Illinois Task Force on Health Planning Reform
Friday, August 15, 2008
10am-2pm

James R. Thompson Center
100 W. Randolph, Room 9-040
Chicago, Illinois

SIU School of Medicine, Telehealth Center
913 Rutledge, Room 1252
Springfield, Illinois

Task Force Members Present:
Chicago: Rep. Lisa Dugan, Senator Susan Garrett, Rep. Brent Hassert, Senator Pam Althoff, Senator Bill Brady, Rep. Lou Lang, Paul Gaynor, Sister Sheila Lyne, Claudia Lenhoff, Margie Schaps, Heather O'Donnell, William McNary
Springfield: Gary Barnett
Via phone: Rep. Renee Kosel

Ex Officio Members Present: Jeff Mark/IHFPB, David Carvalho/IDPH

Staff Present:
Illinois Public Health Institute (Chicago): Kathy Tipton, Elissa Bassler, Mairita Smiltars
Legislative Staff (Springfield): Kurt DeWeese, Melissa Black
Legislative Staff (Chicago): Greg Cox
Legislative Staff (Phone): Lee Goodson/Rep. Carlson's office
State Agency Staff: Mike Jones

Public: Suzanne Hack/Barnes Jewish Hospital (via phone)

Court Reporter: Joanne Ely

Call To Order: 10:07am

Action: Approval of 7-14-08 Minutes

- Rep. Lou Lang moved to approve the notes, motion seconded by Sister Sheila Lyne.
- Minutes approved.

Discussion regarding Facilitator

Senator Garrett- Several Task Force members have suggested that we should be winding down and coming up with options for a draft proposal. We would like to recommend today to move forward with a facilitator. There are various ways we can do this. We can start by having a discussion in the Task Force first, and the facilitator could work with each of us independently, and then we can re-discuss a draft of the recommendations. I have recommended a facilitator that works with Deloitte Consulting- Michael Englehart. He has a great knowledge of healthcare in Illinois. But I am open to other suggestions. I'm not comfortable with a facilitator that is recommended by academia or through IDPH. I am having Michael Englehart's resume copied right now for you.

Question from Senator Brady- What requirements do we have in the IDPH purchasing act to hire a facilitator?

- Carvalho- I didn't come prepared to speak on this topic today. There is either a $20 or$25 thousand dollar cap for sole source, depending on the type of service offered. If you want to offer more money than that, it has to go through an RFP process, which takes a long time. You don't have that much time, so you will basically have to stay under $20 or $25 thousand.
- Brady- I think we need to have Task Force members interview facilitators, and have a $5,000 cap fee for service.
- Garrett- I think that is a little low. The position would be quite involved.
- Brady- Well, what do you think is the right amount?
- Garrett- I don't know. I had a conversation with Michael Englehart. They can do something for us.
- Brady- I think a committee of 5 should make a recommendation to the whole Task Force at the next meeting, or even prior to the next meeting.
- Garrett- We need a facilitator now, so my worry is that if we put together a committee, it will take too long.
- Brady- I think we need to give people a week to put their names in for the position.
- Carvalho- Contracting goes through IDPH. So as soon as your committee recommends a facilitator, tell IDPH and we can contract with them.
- Lang- My view of a facilitator is someone who lets us do the work but they focus us. What I see on that piece of paper is a lot more than that. I am not sure we need someone to lay out what we have already done. I think we need someone to focus us issue by issue. We need someone to take us through the issues one-by-one, but we need to have the discussion about the issues.
- Garrett- What you see before you was a last minute request of Michael Englehart, so the list he sent is not set in stone. I am just giving you a preliminary view. You don't have to go with this person, and/or this person could do exactly as you said.
- Lang- What if the co-chairs sat with the facilitator, and laid out the issues to them, so they know which ones to go over with us?
- Carvalho- One of the things we have done is that Laura McAlpine has summarized all the testimony you have heard, and you and your facilitator can use that.
- Dugan- Is it ready?
- Carvalho- Yes, whenever you need it.
- Schaps- I support Lou Lang's statements. We need a good facilitator that can present the issues and let us decide. I would throw Laura McAlpine's name into the pot.
- Dugan- Ok let's think about it and we can discuss later. Let's get started with the testimony.

Presentation by Current Members of the Health Facilities Planning Board: Susana Lopatka, Acting Chair; James J. Burden; Courtney Avery

Susana Lopatka- I have a soft voice, so alert me if I start to fade. I am the Acting Chair of IHFPB. Thank you for opportunity to appear before you today.

- As you seek ways to improve the functioning of the board, I am here to let you know that the current board and staff are part of the solution, not the problem.
- Accomplishments of the IL Health Facilities Planning Board:
    - This board, formed under Dr. Poshard, is honest and independent. We are representative of the upper and upper-middle class professionals with experience in healthcare.
    - The IHFPB Staff is competent.
    - No decisions on applications that have come before this board in the past 4 years have been reversed by higher courts.

- New rules are in effect for freestanding emergency centers. Rules have been revised and enhanced for many other groups.

