FORM FOR PETITIONING THE NEW YORK CITY BOARD OF HEALTH TO COMMENCE RULEMAKING PURSUANT TO ARTICLE 9 OF THE NEW YORK CITY HEALTH CODE

Instructions: A copy of Article 9 is attached to this form for your guidance. Petitions should be typewritten or must be printed legibly. The completed, signed Petition shall be delivered, mailed, e-mailed or faxed to the Secretary to the Board of Health, 42-09 28th Street, 14th Floor, CN 31, LIC, New York 11101, telephone # (347) 396-6078/6116, FAX # (347) 396-6087.

(1) RULE TO BE CONSIDERED (State the purpose of the rule and what you want to accomplish through the rule you are proposing. Also, if possible, provide the wording of the rule as you believe it should be adopted):

The rule to be considered is for the New York City Department of Health and Mental Hygiene to declare Type 2 diabetes a public health emergency. The proposed language to be adopted is that "The New York City Commissioner of Health will declare Type 2 diabetes a public health emergency, providing the New York City Board of Health appropriate opportunity under the New York City Health Code to confirm and continue diabetes as a public health emergency."

The purpose of the rule is for the Department of Health and Mental Hygiene to take action as necessary to assure the maintenance of public health, the prevention of disease, and the safety of the City and its residents. By declaring diabetes a public health emergency, action can be taken and a coherent plan made to prevent, mitigate, control or abate the emergency.

(Add Attachments as needed)

(2) BOARD'S AUTHORITY TO PROMULGATE THE PROPOSED RULE:

[X] New York City Health Code – Section Article 3.01

[X] New York City Charter – Section 556, 558, and 1043

[] Other (Please Specify) _____

[ ] Unknown

(3) ARGUMENT(S) IN SUPPORT OF ADOPTION OF THE RULE: (Why should this rule be adopted?)

(a) The New York City Department of Health and Mental Hygiene's failure to address the diabetes epidemic---New York's widest spread disease and chief source of disability, including maiming, blindness, and dialysis, is so complete and longstanding that the Board of Health must intervene.

This neglect has resulted in an unprecedented situation where a major epidemic rampages out of control. As Crain's reported in 2017, with a budget of $1.6 billion, the Department spends less than $3 million directly on diabetes. Diabetes cases have increased 50% since 2011 to reach 987,000 cases. The single longitudinal study of A1C levels the Department has produced from the diabetes registry showed there was NO improvement in average A1C levels between 2006 and 20012, indicating an astounding failure of appropriate care for people with diabetes.

(b) Allowing the ravages of diabetes as they particularly strike minority and low income communities is a staggering compromise to public health equity. This is so felt and realized within these communities that multiple community and clinical groups serving these populations have endorsed the demand for diabetes to be declared an emergency, including: AIRnyc, Crossover TV Live with Kendra Oke, Harlem Independent Living Center, Harvest Home Farmer's Market, Health People, The Mary Mitchell Family and Youth Center, Morris Heights Health Center, New Creation Community Health Empowerment., and Vision Urbana

The Department's data itself shows that 40% of diabetics in the city suffering with long term high blood sugar---the people at significant risk for severe, crippling and disabling complications---live in just 10 low-income neighborhoods.

By allowing these ravages without any ordinary public health response, both the Commissioner and the Board of Health are in violation of key Board of Health provisions, particularly provision 3.07 in the General standards which requires that "No person shall fail to do any reasonable act or take any necessary precaution to protect human life and health."

(c) The 3.01 (General Powers) provisions cited provide a mechanism for the Board of Health and Commissioner to finally act and work together to combat diabetes; by ordering the Commissioner to declare an emergency, the Board can then use its authority under 3.01(d) to exercise "any other power of the Board of Health to prevent, mitigate, control or abate an emergency." The Board, for instance, can continue the emergency and order the Commissioner to present a coherent emergency plan for starting to address diabetes through the ordinary public measures that would be expected, including paying for proven prevention such as the National Diabetes Prevention Program, a public campaign, physician training, paying for self-care education for patients generally and targeting education for preventable, crippling complications such as amputation and kidney failure to the easily targeted high-risk patients for these complications.

If these basic measures had been taken, as they should have been, twenty years ago when diabetes started its epidemic escalation, we would not be in a clear emergency which absolutely demands an emergency response.

(Add attachments as needed)

(4) PERIOD OF TIME PROPOSED RULE SHOULD BE IN EFFECT: A minimum of ten years

(5) ARE YOU REPRESENTING AN INDIVIDUAL OR AN ORGANIZATION?

