§ 225. Public health and health planning council; powers and duties; sanitary code. 1. The public health and health planning council shall, at the request of the commissioner, consider any matter relating to the preservation and improvement of public health, and may advise the commissioner thereon; and it may, from time to time, submit to the commissioner, any recommendations relating to the preservation and improvement of public health.

2. The public health and health planning council shall appoint one or more advisory committees expert in the major areas of public health concern, including but not limited to health education, health manpower, economics and delivery of health service, sanitation problems and interprofessional relationships. Members of advisory committees need not be members of the public health and health planning council.

3. The public health and health planning council shall have no executive, administrative or appointive duties except as otherwise provided by law.

4. The public health and health planning council shall have power by the affirmative vote of a majority of its members to establish, and from time to time, amend and repeal sanitary regulations, to be known as the sanitary code of the state of New York, subject to approval by the commissioner.

5. The sanitary code may:

(a) deal with any matters affecting the security of life or health or the preservation and improvement of public health in the state of New York, and with any matters as to which the jurisdiction is conferred upon the public health and health planning council;

(b) prescribe the qualifications of public health personnel of the department, directors of divisions, regional health directors, state district health officers, local health officers; county and city health commissioners, deputy and assistant county or city health commissioners; public health administrators; county health directors and deputy and assistant county health directors; directors of county physically handicapped children's programs; directors of medical care (local

assistance programs); public health nurses; public health physical therapists; public health educators; nurse-midwives; medical social workers; public health social workers; radiation safety officers; sanitary and public health engineers, sanitarians, sanitary inspectors; public health veterinarians; operators of public water treatment and purification plants; and the qualifications of persons not paid from public funds and who are appointed and employed after January first, nineteen hundred forty-seven, as operators of water treatment or purification plants owned or operated by water companies, corporations or by a person or group of persons serving the general public residing in a political subdivision or any part thereof;

(c) establish regulations for the promotion of health in any or all Indian reservations;

(e) establish regulations for the maintenance of hospitals for communicable diseases;

(f) prescribe standards of efficiency for such laboratories as are under contract with the commissioner for the examination of specimens received from local health officers or physicians for routine examinations and analyses;

(g) set forth the diseases for which specimens shall be submitted for examination to a laboratory approved by the department.

(h) designate the communicable diseases which are dangerous to the public health;

(i) set forth the nature of the information required to be furnished by every physician in his notice to the department of each case of communicable disease.

(j) establish regulations in respect to contact or communication with or use of infected premises, places or things and prescribe the method or methods for the purification and cleansing of the same before general intercourse with the said premises, places or things, or use thereof is allowed;

(k) establish regulations defining the methods and precautions to be observed in disinfecting, cleansing or renovating premises vacated by persons suffering from a communicable disease;

(l) prescribe the qualifications that shall be possessed by persons in charge of diagnostic clinical laboratories as provided by the workmen's compensation law;

(m) require that application be made for a permit to operate a farm or food processing labor camp as defined in the sanitary code; authorize appropriate officers or agencies to issue such a permit when the applicant is in compliance with the established regulations; prescribe standards for living quarters at farm and food processing labor camps, including provisions for sanitary conditions; light, air, and safety; protection from fire hazards; maintenance; and such other matters as may be appropriate for security of life or health, provided however, that the provisions of the sanitary code established pursuant to the provisions hereof shall apply to all farm and food processing labor camps intended to house migrant workers and which are occupied. In the preparation of such regulations, the public health and health planning council may request and shall receive technical assistance from the board of standards and appeals of the state department of labor and the state building code commission. Such regulation shall be enforced in the same manner as are other provisions of the sanitary code;

(n) prescribe the qualifications of occupational therapists employed in public general hospitals and tuberculosis hospitals and sanitoria maintained pursuant to the general municipal law;

