

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ALBANY

COALITION OF CITIZENS
FOR MEDICAL CHOICE INC., *et al.*,

Petitioners,

NOTICE OF MOTION

Index No. 908359-2021

For Judgment Pursuant to Article 78 of the CPLR,

v.

NEW YORK STATE
DEPARTMENT OF HEALTH, and
KATHLEEN C. HOCHUL,
GOVERNOR OF NEW YORK,

Respondents.

MOTION MADE BY: Petitioners COALITION OF CITIZENS FOR MEDICAL CHOICE INC., *et al.* (“Petitioners”), by their undersigned counsel HOGANWILLIG, PLLC.

DATE, TIME, & PLACE OF HEARING: Friday, December 31, 2021 at 9:30 a.m., or as soon thereafter as counsel can be heard at the New York State Supreme Court, Albany County, before the Hon. Roger D. McDonough, A.J.S.C., 16 Eagle Street, Room 102, Albany, New York 12207.

SUPPORTING PAPERS: Affirmation of Corey J. Hogan, Esq., duly sworn to December 15, 2021, with Exhibits A-E, annexed and attached thereto, this Notice of Motion, and any and all prior pleadings and proceedings had herein.

RELIEF REQUESTED: An Order of this Court as follows: (i) granting the Petitioners leave to renew as to this Court’s October 19, 2021 Decision and Order ([Dkt. No. 30](#)); and (ii) preliminarily during the pendency of this special proceeding, and permanently thereafter, enjoining and restraining Respondents NEW YORK STATE DEPARTMENT OF HEALTH and KATHLEEN C. HOCHUL, AS GOVERNOR OF NEW YORK (“Respondents”) from enforcing the Department of Health’s emergency regulation as is codified at 10

NYCRR § 2.61 (the “Emergency Regulation”), as enacted by the Department of Health under/pursuant to the emergency rulemaking provisions of the New York State Administrative Act (“SAPA”), as extended as Respondents have yet *again* failed to comply with SAPA; or (iii) in the alternative, granting Petitioners leave to amend their respective Verified Petition pursuant to CPLR § 3025; and (iv) granting to Petitioners such other and further relief as this Court may deem just, proper, and equitable.

GROUNDS FOR RELIEF:

CPLR §§ 2221, 3025, and 3017; and the authority set forth in the papers filed herewith by Petitioners.

ANSWERING PAPERS:

Pursuant to CPLR § 2214(b), Answering Affidavits from Respondents, if any, together with any Notice of Cross-Motion of Respondents, if any are required to be served on the undersigned no later than seven (7) days prior to the return date of this Motion.

REPLY PAPERS:

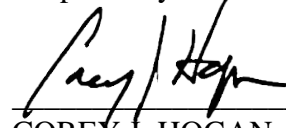
Petitioner intends on submitting Reply Papers.

ORAL ARGUMENT:

Requested.

DATED: December 15, 2021
 Amherst, New York

Respectfully Submitted,



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