- These achievements have been against the backdrop of 4 sunsets, which have caused the loss of staff members and consultants.
  - Currently we just lost our chief of review with 14 years of experience.
  - The rules staff have just returned from up to 3 months of layoff.
  - The board itself has been without a 5th member for about the 2.5 years I have served as an acting chair.
- But we all soldier on because we believe in the need for this board.
- I have attended all but two meetings of this Task Force, and I have heard comments to the contrary, but we are part of the solution.
- I saw Dr. Poshard's testimony, and I want to build on some of his remarks.
  - I agree with Dr. Poshard that the purposes of the IHFPB are cost containment, preventing duplication, and maintaining access.
  - He addressed access from the rural perspective. My perspective is urban- keep access for medically disadvantaged.
  - Once a resource is lost, it is never regained. Our board is sensitive to this issue- we saved St. Francis in Blue Island as the largest employer in that working class community. Also in East St Louis, we weren't able to save the hospital because it was operating at 20% capacity, but we saved a comprehensive emergency department for that community.
  - Regarding minimum quality of care standards for such things as cardiac services and ESRD's: standards have to be maintained, especially if a facility changes hands.
  - Long term planning- that is another reason that the board should exist.
  - The time requirements of this public planning board have been a unique experience for me. It has been both challenging and rewarding to have essentially this part-time unpaid job.
    - For 2 out of every 6 weeks the board takes over my life.
    - I put double the time into it as chair than as a board member. I am retired so I choose to devote the time. If I had a career, I would find it difficult to put the time in to do due diligence to this position.
  - Increase board to 7 or 9 members. Many of the meetings under my chairing have had a quorum of 3 people, and that is not optimal. I know it is legal, but not optimal. It puts a tremendous burden on the board members to make those decisions as a 3 person panel.
  - Composition of board:
    - Members need a strong healthcare interface.
    - I don't think all members need to be licensed healthcare professionals.
    - Need one doctor, one RN, one with hospital administration background.
    - I have used every skill I developed in my career while on this board.
    - I feel strongly that members on the board should reflect geography. Dr. Poshard brought his knowledge of rural health to the board, and he is missed because of that expertise. We need someone with suburban knowledge. Northern IL vs. Southern IL.
    - Greater ethnic and racial diversity. There has been only one Latino member in the history of the board and we currently have just one African-American member.
    - Not in favor of categorical representation. Our board is independent- no one is beholden to any professional group or industry segment.

- Ex parte-
  - Seemed draconian when I first started, but I have learned to live with it.
  - The change in the Open Meetings Act has offered more flexibility so that 2 board members can get together to discuss issues.
  - I believe in transparency due to the actions of the previous board so I have only used this option once.
  - I am comfortable where ex parte currently is.
- Three positions critical to the functioning of the Board: executive secretary, executive counsel, and the chief of review.
  - Should be appointed by IDPH Director, not subject to gubernatorial appointment.
  - All three people who fill these positions are superb. They rank right up there with the highest quality of anyone I have ever worked with.
- Unintended consequences of legislative actions:
  - Sometimes carve-outs happen. When applicants come before us, but are not satisfied with the results of our decision, there is a detailed legal process that they can go through to appeal a decision. However, some applicants go to the legislature to get relief instead of using the process in place, and I don't feel that is right. For instance, Misericordia didn't like a decision we gave, so they went to their State Senator and got a statute passed that exempts them from the board process.
  - I have a concern about allowing applicants to come into the state agency until 48 hours before the Board meeting. This has created some degree of confusion and chaos. Substantive information can now come in after the State Agency Report is published (which is 14 days before the Board meeting). I think the legislation of this 48 hours rule was intended for applicants to correct factual errors. However, those have always been able to be corrected at any point. Due to this 48 hour rule, we now are making applicants wait and push them to the next meeting because they are sending important documents just before the meeting, and the Board needs time to review that important information.
  - Removal of need for LTC facilities to get Board approval for changes of ownership or discontinuation of services. I know Rep. Lang sponsored this legislation, but it has distressed me to no end. It has removed the Safety Net for the public. Before, as Board Chair, I could sign off on a change of ownership if the facility was compliant with all requirements. Now that step is removed. I am afraid that there is no regulation at this end of the LTC industry. On the front end, the board is still responsible for who gets into the system. But at the other end, we have no responsibilities.
  - Bed need projections- We had been told internally by statisticians that bed migration was already built into the formula, and then we learned that only 2 community areas in the state have changes.

James Burden- I am impressed with Chairwoman Lopatka's presentation. I share her sentiments, so I didn't bring additional materials. I am here to answer questions.

Lopatka- I have my first statement prepared, and I can share the document with you.

Courtney Avery- Thanks for opportunity to come before you. I have served on the Board for about 4-5 years. Most of my statements are redundant to Chair Lopatka's testimony.