(o) require that application be made for a permit to operate a temporary residence as defined in the sanitary code, or to hold or promote by advertising or otherwise a mass gathering which is likely to attract five thousand people or more and continue for twenty-four hours or more and authorize appropriate officers or agencies to issue such a permit when the applicant is in compliance with the established regulations and when it appears that such temporary residence can be operated or such gathering held without hazard to health and safety; establish regulations with respect to such gatherings to provide for: the furnishing of adequate undertakings to secure full compliance with the sanitary code and other applicable law, adequate and satisfactory water supply and sewerage facilities, adequate drainage, adequate toilet and lavatory facilities, adequate refuse storage and disposal facilities, adequate sleeping areas and facilities, wholesome food and sanitary food service, adequate medical facilities, insect and noxious weed control, adequate fire protection, and such other matters as may be appropriate for security of life or health. In his review of applications for permits for the holding or promoting of such a

gathering the permit-issuing official may require such plans, specifications and reports as he shall deem necessary for a proper review, and in his review of such applications, as well as in carrying out his other duties and functions in connection with such a gathering, the permit-issuing official may request and shall receive from all public officers, departments and agencies of the state and its political subdivisions such cooperation and assistance as may be necessary and proper;

(p) establish regulations in respect to ionizing radiation and nonionizing electromagnetic radiation except in relation to special nuclear materials in quantities sufficient to form a critical mass and excluding the handling and disposal of radioactive wastes and the release of radioactivity to the environment regulated by the state department of environmental conservation. Such regulations may require the posting of a bond or other security;

(q) authorize appropriate officers or agencies to register radiation installations as defined in the sanitary code, issue licenses for the transfer, receipt, possession and use of radioactive materials, other than special nuclear materials in quantities sufficient to form a critical mass, render such inspection and other radiation protection services as may be necessary in the interest of public health, safety and welfare, charge registration fees not to exceed a rate of fifty dollars per installation per annum and, subject to the approval of the commissioner and, in the case of charges by the department, the director of the budget, charge adequate and reasonable fees for licensing, inspection and other radiation protection services not exceeding the estimated costs of such services, except that, with the approval of the commissioner, one or more services may be rendered without any charge.

(r) establish regulations in respect to emergency medical treatment, equipment and services at public functions likely to attract 5,000 or more people, taking into consideration, differences in type, size and duration of function, composition of audience, and accessibility and adequacy of emergency health facilities in the vicinity.

(s) require that application be made for a permit to manufacture for sale at retail frozen desserts as defined in the sanitary code; authorize appropriate officers or agencies to issue such a permit for a fee of twenty-five dollars per annum.

(t) facilitate epidemiological research into the prevention of environmental diseases, by establishing regulations designating as environmentally related diseases those pathological conditions of the body or mind resulting from contact with toxins, mutagens or teratogens in solid, liquid or gaseous form, or in the form of ionizing radiation or nonionizing electromagnetic radiation, and by requiring the reporting of such diseases or suspected cases of such diseases to the department by physicians, medical facilities and clinical laboratories. Any information provided to the department pursuant to such regulations shall be in the form required by the department, and shall be kept confidential and used by the commissioner pursuant to the provisions of paragraph (j) of subdivision one of section two hundred six of this chapter, and other applicable laws relating to the confidential treatment of patient and medical data, except that the department may share identifying or other information with a local health department when, and only to the extent that, the department determines this information is necessary to protect public health against the hazards associated with exposure to the material. Data shared with the local health department shall not be further disclosed and shall be otherwise subject to the confidentiality requirements of paragraph (j) of subdivision one of section two hundred six of this chapter and any other applicable laws related to the confidential treatment of patient and medical data.

(u) (i) require bacteriological testing of bottled water sold or distributed for use in this state. Such code shall establish requirements for sampling at regular time intervals and in number proportionate to the frequency of production days and the total volume of bottled water sold or distributed for use in this state.

(ii) require physical, inorganic chemical, organic chemical and radiological testing of bottled water. Such testing requirements shall meet or exceed the required parameters and frequencies for public water supplies. Testing for organic and inorganic chemicals shall occur at least annually. Testing for radiological content shall occur at least annually. Such testing shall be conducted on source water and bottled water product. The department shall designate a quarterly period when such annual tests will be conducted. Samples for such testing shall be taken on each production line and tested in labs approved by the

department. Lab reports generated from such testing shall be sent directly to the department.