[X] YES [ ] NO

IF YES, NAME AND ADDRESS OF INDIVIDUAL OR ORGANIZATION (OPTIONAL)

Individual

Organization Health People: Community Preventive Health Institute

(6) PETITION SUBMITTED BY:

NAME: Chris Norwood

ADDRESS: 552 Southern Blvd

CITY/STATE/ZIP
CODE: 10455

DAYTIME TELEPHONE NUMBER: 718-585-8585 Ext. 239

SIGNATURE: Chris Norwood

DATE: October 29, 2018

NOTE: ANY CHANGE IN THE ABOVE INFORMATION MUST BE COMMUNICATED PROMPTLY IN WRITING TO THE SECRETARY TO THE BOARD.

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(1) RULE TO BE CONSIDERED (State the purpose of the rule and what you want to accomplish through the rule you are proposing. Also, if possible, provide the wording of the rule as you believe it should be adopted):

The rule to be considered is for the New York City Department of Health and Mental Hygiene ("the Department") to annually issue a public report which clearly numerates New York City's diabetes-related lower limb amputations (including toe amputations) by number per 1,000 people with diabetes and by a standard population rate (number of amputations per adults with diabetes per 100,000 population) citywide and by borough and zip code.

The language for adoption is that:

The New York City Health Code will now include diabetes-related lower limb amputation, including toe amputations, in provision §11.03 which defines diseases and conditions of public health interest that are reportable and b. the New York City Department of Health and Mental Hygiene will utilize reported amputations to annually compile and issue a publicly available report which clearly numerates New York City diabetes-related lower limb amputations (including toe amputations) by number per 1,000 people with diabetes and by a standard population rate (number of amputations per adults with diabetes per 100,000 population). Both amputation data sets will be provided by an overall citywide rate and by borough and zip code rates.

The purpose of reporting lower-limb amputations is to enable the City Department of Health, and stricken communities, to focus on the prevention of a crippling complication of diabetes which has increased at a staggering rate.

(Add Attachments as needed)

(2) BOARD'S AUTHORITY TO PROMULGATE THE PROPOSED RULE:

[X] New York City Health Code – Section Article 11.03

[X] New York City Charter – Section 556, 556(c)(2) and (4), 558(b) and (c), 1043

[X] Other (Please Specify) New York State Public Health Law Section 580(3)

[ ] Unknown

(3) ARGUMENT(S) IN SUPPORT OF ADOPTION OF THE RULE: (Why should this rule be adopted?)

Regular reporting on diabetes-related amputations is the first step to preventing them and that the Department has not recognized diabetes-related lower limb amputation as a major condition even as it year after year collects similar information on syndromes and conditions that occur rarely.

According to New York State Department of Health Prevention Quality Indicator (PQI) reports, diabetes related lower-limb amputation increased by 55% overall in New York City between 2009 and 20016, an astounding increase in a crippling complication. Yet the New York City Department of Health and Mental Hygiene has made no response to an increase in amputations which far outstrips most syndromes and conditions that are recorded and reported under Article 11.03. Some reported conditions---for example, ricin, drowning, leprosy, tetanus---barely affect a handful of people while lower-limb amputation has fast spread across communities, especially low-income communities.

Diabetes-related lower limb amputation is significantly preventable with proper clinical care and targeted patient education.

Providing both the specific rate of amputation and the population rate per 100,000 is needed to assure a full picture of the epidemiology and impact of diabetes-related foot amputation. The population rate provides a picture of overall trends from year-to-year; this serves as overall measure of the public health need to focus on reducing amputations. The specific rate per 1,000 people with diabetes enables diabetics in communities across the city to monitor and judge how well or badly health systems in their borough---and zip code---are providing diabetes care and key patient education. The specific rate per 1,000 enables diabetics to directly compare their risk for amputation to the risk for diabetics in other New York City communities and judge the need for urgent reforms in diabetes care in their communities.

(Add attachments as needed)

(4) PERIOD OF TIME PROPOSED RULE SHOULD BE IN EFFECT: A minimum of ten years

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IF YES, NAME AND ADDRESS OF INDIVIDUAL OR ORGANIZATION (OPTIONAL)

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(1) RULE TO BE CONSIDERED (State the purpose of the rule and what you want to accomplish through the rule you are proposing. Also, if possible, provide the wording of the rule as you believe it should be adopted):

The rule to be considered is for the New York City Department of Health and Mental Hygiene to issue an annual public report of Hemoglobin A1C ("A1C") levels collected through the New York City Diabetes registry which receives lab results of all A1C tests performed on New York City residents. These tests will be annually reported by number of tests and percentage of all tests in four groups----below 5.7 (Normal range), 5.7 to 6.4 (Pre-diabetes range), 6.5 to 8 (Diabetes), 9 or above (Uncontrolled diabetes). These test numbers and percentages will be reported for the city as a whole and by borough and zip code.