- I think the planning board operates in an effective manner. We get a lot done with few resources.
- Being on this Board has been a learning experience and a pleasure. I have learned a great deal from the past chairman.
- Ex parte was new to me, and I saw it as a hindrance. We should give authority for staff to communicate with applicants on questions.
- I am a mental health administrator so I focus on dollars. I recommend that we allocate general revenue funds in addition to application fees in order to fund the board.
- Size of the Board should be increased to 8 or 9 or even 11 people so that we don't have to cancel meetings because we don't have a quorum.
- I concur with Lopatka's assessment of needing a diverse Board. It has been distressing to me that the board does not reflect the racial or geographic demographics for the state of Illinois.
- I recommend a term appointment for the Board chairperson.
- I recommend compensation for the Board Chair and Board member positions.
    - The chairperson should be contractual position that is paid because they spend a lot of time.
    - In addition to reimbursement of travel, the board voting members should get a stipend.
- We should be supported with specialized educational retreats to help us learn about certain types of healthcare facilities. These retreats would adhere to the Open Meetings Act.
- Eliminate the sunset because it impacts the staff. We lose good staff because they are facing constant layoffs.
- There needs to be a full staff too. Right now, they operate on skeleton crew.
- Attorney General's charity care policies- the Task Force should support the AGs office on those policies.

Question from Rep. Lang- Chairwoman Lopatka, during your comments, I thought I heard you say that with the size of the board you currently have, planning is not feasible.

- Lopatka- Yes, 4 people cannot have a subcommittee and that is where I was coming from.
- Lang- You think the board should be larger, and you think the board members should be full time paid?
- Lopatka- No sir. I think this is public service. Other people who serve in my place may not be retired, so the position may be more of a time burden. I think accepting a stipend interferes with our independence but I have a particular economic viewpoint.

Question from Rep. Lang- What would the planning process look like if you had a larger board?

- Lopatka- We review applications from ASTCs, ESRDs, LTCs, and hospitals. If we had a larger board, I think members could become experts in one of the four categories. We can't do that now. I would like to see the board work more closely with aspects of the department (IDPH) that relate to the work that we do. I think that in the long term, the delivery of healthcare is changing. It is speeding up and I would like the board to be able to look ahead and be proactive to the changes that are coming up regarding the number of beds needed, pediatric issues, etc.

Question from Rep. Lang- Do you think we would be well served to have a separate board that only deals with planning and have the current board deal with the CON applications?

- Lopatka- I think that could be feasible but there would have to be a formal link between the two boards. Mr. Carvalho is in charge of planning.

Question from Rep. Lang- Speaking of staff, we have heard more than one witness talk about the fact that the staff does their job well, but the board has been too reliant on the staff recommendations. We have heard that a State Agency Report on one case can be 10,000 pages long, and board members are not reading all of that information. Do you have a comment on that? Do you believe board members are fully deliberative and take staff recommendations as their own?

- Lopatka- Sir, I have never heard a staff recommendation in the 4 years I have served on the board. They do not give recommendations. They give guidance on the rules and answer questions. I do read the entire application even if it is 10,000 pages. Most applications are 100-120 pages long. In addition to reading the applications, I pay attention to hearing testimony because Dr. Poshard told me to. I take the time to read the hearing testimony. There is not a vote I have made since I have been on the board that I feel I could not defend in a court of law. You may want to ask the other members sitting here, but that is my answer.

Question from Rep. Lang- This is a procedural question relative to the hearing process. Board members are not required to attend the public hearings. Should that be changed so that board members hear public testimony?

- Lopatka- I have a concern about that. Our actual board meeting has been disrupted twice, once during the Bethany Hospital application and the other time during Lincoln Estates. The public does not understand the process. You are at the end of the process at a Board meeting, not the beginning. I feel like if I attended public testimony, people would try to lobby me. When I first joined the Board, I didn't know I could attend the hearings. Then I asked if I could attend, and I heard that I could. So I attended one for Children's Memorial Hospital, and it was great. But the people attending that meeting knew the acting chair was sitting there. I read the testimony afterwards, and I was more focused when I read the testimony than I was when I was in the room. I know I have heard that board members don't bother with reading the testimony from public hearings, so maybe you should ask the other board members..
- Burden- I would resent to some degree having to attend all public testimony meetings. And I think lobbying could occur. It doesn't seem sensible. I read all the testimony documents. Either way I don't think a lot would be accomplished by making us attend those meetings, other than infringing on our time. But I remain open minded.
- Avery- I agree it would not enhance the process to attend the public meetings. I spend a lot of time reading the testimony.

Question from Rep. Lang- Because of the 48- hours rule, there have been times when you have to make important business wait until the next meeting. Do you not have the capability of recessing a meeting for 48 hours and coming back to take care of business?

- Lopatka- It is very difficult to find dates that work for all board members as well as finding a suitable place to meet on such short notice. In late Aug 2007 we cancelled a meeting due to illness of one member, and we put a lot of effort into rescheduling it. It might work, but in reality is if very difficult to reschedule on short notice.
- Lang- You left the impression that insignificant information delays applications and that facilities have to wait months for a decision. If you board was larger and you are able to get a quorum, that shouldn't be a problem.
- Lopatka- You misunderstood me. The majority of the late-breaking information has not been substantive. Board members discuss if the new info is substantive or not, and, in most instances, we can move forward with the application. In three instances over the past year, we have received substantive information that caused us to delay the application. I also don't think 48 hours is enough time to vet new information. We are not talking the same language on the 48 hours rule. It used to be that once the SAR was published, you could not submit new

materials. But now you have up to 48 hours before the board meeting to comment on the SAR. Board meeting are usually Tuesday and Wednesday. Say staff receive information at 5pm on Friday (which is 48 hours before the Board meeting). Then, on Monday, the staff have to travel to Chicago for the meeting, so there really is no time to review the new information.