(iii) establish a procedure by which purveyors of bottled water shall certify, to the department, that their bottled water complies with the organic, inorganic, radiological and other water content standards established pursuant to this section. Such certifications shall be submitted to the department in accordance with the testing schedules indicated in subparagraph (ii) of this paragraph, for source water and bottled water product. The department shall at least on a quarterly basis compare random shelf samples of each product line of bottled water and test them for compliance with the standards established pursuant to this section. If the findings of the random sampling comparison fail to comply with the standards established for bottled water pursuant to this section, the purveyor shall be subject to the penalties and sanctions of this chapter.

(iv) require purveyors who provide sodium content information on bottled water labels to numerically indicate in a manner consistent with federal law and regulation the sodium content of bottled water on labels affixed to bottled water.

(v) require purveyors to indicate, clearly and conspicuously, the bottling date by day, month and year on labels affixed to bottled water.

(vi) require the department of health to give public notice of, and make available to retailers of bottled water, the annual listing of certified bottled water purveyors that indicates only such certified waters may be lawfully sold. If within the annual notification cycle any purveyor is decertified, the department shall give public notice of such decertification. The department shall maintain and make available an updated list of certified purveyors for retailers.

(v) provide for the issuance of variances and waivers from requirements for providing lifeguards at swimming pools and bathing beaches that are part of temporary residences. The code shall provide that variances and waivers shall not expire upon change in ownership of the facility.

5-a. The sanitary code shall provide for the supervision of surf beaches customarily used for swimming or bathing which are owned or operated by a homeowners association by persons qualified as surf

lifeguards according to standards for public surf beaches established in such code. For purposes of this subdivision, "surf beaches owned or operated by homeowner associations" shall include bathing beaches owned and operated by a condominium which is property subject to article nine-B of the real property law; a cooperative, in which the property is owned or leased by a corporation, the stockholders of which are entitled to use the bathing beach solely by reason of their ownership of stock in the corporation and occupy apartments for dwelling purposes, provided an "offering statement" or "prospectus" has been filed with the department of law; or an incorporated or unincorporated property association, by which all members own residential property in a fixed or defined geographical area with deeded rights to use, with similarly situated owners, a defined bathing beach.

5-b. Places of public assembly on-site cardiac automated external defibrillator.

(a) Notwithstanding the provisions of paragraph (r) of subdivision five of this section, the sanitary code shall provide that each place of public assembly shall provide and maintain on-site automated external defibrillators (AED), as defined in paragraph (a) of subdivision one of section three thousand-b of this chapter, in quantities and types deemed by the commissioner to be adequate to ensure ready and appropriate access for use during emergencies.

(b) Whenever places of public assembly are used for public or private sponsored events or activities the owners, operators and administrators responsible for such place of public assembly shall ensure the presence of at least one staff person or volunteer who is trained, pursuant to paragraph (a) of subdivision three of section three thousand-b of this chapter, in the operation and use of an AED.

(c) For the purposes of this subdivision places of public assembly shall be those with an occupancy capacity of at least one thousand people and shall include: (i) all stadiums, ballparks, gymnasiums, field houses, arenas, civic centers and similar facilities used for the conduct of sporting events; and (ii) concert halls, recital halls, theatres, indoor and outdoor amphitheatres or other auditoriums used for the presentation of musical renditions or concerts. Places of public assembly shall not include halls owned by churches, religious

organizations, granges, public associations, or free libraries as defined by section two hundred fifty-three of the education law.

(d) Places of public assembly and staff pursuant to paragraphs (a) and (b) of this subdivision shall be subject to the requirements and limitations of section three thousand-b of this chapter.

(e) Pursuant to sections three thousand-a and three thousand-b of this chapter, any public access defibrillation provider, or any employee or other agent of the provider who, in accordance with the provisions of this section, voluntarily and without expectation of monetary compensation renders emergency medical or first aid treatment using an AED which has been made available pursuant to this section, to a person who is unconscious, ill or injured, shall be liable only pursuant to section three thousand-a of this chapter.

