

**RESOLUTION OF THE NEW YORK CITY BOARD OF HEALTH
RELATING TO VIRTUAL PARTICIPATION IN MEETINGS
DUE TO EXTRAORDINARY
CIRCUMSTANCES**

WHEREAS, by passing Chapter 56 of the Laws of 2022 (“Chapter 56”), the New York State Legislature amended Section 103 of the Open Meetings Law (“OML”); and

WHEREAS, Chapter 56 adds Section 103-a to the OML, permitting the Board of Health (“Board”) to authorize its members to attend meetings by videoconferencing under extraordinary circumstances; and

WHEREAS, OML Section 103-a(2)(a) requires the Board to adopt a resolution following a public hearing authorizing the limited use of videoconferencing under such circumstances; and

WHEREAS, OML Section 103-a(2) allows for hybrid meetings by requiring that “a minimum number of members are present to fulfill the public body’s quorum requirement in the same physical location or locations where the public can attend”; and

WHEREAS, OML Section 103-a(2)(c) requires that members be physically present at any such meeting “unless such member is unable to be physically present at any such meeting location due to extraordinary circumstances . . . including disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member’s physical attendance at such meeting”; and

WHEREAS, in accordance with OML Section 103-a(2)(d), any members attending by videoconference must, except during executive session, be “heard, seen and identified, while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon”; and

WHEREAS, OML Section 103-a(2)(g) requires that any meeting where a member attends by videoconference be recorded, posted to the New York City Department of Health and Mental Hygiene’s (“Department”) webpage within five business days, and transcribed upon request; and

WHEREAS, OML Section 103-a(2)(h) requires that members of the public be permitted to observe and participate, if authorized, in any meeting by

videoconference when a member attends by videoconference.

BE IT RESOLVED, that the Board authorizes its members who experience an extraordinary circumstance, as described above and further defined through rules and procedures adopted below, to attend meetings by videoconference as long as: (i) a quorum of the members attend in-person at one or more locations open to the public; (ii) the member can be seen, heard, and identified while the open portion of the meeting is being conducted; and (iii) as otherwise permitted under Chapter 56; and be it further

RESOLVED, that the Board adopts the written procedures set out below pursuant to OML Section 103-a(2)(b) further governing its use of videoconferencing by its members in compliance with Chapter 56.

In compliance with OML Section 103-a(2)(a), the Board, following a public hearing, authorized by resolution on June 15, 2023, approves the use of videoconferencing as described in OML Section 103-a subject to the following written procedures governing member and public attendance:

1. Board members shall be physically present at any meeting unless such member is unable to be physically present at one of the designated public meeting locations due to extraordinary circumstances.
2. For purposes of these procedures, the term “extraordinary circumstances” includes disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member’s physical attendance at such meeting.
3. If a member is unable to be physically present at one of the designated public meeting locations and wishes to participate by videoconferencing from a private location due to extraordinary circumstances, as defined, the member must notify and receive approval from the Secretary to the Board of Health or his or her designee no later than four business days prior to the scheduled meeting in order for proper notice to the public to be given. If extraordinary circumstances present themselves on an emergency basis within four business days of a meeting, the notice shall be updated as soon as practicable to include that information.
4. If there is a quorum of members participating at a physical location(s) open to the public, the Board may properly convene a meeting. A member who is participating from a remote location that is not open to in-person

physical attendance by the public shall not count toward a quorum of the Board, but may participate and vote if there is a quorum of members at a physical location(s) open to the public, provided that any member who has a disability as defined in Section 292 of the Executive Law, where such disability renders such member unable to participate in-person at any such meeting location where the public can attend, shall be considered present for purposes of fulfilling the quorum requirements at any Board meetings conducted through videoconferencing.

5. Except in the case of executive sessions conducted pursuant to OML Section 105, the Board shall ensure that its members can be heard, seen, and identified while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon. This shall include the use of name placards physically placed in front of the members or, for members participating by videoconferencing from private locations due to extraordinary circumstances, such members must ensure that their first and last name appears on their videoconferencing screen.
6. The minutes of the meetings involving videoconferencing based on extraordinary circumstances pursuant to OML Section 103-a shall include which, if any, members participated by videoconferencing from a private location due to such extraordinary circumstances.
7. Each meeting conducted using videoconferencing shall be recorded and such recordings shall be posted or linked on the Department's website within five business days following the meeting and shall remain available for a minimum of five years thereafter. Such recordings shall be transcribed upon request to the extent not done so already in the ordinary course of business.