- Lang- I suggest that when your board sees a problem in the statute, you bring it to the legislature. We never heard these things before.
- Lopatka- I took this opportunity to let you know my feelings on certain pieces of legislature.
- Lang- Well, if the task force didn't exist, when would we have heard this? You should send us a quarterly letter to let us know what issues you have.
- Lopatka- If that is the legislature's pleasure, we can do that.

Question from Paul Gaynor- Ms. Avery, you think charity care should be part of the process. Do you have any suggestion on the type of criteria and how that should be implemented?

- Avery- In reviewing the applications, we look closely at charity care. Last year the AG report came out that IL hospitals are below the national standards for charity care. I know there are a lot of people in IL who are uninsured. I grew up on the south side of Chicago, and I see the different health care options for people. I think facilities should be held accountable to provide it. I see millions of dollars spent on other areas in hospitals, and I think more money should be spent on charity care.
- Burden- We recently received data on 222 hospitals in IL, and overall charity care across the state is around 1.9%. I felt personally that the ASTCs that have mushroomed in my career, and they oftentimes do not provide charity care. Hospitals compete with ASTCs. ASTCS skim the cream from the hospitals, and hospitals then provide care to the uninsured. That demands attention. ASTCs should be encouraged to provide Medicaid care.
- Lopatka- This board has approved ASTCs and we look carefully at the catchment area and the capacity to provide charity care. We have frequently turned ASTCs down because there is excess capacity. We are diligent about looking at the circumstances around approving new ASTCs. I feel strongly that there should be much more charity care than appears from statistics. One of the suggestions I heard was that wealthier hospitals would develop a financial pool that would help hospitals that are struggling. Mercy Hospital as an example of a hospital that could use help and that is already providing a lot of charity care.
- Burden- I agree with everything Madame Chair said. I know that Mercy Hospital takes patients regardless of their ability to pay.

Question from Senator Althoff- I don't know if you are aware that there was a Republican Task Force that did an analysis of the IHFPB. One of our recommendations was that the burden of proof should be on the board itself as to why you reject applicants, not approve them. So applicants can assume approval, and you would have to give reasons for a denial.

- Lopatka- So there would be automatic approval unless there was rationale for not approving?
- Althoff- Correct.
- Lopatka- When I vote, I put my rationale on the record already. The reality is that if you look at the percentage of applications that are approved, it is very high.
- Althoff- I understand. But I think it might be more efficient to give an applicant their intent to deny with the reasons for that.
- Lopatka- I thought that applicants were given reasons with an intent to deny, and then they have 6 months to change those before they re-apply.
- Althoff- I feel that if you assume approval, it could lessen the work for an understaffed board.

- Lopatka- Oh, well, where we struggle is with the rules, and updating those. We struggle with keeping staff due to the sunset. I think the rules have suffered. I don't know how the staff do it (i.e. help the board). But the work that Board needs done, always gets done. The only issue that complicates that is the new statute that allows new information to come in at the last minute.

Question from Senator Althoff- With regard to your statement about planning perspective, and your concerns with additional responsibilities, would you have the same concerns if the board were increased to 7-9 people?

- Lopatka- I think the formal planning process would be more feasible with a larger board.

Question from Senator Althoff- Everyone has commented with regard to charity care, you look at that factor in the applications and consider it. From a procedural perspective, how did that come into being as there is nothing in the statute that mandates you look at charity care?

- Lopatka- I truly don't recall an application that was denied on the payer mix. It is a question that frequently gets asked and gets looked at. It has been helpful to us that in the last year or two, we receive a copy of the most recent survey appended to the application as well as a map. We've had more discrete data to make informed decisions.
- Althoff- I was more interested in your comments about surgical centers.
- Lopatka- Charity care is not in my criteria to approve. To approve an application, I look at whether or not that medical service is already being offered in the community and if there excess of that medical service being offered.
- Althoff- I think charity care is important, but my concern is how it is being asked when it is not in the statute.
- Carvalho- The purpose of the statute says that approval is contingent on if the facility improves the availability of the public to access services- so the Board looks at both having facilities built and how that impacts access, as well as the provision of charity care so that people can access care.
- Brady- I heard you say that you consider charity care consciously or subconsciously into your decision on the application and then Carvalho is saying that the provision of charity care should be part of your decision.
- Lopatka- I never make a decision solely based on charity care.
- Brady- I understand it doesn't solely affect your decision, but does charity care impact your decision in any way?
- Lopatka- I note charity care or lack thereof.
- Brady- (to Avery and Burden) Does it weigh in your decision?
- Avery- No.
- Burden- Yes, it does in mine. But I have never heard in my tenure on the board that the lack of charity care has caused an intent to deny. Charity care has not become an obstacle on the intent to deny.
- Brady- The problem with the board is that you make subjective decisions. You take the statute guidelines and make decisions that the legislature should make- such as whether charity care should be taken into account in an application. Has a staff report ever reported on charity care?
- Lopatka- No, but there is usually a table in the application that breaks down the payer mix. That is standard in the SAR.

