



**THE CITY OF NEW YORK
CITY HALL
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Testimony of Joey Kara Koch,
Special Counsel to the Mayor, Concerning Amending the Administrative Code in
Relation to Healthcare Expenses for Certain 9/11 Workers,
Before the
New York City Council Committee on Civil Service and Labor

June 4, 2009

Good afternoon Chair Martinez and members of the Committee, my name is Joey Kara Koch and I am Special Counsel to Mayor Bloomberg. I am here today to testify on World Trade Center (WTC) health issues and Intro No. 714, which would amend Section 12-127 of the Administrative Code to create a line-of-duty (“LODI”) WTC presumption for uniformed employees.

By way of background, I presently sit for the Mayor on the Police and Fire Pension Boards. I was also staff counsel to the Panel convened by Mayor Bloomberg on the fifth anniversary of the attacks to assess the health impacts of 9/11 and what needed to be done to ensure that those who are sick, or could become sick, get the treatment they need. I have since worked with the Health Department and other agencies to implement those recommendations, including the pursuit of federal legislation to provide a long-term 9/11-health medical monitoring and treatment program.

LODI Background and Procedure

I will begin with a discussion of current WTC-related line-of-duty or LODI practices, and the Administration's efforts to ensure continued medical treatment for responders and other populations affected by the September 11, 2001 terrorist attacks. For active duty fire, police and sanitation uniformed employees who participated in WTC rescue, recovery and cleanup operations, the LODI process is the primary means to obtain treatment for illnesses and injuries arising out of that service. Non-uniformed City employees are generally compensated through the Workers' Compensation system. Moreover, all city employees who participated in WTC operations had health coverage on 9/11 and still do if currently employed by the city or retired with vested health benefits.

When a uniformed employee claims that an illness or injury arises from service at the World Trade Center, the agency medical division evaluates that LODI claim based on individualized determinations of an employee's conditions, viewed in light of the latest available medical evidence. Once an agency medical professional determines that a uniformed employee's ailment is work related, the employee is entitled to free health care services, including physician visits, diagnostic tests and inpatient care.

Until relatively recently, uniformed City employees obtaining LODI coverage had to pay for medications out of pocket and then later seek reimbursement. As an alternative, many active uniformed employees used their union medication coverage, imposing a significant cost to union health benefit funds. This has improved markedly in recent years. Firefighters and police officers receive prescription-drug card allowing them to obtain certain LODI medications at no cost.

WTC Centers of Excellence and Other Efforts

Central to the provision of health care to uniformed and other City employees who participated in WTC operations are the three WTC Centers of Excellence: 1) the FDNY WTC Medical Monitoring and Treatment Program; 2) the WTC Medical Monitoring and Treatment Program at the Mount Sinai Medical Center; and 3) the New York City Health and Hospital Corporation's WTC Environmental Health Center.

While the full extent of the health effects resulting from the WTC attacks are unknown, medical evidence suggests a variety of short-term and medium-term health impacts. Along with providing medical monitoring and treatment to participants in WTC operations and others facing 9/11-related health impacts, the WTC Centers of Excellence and the WTC Health Registry—a partnership between the City and the federal government that includes more than 71,000 exposed people from every state in the country—continue to generate valuable research adding to our body of knowledge about these health effects. Earlier this year, in fact, the Registry applies for a three-year, \$12 million grant to continue surveying a population that includes many uniformed responders about their health in the years to come.

At the federal level, these Centers have been supported through ad hoc appropriations, with the HHC non-responder program almost entirely city-funded until recently. As the City has pressed repeatedly, however, addressing the long-term effects of this attack will require federal legislation to provide lasting WTC monitoring and treatment. A bill presently pending before Congress, H.R. 847, would achieve these goals. While the Administration has concerns regarding some provisions in the bill

related to cost-sharing and oversight, it represents an important step towards establishing a long-term federal program to address the health impacts of 9/11. We are confident that Congress can address our remaining concerns and present legislation for President Obama's signature before another anniversary of the attacks passes.

Along with the Centers of Excellence and the WTC Health Registry, two additional efforts bear mentioning. Since 2001, NYPD has documented, evaluated, tracked and covered treatment for members who have come forward with WTC-related symptoms. NYPD has a large work force that participated in rescue, recovery and clean-up operations, and its Medical Division continues to offer annual monitoring for all its exposed uniformed members.

In addition, in 2008, the City's Department of Health and Mental Hygiene launched the 9/11 Benefit Program for Mental Health & Substance Use Services, which provides coverage for mental health services for any New Yorker directly affected by the attack. Since its April 2008 inception, about 2,400 individuals have enrolled in the program, and approximately 200 people a month continue to initiate the process to verify eligibility.

The City's Position on Intro No. 714

As the efforts I have described make clear, the administration strongly supports efforts to ensure that people who are sick, or who could become sick as a result of 9/11—including the City's first responders—get the care they need and deserve. Turning to Intro No. 714, while the bill is well-intentioned, it appears to create a presumption of LODI coverage for the same WTC-related conditions in the state pension law. The

Administration opposed the WTC pension presumption bill because it eliminated medical judgment from a broad class of pension determinations; for the same reason, we cannot support Intro No. 714.

The bill before the Council will certainly increase the costs of medical coverage—in fact, it is extremely difficult to estimate what those cost increases would be. And particularly in the midst of the current economic crisis, the City must act with extreme caution on any measure that would increase demands on City taxpayers. But that is not the principal basis for the City’s objection to this bill. As with any publicly supported medical benefit, individual medical evaluations, viewed in light of the latest in medical research, must determine whether a specific illness or injury resulted from participation in WTC rescue, recovery and clean-up operations.

With respect to 9/11-related illnesses, thanks to the Centers of Excellence and the WTC Health Registry, the body of knowledge on the physical and mental health impacts of 9/11 continues to expand. Evidence-based guidelines have been developed and widely distributed by the Health Department to assist clinicians in identifying and treating WTC-related illness. In addition, the Mayor has formed a special medical panel comprising City medical experts, as well as experts from the Centers of Excellence, and other experts in the fields relevant to 9/11-related conditions. The panel is charged with studying and reporting on the latest research, and assessing whether the resources available to deal with the health impacts of 9/11 are adequate. A principal goal of the panel is to ensure that the latest findings and research are brought to bear in 9/11-related medical determinations, whether made in a LODI case, at a Center of Excellence, or anywhere in the City. But as the administration has repeatedly made clear, this is not an area

appropriate for presumptions. With scientists and physicians learning more about this subject every day, the Administration cannot support a bill that effectively strips medical professionals of the ability to use their professional judgment and knowledge in making informed conclusions.

To be clear, the City recognizes that the health impacts of the September 11th attacks warrant significant attention and a long-term commitment to monitoring and treatment. As I noted above, the City has long pressed for long-term federal legislation to address the health impacts of the attacks, and Mayor Bloomberg and members of the administration have repeatedly traveled to Washington, D.C. to lobby Congress for long-term federal funding. Most recently, the Administration testified at a joint hearing of this committee and the Lower Manhattan Development Committee to testify in support of a Council resolution on this subject (Reso. 1924).

While we do not support this bill, the Administration is eager to work with the Council to discuss other ways we can work together to address the long-term health impacts of the WTC attacks.

Thank you, and I can answer any questions you may have.