Board to, among other things, approve "the selection (and termination or dismissal, as appropriate) of the Health Center's Project Director/CEO;" Manual at Chapter 19: Board Authority, page 73; and

**WHEREAS**, because the City's FQHC is a public FQHC, pursuant to New Jersey's Faulkner Act, N.J.S.A. 40:69A-1, et seq., the authority to select and terminate/dismiss the Health Center's Project Director/CEO remains with the City's Mayor; and

**WHEREAS**, granting the City's FQHC Governing Board the authority to approve the selection and termination or dismissal of the Health Center's Project Director/CEO would be inappropriate as doing so would violate New Jersey's Faulkner Act, N.J.S.A. 40:69A-1, et seq.; and

**WHEREAS**, the City is amending its FQHC Board of Commission Ordinance pursuant to the guidance of HRSA's Compliance Manual as per the Report's recommendation and in order to comply Federal law.

**NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:**

**Note: Matter in bold and underlined thus is new matter. Deleted matter is struck through thus.**

**Section 1.** Section 2:2-38 of the Newark Municipal Code is hereby amended as follows:

**2:2-38. FEDERALLY QUALIFIED HEALTH CENTER BOARD OF COMMISSION. <sup>16A</sup>**

**2:2-38.1. Established; Objective.**

b. The objective of the Commission shall be to maintain appropriate authority to oversee operations of Federally Qualified Health Centers (hereinafter referred to as "FQHC") consistent with 42 CFR 51G 304 et seq **42 C.F.R. § 51c.304**. The Commission's authorization includes but ~~are~~ **is** not limited to establishing and implementing **a** comprehensive system of coordinating medical care, nutritional, shelter and social services for the medically underserved area of Essex County, and to advise and assist the City of Newark;~~s~~ Department of Health and Community Wellness in the preparation of an annual plan for the enhancement of services available to the community, and assist in obtaining grant monies to provide for the program and activities of the Commission. Applications for grants or private foundations monies shall be **submitted** with the advice and consent of the Municipal Council.

**2:2-38.6. Duties. Functions and Responsibilities.**

~~—The duties of the Commission shall include but are not limited to:~~

a. Reviewing and comment on the health center grant application submitted for funding by the Department of Health and Community Wellness and on being informed of proposals submitted to the

Department of Health and Community Wellness for funding for services to the medically underserved population of Essex County.

b. Assist the Department of Health and Community Wellness in the planning and implementation of City-wide comprehensive service programs for the medically underserved population of Essex County.

~~c. Establish policies and procedures for its own governance.~~

~~d. Identify the unmet needs and service gaps which affect the community.~~

~~e. Make recommendations for legislative programs and actions on behalf of the community.~~

~~f. Measuring and evaluating the health center's progress in meeting its annual and long-term programmatic and developing plans for the long-range viability of the organization by engaging in strategic planning, ongoing review of the organization's mission and bylaws, evaluating patient satisfaction, and performance improvement.~~

a. The Commission shall have authority for the establishment of policy in the conduct of the City's FQHC as long as doing so does not violate New Jersey's Faulkner Act, N.J.S.A. 40:69A-1, et seq.

b. The City's FQHC Director/CEO is a City Official under the Faulkner Act, N.J.S.A. 40:69A-1, et seq., and the Mayor retains authority to directly appoint and remove the City's FQHC Director/CEO.

c. The Commission shall hold regularly scheduled meetings, at least once each month, for which minutes shall be kept.

d. The Commission shall have specific responsibility for:

(i) Adopting policy for financial management practices, including a system to assure accountability for FQHC resources, approval of the annual project budget, FQHC priorities, eligibility for services, including criteria for partial payment schedules, and long-range financial planning, if and only if doing so does not violate New Jersey's Faulkner Act, N.J.S.A. 40:69A-1, et seq.;

(ii) Evaluating FQHC activities, including services utilization patterns, productivity of the FQHC, patient satisfaction, achievement of project objectives, and development of a process for hearing and resolving patient grievances;

(iii) Assuring that the FQHC is operated in compliance with applicable Federal, State, and Local laws and regulations; and

(iv) Adopting health care policies, including scope and availability of services, location and hours of services, and quality-of-care audit procedures.

**Section 2.** Any existing Ordinances or parts thereof, inconsistent with this ordinance are hereby repealed.

**Section 3.** If any part of this Ordinance is declared unconstitutional or illegal, that provision shall be stricken and declared null and void, however, the remaining provisions shall continue in full force and effect.

**Section 4.** This Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

### **STATEMENT**

This Ordinance amends Title 2, Administration, Chapter 2, Office of the Mayor and Agencies which establishes the Federally Qualified Health Center Board of Commission in order for it to comply with Federal law.