Question from Senator Brady- When the State Agency Report comes out, and it has 5 positive and 7 negative compliances, is that only relating to JCAR (Joint Committee on Administrative Rules) rules or other things too?

- Lopatka- SARs are very dispassionate, based on cut and dried decisions. The Board has discretion to override non-compliances. But we give applicants a hard time if they are way over the compliance level.
- Brady- Ok, but are those issues that the report states as positive or negative - are they only JCAR rules?
- Mark- Yes, all of the staff findings are based on JCAR rules. We do not make findings independent of the rules.
- Brady- So in light of these rules, you are sitting there looking at an application with positives and negatives. How to do you subjectively weigh that?
- Lopatka- Has nothing to do with it.
- Brady- Nothing to do with it? You subjectively weigh the measure of the severity of the non-compliance and come to your own conclusions. So you might rule in favor of something that has 2 positives and 12 negatives.
- Avery- I don't take a tally of the positives vs. negatives. The applicant has to explain why they are non-compliant.

Question from Senator Brady- Has another board member every influenced your decision?

- Avery-No, we don't even talk to each other before the board meetings.
- Burden-No.
- Brady- Is it good that you don't talk to each other before the meetings?
- Avery- Sometimes yes, sometimes no.
- Lopatka- Once I talked to my fellow board members before the Board meeting after the Open Meetings Act was relaxed. I contacted the board members with counsel present. It turned out that we were all confused about something in the application which we were able to clear up before the meeting.

Question from Senator Brady- Do you believe the legislature should further define your decisions and give you greater criteria and parameters?

- Lopatka- I don't see my decisions as subjective or emotional at all- they are cut and dried. The board exists to give thought to the nuanced factors that make a difference. If you wanted to punch in numbers, and make a decision based solely on the number of compliances vs. non-compliances, you could have a computer make these decisions.

Question from Senator Brady- Do you feel IL has done a good job of balancing the health care needs through facilities?

- Lopatka- If you are talking about the board process, it is not perfect, but it is better than no process.
- Brady- If this has worked so well, then the Crain's article boggles my mind. They showed that Cook County had 4 times the hospital beds as some surrounding counties. How does this per capita disparity happen?
- Lopatka- When one looks at facilities per capita, it should not be greater than 1.5 times. There is an upper limit but not a lower limit. In Chicago, we have so many hospitals. This goes back to the late 19th and early 20th century when Jewish people and African American people and Protestants and Catholics all developed their own hospitals. So that is the genesis of why we

have excess capacity in Chicago. But many of these hospitals are struggling to stay open. I used to be in walking distance of 7 hospitals, now I can walk to 3.

- Burden- I have never been impressed with the data that Crain's expressed. Hospitals were built on the authority of the Cardinal, and most have basically closed or changed substantially- the remaining ones struggle. Many hospitals are in significant troubles. If you look at the South Side of the city, and look at patient vs. bed ratio, that Crain's data wouldn't hold.
- Brady- Ratio of what?
- Mark- The ratio refers to a criteria approved by JCAR that is an indicator of misdistribution of a proposed project which is the ratio of beds to population.
- Brady- If you are below the maximum, you should be approved?
- Mark- No, that is not how the rule was written or approved by JCAR.

Question from Senator Brady- So the governor shouldn't appoint you?

- Lopatka- No, not us. The 3 main staff who support the board shouldn't be appointed by the governor.
- Brady- What is the difference between a gubernatorial and IDPH director appointment?
- Lopatka- People who fill these positions should be outside of politics.
- Brady- You don't think IDPH director is in politics?
- Lopatka- Of course he is. One of the things that has disturbed me greatly is the compression of positions and how those upper level people are being appointed by the governor- so it is a political position now. When appointments are over, there is turnover, and that can be bad when you have a great person in the position.

Question from Rep. Hassert- How do we make the process better? I represent a fast growing area that has had an application before you. If you can walk to 7 hospitals, and my constituents have a hard time getting to a hospital, how does that work? We have only sited 1 hospital in 20 years.

- Lopatka- Yes that may be correct. I have only approved one hospital during my tenure.
- Hassert- That would be Bolingbrook.
- Lopatka- Yes.
- Hassert- How could the board address these issues? My point is - how do we plan?
- Lopatka- I think you are getting close to approaching an application currently pending before the Board, and I can't get near that. I abide by statistics and information that is part of the application.
- Hassert- Do you think approving one hospital in the past 20 years is adequate for growing areas?
- Lopatka- I cannot address the past 20 years, only the tenure I have. I think we have documented our decisions well and I don't think I can comment further.

Question from Ken Robbins- It is important that there are standards to site new healthcare services, and the board tries very hard to follow those standards, but I do get concerned with questions about more hospital beds in Chicago vs. elsewhere. Simply doing the math and dividing and not thinking the numbers through is not the correct way to go about it. There are at least 5 major academic hospitals in Chicago that receive referral patients from throughout the Chicagoland area.