(f) Nothing in this subdivision shall be construed to prohibit a political subdivision of the state from continuing to implement and enforce any local law or regulation related to the placement of automated external defibrillators in places of public assembly as defined in this subdivision, in effect prior to the effective date of this subdivision. Where a political subdivision has a local law in effect prior to the effective date of this subdivision, the provisions of this subdivision shall have no force and effect until such time as the political subdivision repeals its local law.

5-c. Notwithstanding the provisions of paragraph (r) of subdivision five of this section, the sanitary code shall:

(a) provide that any public or private surf beach or swimming facility which is required by any other provision of law to be supervised by a surf lifeguard qualified according to the standards of such code, shall provide and maintain on-site automated external defibrillator (AED) equipment, as defined in paragraph (a) of subdivision one of section three thousand-b of this chapter. Such swimming facilities and staff shall be subject to the requirements and limitations of section three thousand-b of this chapter.

(b) provide that at least one lifeguard trained pursuant to paragraph (a) of subdivision three of section three thousand-b of this chapter in the operation and use of an AED shall be present during all periods of required supervision.

5-d. The state sanitary code shall:

(a) require that all lifeguards employed at children's overnight, summer day, and travelling summer day camps as defined in section thirteen hundred ninety-two of this chapter, meet the following qualifications:

(i) be at least seventeen years of age, except:

(A) a maximum of fifty percent of the required total number of lifeguards on duty may be at least fifteen years of age provided they are under the supervision of a camp aquatics director as required by part seven of the state sanitary code; and

(B) lifeguards required for wilderness swimming must be at least eighteen years of age; and

(ii) meet lifeguarding, first aid and CPR certification requirements for minimum lifeguard supervision levels as required in parts six and seven of the state sanitary code; and

(b) require all qualified lifeguards while on duty at the waterfront to not be engaged in duties or activities which distract them from the direct supervision of the waterfront.

5-e. Places of public assembly on-site epinephrine devices.

(a) Notwithstanding the provisions of paragraph (r) of subdivision five of this section and section three thousand-c of this chapter, the sanitary code shall provide that each place of public assembly as specified in this section shall be required to maintain and make available on-site epinephrine devices, as defined in paragraph (b) of subdivision one of section three thousand-c of this chapter, in quantities and types deemed by the commissioner to be adequate to ensure ready and appropriate access for use during emergencies.

(b) Whenever places of public assembly are used for public or private sponsored events or activities the owners, operators and administrators responsible for such place of public assembly shall ensure the presence of at least one staff person or volunteer who is trained, pursuant to paragraph (c) of subdivision two of section three thousand-c of this chapter, in the operation and use of an epinephrine device.

(c) For the purposes of this subdivision, "places of public assembly" shall mean those with an occupancy capacity of at least one thousand

people and shall include: (i) all stadiums, ballparks, gymnasiums, field houses, arenas, civic centers and similar facilities used for the conduct of sporting events; and (ii) concert halls, recital halls, theatres, indoor and outdoor amphitheaters or other auditoriums used for the presentation of musical renditions or concerts. Places of public assembly shall not include halls owned by churches, religious organizations, granges, public associations, or free libraries as defined by section two hundred fifty-three of the education law.

(d) Places of public assembly and staff pursuant to paragraphs (a) and (b) of this subdivision shall be subject to the requirements and limitations of section three thousand-c of this chapter.

(e) Pursuant to sections three thousand-a and three thousand-c of this chapter, any public access epinephrine device provider, or any employee or other agent of the provider who, in accordance with the provisions of this section, voluntarily and without expectation of monetary compensation renders emergency medical or first aid treatment using an epinephrine device which has been made available pursuant to this section, to a person who is unconscious, ill or injured, shall be liable only pursuant to section three thousand-a of this chapter.

(f) Nothing in this subdivision shall be construed to prohibit a political subdivision of the state from continuing to implement and enforce any local law or regulation related to the placement of epinephrine devices in places of public assembly as defined in this subdivision, in effect prior to the effective date of this subdivision. Where a political subdivision has a local law in effect prior to the effective date of this subdivision, the provisions of this subdivision shall have no force and effect until such time as the political subdivision repeals its local law.

(g) (i) Operation of an epinephrine device pursuant to this section shall be considered first aid or emergency treatment for the purpose of any statute relating to liability.

