

EXECUTIVE ORDER No. 95

August 10, 2006

**TRANSFER OF THE DEFENSE OF MEDICAL MALPRACTICE CLAIMS AND  
ACTIONS AGAINST THE NEW YORK CITY HEALTH AND HOSPITALS  
CORPORATION FROM THE CITY TO SUCH CORPORATION**

WHEREAS, the New York City Health and Hospitals Corporation (HHC) and the City have determined that it would be in the public interest for HHC, with the continued assistance of the Law Department, to assume primary responsibility for defending the medical malpractice claims and actions brought against it and its affiliates and staff;

NOW, THEREFORE, by the power vested in me as Mayor of the City of New York, it is hereby ordered:

Section 1. The City shall transfer to HHC and HHC shall assume the function currently performed by the Law Department of providing representation for HHC and its affiliates and staff in medical malpractice claims and actions. The transfer shall take place in two phases:

- a. Effective on a date, on or after August 1, 2006, to be agreed upon by the City and HHC, contracts for representation by outside counsel on claims and actions covered by this Order shall be assigned to HHC and HHC shall assume responsibility for fulfillment and oversight of such contracts; and
- b. Effective December 31, 2006, or as soon as practicable thereafter, the defense of medical malpractice claims and actions covered by this Order and ancillary functions currently performed by staff of the Law Department shall be transferred to HHC.

§ 2. The Law Department shall continue to provide appellate representation on all medical malpractice claims and actions to HHC, unless the Law Department and HHC agree to make other arrangements for such representation.

§ 3. With the purpose of ensuring continuity in operation of the functions described in Section 1, the Law Department and HHC may make appropriate arrangements, prior to the transfer date, with respect to: (a) use by HHC of Law Department facilities; (b) appropriate disposition of contracts and agreements entered into by the Law Department in relation to

functions being transferred; and (c) any other matters, including but not limited to budgetary arrangements and details of arrangements in connection with pending claims and actions.

§ 4. The Department of Citywide Administrative Services and the Law Department shall take all steps necessary, consistent with applicable law, to implement this Order, including ensuring the transfer, pursuant to section 70(2) of the Civil Service Law, of employees substantially engaged in the performance of the functions described in section 1 of this Order. Employees who are subject to pending disciplinary charges on the date of the functional transfer, or against whom a disciplinary penalty has been assessed but not yet served or paid on or prior to such date, shall be retained in the employment of the Law Department until the resolution of the adjudicative or administrative proceedings and until any outstanding disciplinary penalty has been served or paid.

§ 5. The transfer of functions authorized and directed by this order shall be contingent upon the written concurrence of HHC, by act of the President or any other duly authorized representative thereof.

§ 6. This Order shall take effect immediately, and shall be deemed to have been in force and effect on and after August 1, 2006.

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Michael R. Bloomberg  
Mayor