- Burden- Yes.
- Lopatka- We know the catchment areas for all institutions that come before us.
- Robbins- I assume the catchment areas often exceed the city limits.
- All- Yes.

Question from Senator Garrett- Looking at your function as a board member, what is your relationship with staff? Do you talk back and forth with them, meet with them?

- Lopatka- The staff exists to support the board.
- Garrett- Just tell me the relationship. Can you pick up the phone?
- Lopatka- Yes, if I have questions I call Frank Urso or Jeff Mark.
- Garrett- What types of questions do you have?
- Lopatka- Clarifying questions, educational questions. Also, as board chair I can sign off on changes of ownership and renewal of permits if all criteria are met, so the staff calls me to let me know when those are coming to me.
- Garrett- Do other board members know when you do that?
- Lopatka- They are not aware at the time.
- Garrett- Why can't that be shared through a memo when you do make those approvals?
- Lopatka- I don't know. (Turns to panelists) Do you want to know when I approve these things?
- Garrett- These approvals are part of the CON process, and my concern is that these decisions are made on a one way street- between you and the staff. It is disturbing to me that the approvals don't get communicated to other board members. Is it in the minutes?
- Lopatka- The approvals are part of official record of the applicant. It Is probably on the web somewhere.
- Mark- No one has ever asked this question before.
- Garrett- Ok, it is my concern that it is not on the website and the decisions are not shared with colleagues. It's ok to have the ability to make the approvals but not ok that no one else knows about the decisions.

Question from Senator Garrett- If you have a question Dr. Burden, and you can't talk to other board members, do you call staff?

- Burden- Yes, I pick up the phone and call. I don't do it often. I can do it prior to a meeting and during a meeting.
- Garrett- do you ever challenge an application?
- Burden- Yes.
- Lopatka- What do you mean?
- Garrett- Challenge information in State Agency Report?
- Lopatka- Before or during board meetings?
- Garrett- Both.
- Lopatka- I found errors on some applications, and I called up Mr. Mark to change it. I have never challenged a situation except for minor errors I found that I mentioned to you.
- Avery- I have asked questions prior to a board meeting, but I can count on one hand the number of times I have called Jeff. If there is something in the SAR I have a questions about, I can refer to the rules and answer it for myself.

Question from Senator Garrett- Regarding the retreat for educational purposes- have you brought this up with board members?

- Avery- In a way. I joke about going to Hawaii. I would like to know more about Dialysis centers before they come before me with an application.
- Garrett- Back to the retreat. Seems like a good idea. But you haven't asked anyone?
- Avery- No. I've just said it informally.
- Lopatka- Sometimes we have in-service on the 2nd afternoon of our board meetings which tend to be light with business.

- Avery- But by the second day of our board meeting, I am burned out, so I think an off-site retreat would be good.

Question from Senator Garrett- You feel that you have limited staff & limited resources to assist you, yet there are many consultants hired to do the work.

- Lopatka- I don't believe there are many consultants. There are just a couple full and part time people. The consultants have no input into the review of the actual applications.
- Carvalho- Senator Garrett is referring to personal service employees. She refers to them as consultants.
- Lopatka- We didn't know the reviewers were contractual employees.

Question from Rep. Dugan- You get the plusses and minuses on the State Agency Report, but the rules determine what is a plus or minus, and those [18} minuses don't make a difference on approval if they are minor infractions.

- Lopatka- 18 negatives would never fly.
- Dugan- Do you or do you not take into account the plusses and minuses?
- Avery- Are you talking about compliance and non-compliance? Plus and minus to me means compliance.

Question from Rep. Dugan- As we look at access to healthcare, what does that mean to the board? Say there is a hospital 10 miles away- what is the guideline for healthcare accessibility?

- Avery- Do you mean the criteria for that?
- Lopatka- There are multiple tests of need. You review how many types of facilities currently exist within the catchment area. The catchment varies by the type of facility it is. Bed need has been calculated by state statisticians.
- Dugan- What criteria is used if a hospital happens to be 10 miles away in a district that is congested? Access to healthcare is different in different areas.
- Lopatka- The travel standard is MapQuest, and there was a recent adjustment to that for travel in metropolitan areas.
- Mark- The Board does not use a mile parameter, they use time parameter of 20-45 minutes depending on the type of service.
- Dugan- OK, but you can get somewhere in 20 minutes much faster in one area than another depending on traffic and congestion.
- Mark- Yes, that goes back to the rules. The travel time has been adjusted recently. The board proposes a rule and then JCAR approves it.
- Garrett- Does staff generates ideas for rules?
- Avery- Yes there is staff that exclusively looks at rules.

Question from William McNary- My comment is regarding public disruption at meetings. I want to take another tack on public participation. I want to hear about a structural change that could allow for more public participation.

- Lopatka- Are you referring to public participation at board meetings?
- McNary- Yes.
- Lopatka- There is a process that starts with the applicant filing a Letter of Intent. There are several times in the whole process where public comments are welcome. When the public disturbs our board meetings, it is akin to someone standing up in a court of law and making audience comments. There have only been a couple of occasions of a board meeting with public disruption. I don't think it is appropriate to comment at the end of the application process

because by that time the public has had numerous opportunities along the way to make comments.