(ii) Operation of an epinephrine device pursuant to this section shall not constitute the unlawful practice of a profession under title eight of the education law.

6. The public health council shall, no later than January first, nineteen hundred seventy-four, prescribe standards and establish

regulations for summer day and children's camps which derive all water from a public water supply system and all sewage therefrom is discharged to a public sewer system. Such standards and regulations shall include provisions with respect to: operators, counsellors, living and sleeping quarters, food service facilities, recreational quarters and facilities, occupancy of living and sleeping quarters, and other facilities, protection from fire hazards, safety of arts and crafts and recreational equipment, boating safety, emergency health services, water supply and sewage facilities, refuse storage and disposal facilities, and such other matters as may be appropriate for protection and security of life or health. For purposes of this subdivision, the terms, a "summer day camp" and a "children's camp" shall have the same definition as appears for those terms in the sanitary code.

7. The public health council shall, no later than January first, nineteen hundred seventy-four, prescribe standards and establish regulations for motels and hotels, as those terms are defined in the sanitary code and which derive all water from a public water supply system and all sewage therefrom is discharged to a public sewer system. Such standards and regulations shall include provisions with respect to: living and sleeping quarters, food service facilities, occupancy of living and sleeping quarters, and other facilities, protection from fire hazards, water supply and sewage facilities, refuse storage and disposal facilities, and such other matters as may be appropriate for protection and security of life or health, provided, however, that the provisions of this section shall not apply in cities having a population of one hundred twenty-five thousand or more.

8. The sanitary code shall delineate specific procedures for public notification of public health hazards to be used by public water suppliers. Such procedures shall include notification of the municipality wherein the public water system is located and the police department serving such municipality.

9. Notwithstanding the provisions of any general, special or local law to the contrary, in cities having a population of one million or more, the sanitary code shall provide that any installation, service,

maintenance, testing, repair or modification of a backflow prevention device or any related work shall be performed in conformance with the plumbing code of any such city. All employees of a licensed plumber who perform testing of backflow prevention devices shall satisfactorily complete an approved course in backflow prevention device testing. Nothing in this subdivision shall require the commissioner to certify the completion of such approved course by such employees. For the purposes of this subdivision, "backflow prevention device" means an acceptable air gap, reduced pressure zone device, double check valve assembly or equivalent protective device acceptable to the commissioner that is designed to prevent or contain potential contamination of a public water system by means of cross-connection control.

10. Notwithstanding the provisions of any general, special or local law to the contrary, the sanitary code of the state of New York shall provide that in any county, city having a population of less than one million, town or village having a plumbing code, the installation, service, maintenance, testing, repair or modification of a backflow prevention device or any related work shall be performed in accordance with such plumbing code. A person licensed under such plumbing code and any of his employees who perform testing of backflow prevention devices shall satisfactorily complete a course in backflow prevention device testing that has been approved by the department. Nothing in this subdivision shall require the commissioner to certify the completion of such approved course by such licensee or employees. For the purposes of this subdivision, "backflow prevention device" means an acceptable air gap, reduced pressure zone device, double check valve assembly or equivalent protective device acceptable to the commissioner that is designed to prevent or contain potential contamination of a public water system by means of cross-connection control.

11. The public health council, in consultation with the superintendent of financial services, shall, no later than March thirty-first, nineteen hundred ninety-three, report to the governor and the legislature regarding the efficacy of developing wellness incentives that could be used to allow premium reductions for certain individuals from established community rates in the individual and small group health

insurance markets. Wellness incentives to be considered shall include, but not be limited to, smoking status, physical fitness activities, frequency of physician fitness evaluations and dietary habits. The council shall consider the effects of such wellness incentives on the individual and small group health insurance markets and on the health status of the population as a whole.

12. Notwithstanding the provisions of any general, special or local law to the contrary, a charitable or not-for-profit organization shall not be in violation of this chapter or any rule or regulation thereunder, including the sanitary code, for the possession, preparation, distribution or service of game or wild game, donated pursuant to section 11-0917 of the environmental conservation law. Game or wild game means any deer or big game, or portions thereof, as defined in section 11-0103 of the environmental conservation law, taken by lawful hunting.