The language for adoption is that "The New York City Department of Health and Mental Hygiene will issue an annual public report of A1C levels collected through the New York City Diabetes registry which receives lab results of all A1C tests performed on New York City residents. These tests will be annually reported by number of tests and percentage of all tests in four groups----below 5.7 (Normal range), 5.7 to 6.4 (Pre-diabetes range), 6.5 to 8 (Diabetes), 9 or above (Uncontrolled diabetes. These test numbers and percentages will be reported for the city as a whole and by borough and zip code."

The purpose of the proposed rule is to assure that the important data set of the NYC Registry is fully used to monitor the city's progress---or lack thereof---in reducing A1C levels and to provide regular information to direct resources where they are most needed for prevention, for reducing uncontrolled diabetes and to end diabetes disparities.

Amendment to Health Code Article 13, which took effect January 15, 2006 requires that laboratories report the results of a blood test called A1C for New York City residents to the Department of Health and Mental Hygiene. These test results are entered in the Registry which, according to the department, it "uses in various projects to help the diabetic population in New York City."

The Department, therefore, already has the authority to collect and report on aggregate A1C tests. Despite the importance of registry information, especially to understand specific community needs for diabetes prevention and self-care education, the New York City Department of Health and Mental Hygiene has only evidently produced three publicly available (on-line) reports on citywide and borough A1C levels since it

obtained authority for the A1C Registry in 2006!

In other words, this information has been collected and substantially wasted for more than a decade!

(Add Attachments as needed)

(2) BOARD'S AUTHORITY TO PROMULGATE THE PROPOSED RULE:

[X] New York City Health Code – Section Article 13

[ ] New York City Charter – Section _____

[ ] Other (Please Specify) _____

[ ] Unknown

(3) ARGUMENT(S) IN SUPPORT OF ADOPTION OF THE RULE: (Why should this rule be adopted?)

Public annual reporting of A1C levels and their geographic patterns will enable the public health and medical systems, as well as at risk communities, to address both the greatest opportunities for diabetes prevention and the greatest needs for diabetes self-care education.

The patterns of pre-diabetes A1C levels will show where the need and opportunity for prevention is largest just as the community patterns of A1Cs above 9 will show where self-management care and education is critical to helping people avoid dire diabetes outcomes such as blindness, dialysis and amputation.

Moreover, in the past three years, propelled by projects under the federal/state DSRIP Waiver, annual A1C testing has occurred for many thousands more Medicaid patients than previously. Results from all this increased A1C testing are now sitting in the Registry, completely unused for public health initiatives and planning diabetes prevention and care.

Since the New York City Department of Health and Mental Hygiene has, itself, evidently only issued three public reports on A1C levels in the more than 11 years it has been collecting this information, The Board of Health clearly needs to make a rule requiring an annual report to assure communities and health systems are able to put Registry data to appropriate use.

Even the three reports show an alarming situation which should be regularly and continuously monitored

as for any epidemic and emergency. In 2013, the Department reported that in seven neighborhoods (Fordham-Bronx Park, Crotona-Tremont, Hunts Point-Mott Haven, Bedford Stuyvesant-Crown Heights, East New York, Williamsburg-Bushwick, and East Harlem) more than 20% of adults with diabetes have an A1C level greater than 9%.

In 2015, the Department reported that the average A1C for New York City (NYC) adults with diabetes ranged between 7.6% and 7.7% annually from 2006 through 2012 and less than half of adults (44% to 47%) with diabetes had good blood sugar control (A1C less than 7%) annually from 2006 through 2012.

And, in 2017, the Department reported that, in ten NYC neighborhoods (Fordham-Bronx Park, Crotona-Tremont, High Bridge-Morrisania, Hunts Point-Mott Haven, Bedford Stuyvesant-Crown Heights, East New York, East Flatbush-Flatbush, Williamsburg-Bushwick, Central Harlem-Morningside Heights, East Harlem) more than one in five residents with diabetes experienced long-term high blood sugar levels, and these neighborhoods accounted for nearly 40% of the total population experiencing long-term high blood sugar levels.

In sum, even with three reports, we see a sustained pattern where the poorest neighborhoods are struggling, without attention and help, under not just diabetes, but severe, life-impairing blood sugar (A1C) levels.

The neglect to regularly report on the patterns of A1C levels captured in the Diabetes Registry means that the New York City Department of Health and Mental Hygiene has simply neglected to properly track the diabetes epidemic, even though it can.

(Add attachments as needed)

(4) PERIOD OF TIME PROPOSED RULE SHOULD BE IN EFFECT: A minimum of ten years

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