- Avery- What exactly are you asking- if it is more feasible to allow public comment at a board meeting?
- McNary- Suppose I don't find out about an application until the end, and the board meeting is my only opportunity to appear because I missed the other meetings?
- Avery- You can submit a written comment, and we will take it into consideration.
- Lopatka- The written comments become a part of the record.
- Avery- Notices about public meetings are published in major newspapers of the area.
- McNary- Any chance to appear publically to express opinions should be encouraged.

Senator Garrett- Thank you very, very much for appearing before us today. We learned a lot. Let's break for lunch, and we will restart at 12:25 with testimony from Claire Berman.

Presentation by Claire Berman, IHFPB Rules Coordinator

David Carvalho- I would like to introduce Claire Berman, the Rules Coordinator for the IL Health Facilities Planning Board. The rules process involves Jeff Mark, the Board members, a little bit of my time, and a little bit other staff people, but Claire is the main person who coordinates the process. She is a personal service contract employee on a 1,950 hour contract, so she is basically a full-time employee. There was a short gap between the renewal of her new contract and the expiration of her old contract. Claire prepared materials for her testimony and we will get the copies to the committee.

- Garrett- I did feel totally justified that the rule-making process is important for the Task Force to hear about.
- Carvalho- I too feel that the rules process is important to understand, but I feel that your request for Claire to testify is a bit unusual. Claire works under Jeff Mark who works under me, and either of us could have testified to the rules process. And when you request resumes of our contract employees, I do think they take some offense to it. There are people who are accustomed to coming and being questioned by a Task Force and some that are not.

Claire Berman- I did bring my resume today. I was hired in Dec 2004 when my 1st contract went into effect. At that time, I read the current rules, and was wide open in my mind. I had submitted applications to the Board before and had experience as a hospital administrator and a sporadic consultant. I could never have imagined this job opening up, but it happened to open up and I was approached to interview for it and was then offered the position. They wanted someone who could write and my previous supervisors were satisfied with that skill of mine. When I first read the rules, I could hardly believe some were still in effect- there was no doubt in my mind that revisions were needed. We grouped similar rules together so that we could revise them chunk by chunk. We held open meetings for groups to testify on the rules revision. I have a record of the meetings. There were open meetings to discuss the rules and how to make them better.

Question from Rep.Dugan- Who called the meetings?

- Berman- Staff. They are open meetings, not public hearings.

Berman- We updated things, got rid of redundancies. Then we sat down as a group to review the revised rules and put summaries together and then drafts were prepared. The administrative rules were worked on first. We combined sections 1130, 1140, 1180, and 1190 into one section which is more streamlined and makes more sense.

Question from Senator Garrett- Where were these meetings posted?

- Berman- Depending on what the meeting was about, we made phone calls or sent emails to let people know about the meetings. IHA did a monumental task of notifying their membership about the rules revision, since many of the rules refer to hospitals. I took the job because it sounded interesting and I wanted the rules to be made better. They can't be made perfect- part of that is the time factor.

Berman- After the first draft of the revised rules is prepared, the working group reviews it to see if we can make further improvements or if we left anything out. Then the steering committee gets the draft so they can review it. The steering committee includes legal staff- Marilyn Thomas as acting chief of staff, Frank Urso, Kyle Kingsley, Jeff Mark, myself, and, when available, the Board chairperson. Then the board gets the first draft to review. When that first draft is all prepared, it is sent to the IDPH rules coordinator, and she walks the rules over to the Secretary of State's office to be published in the Illinois register. The date the revised rules are first published is the 'first notice' and that opens up a 45 day public comment period. Then the IHFPB has to prepare a response to each public comment. The 2nd draft with responses is prepared and brought before the steering committee. The final draft is presented to the Board. Once revisions from the Board are made, we then fill out forms for JCAR for 2nd notice. So the rules are sent to JCAR, not Secretary of State, at this point. The JCAR person has been really great- she asks questions and allows me to educate her. If everything is ok with our document, JCAR alerts us to what meeting they will review our rules at. We go to the meeting to answer questions.

Question from Rep. Dugan- When do the groups get notified if you take their recommendations or not?

- Berman- We don't notify them. We take their comments, and then we draft the rules revision. They will see the draft when it is published in the Illinois Register, and then they have 45 days to make comments.
- Althoff- I was aware of those meetings, and those individuals invited to those meetings understood that they were just providing comments and recommendations, but that not everything they said had to be included in the revision.
- Berman- As the rules coordinator, I have to be responsible that the comments are being addressed.

Question from Senator Garrett- As a legislator, we have a rules committee and there is a formal process. When you say this person came, and that person came, is there a rules hierarchy within the staff?

- Berman- At the open meetings, everyone could come to share their point of view. The open meeting is at the beginning of the rules revision process, and then our group puts the 1st draft together.
- Garrett- Is there a rules committee?
- Berman- No, I wish.
- Carvalho- Most of the rules that get published by our agency are simply developed internally. But for this process, we decided to recommend having these open meetings for public comments so that the public had the opportunity to express their opinions even before the usual public comment period in the JCAR process.
- Garrett- Say I go to my board chair and tell her that we need to revise the rules, but with yours, the…
- Carvalho (interjects)- The board told us to do this rules revision. The staff developed a plan. The Board approved the plan developed by staff. Claire gave a rules update at the end of each board meeting.
- Garrett- Do the board members give you information on how to update rules?

- Carvalho- It works both ways. Everyone on this Task Force really needs to read through the rules and every flavor of a State Agency Report. A rule may say that "to be approved to do cardiac catheterization, the facility needs to do X procedures"- that type of rule comes from a medical expert that tells the staff that tells the Board. Depending on the nature of the rule, it comes from the top or the bottom.
- Carvalho- If you set out a process of rules and statute for criteria, some CON applications will always be denied, even if they apply 5 times, because, if the rules haven't been changed and the statute hasn't been changed, the Board cannot approve them.
- Garrett- The rules need to be changed. Has the rules revision always been ad hoc?
- Carvalho- The board was larger in the past, 9 members and before that 15 members.
- Garrett- When the board was at 9 members, was there a formal rules committee?
- Carvalho- That 9-member board wasn't around long enough to form committees. You may hear from former board members about the rules revision process in the past.

Question from Rep. Lang- The steering committee- that is the committee that you bring together when there is a proposed rule change. I heard that you invite the stakeholders. What about the "public"- not the stakeholders, but the people that need the services? Who on the consumer end is invited to make comments?

- Berman- That depends on the rules we are talking about. For instance, if we revise rules about dialysis, a lot of time agencies that provide services to dialysis patients will bring in a couple patients that have an interesting story.
- Lang- Are we talking about a not-for-profit? (Mark makes comment). Ok, so you do seek out organizations that will give you solid informed comments.
- Carvalho- When I saw a set of rules that consumer groups might be interested in, I told Jeff to contact the Campaign for Better Health Care, as well as Claudia Lennhoff's group. And we invited Consumer Union. We made a special effort to reach out to groups for things relating to charity care. For things like cardiac catheterization, we made less of an effort to reach out to consumer groups.

Question from Rep. Lang- At JCAR, we have had a problem with rules being foisted on us on an emergency basis. What use do you make of emergency rules?

- Berman- We try to avoid going that route. We have been asked to make something an emergency, but we've always chosen to not do that. We will just work expeditiously on the important rules.

Question from Senator Garrett- When you were a consultant, what did you do?

- Berman- Some of the work I did was in healthcare, yes. I helped out other healthcare consultants.

Question from Senator Garrett- Who told you about this job?

- Berman- I know a lot of people in the industry. I retained contacts from my previous positions. If you want to know a specific name, Ralph Weber told me about it.

Question from Rep. Dugan- What happens when someone makes a comment about a recommendation that didn't make it into the revision?

- Berman- There is a written comment made in response and they will be able to read that comment.

Question from Senator Garrett- You get your ideas for rules revision from public comment only?

- Berman- no, no. At the open meetings, the public can come give their comments, but then we write the actual revision that gets published in the Illinois Register. Once the rules are published, the public can then submit written comments.
- McNary- There are thousands of public servants out there, but I want to thank you for the work you are doing for the State.

Presentation from Former IHFP Board Members and Former Executive Secretaries

Fred Benjamin-
Clarence Nagelvoort
Michael Copelin
Michael Gonzalez
Joyce Washington
Pat Sweitzer
Ray Passeri (via phone)

Question from Senator Garrett (posed for the entire panel)- Knowing what you know now as a former board member, what recommendations do you have to improve the process?

Fred Benjamin- I was a Board member for 8 years, and Board Chair for the final year of my tenure in 2003. This board tries really hard, and we have a hard job as you know.

- The main issue that marks the board is the lack of trust with some constituencies based on what happened the past few years.
- A 3-member board is not feasible. There used to be a rules committee, and many other committees when there were more board members. We would post meetings. There is simply too much to do for a 3-person board.
- If you are just going to make approval decisions based on rules, don't have a board, and don't have people make the decisions.
- The board is crippled by the sunset hanging over their heads for the past 6 years.
- The board itself has hurt the trust in the past.
- The board is about maintaining quality, cost, and access in healthcare facilities in IL.
- We need an IL vision of what we want our healthcare system to be and the rules need to reflect that. There needs to be a plan.
- We have an existing healthcare system that involves debt, and many relationships with many constituencies. If all types of applicants come to the board expecting to be approved, we will have too many beds. The board is the bad guy- we say no in an informed and enlightened way based on the charge given to us.

Question from Rep. Dugan- Do you believe the state has a vision in regards to healthcare?

- Benjamin- Not really. There is a health plan, but it is unwieldy. We have a plan but not a vision. The board should have an activist role, not a passive role.

Clarence Naglevoort- I was a board member from 2002-2003. I have managed hospitals in IL for my entire career. I have looked at CON applications that were questionable and applications that were solid. I think the process could and should be simplified. But I think the rules revision will take many years to get done.

- Senator Althoff asked if the board should be in a position for applicants to assume approval. I think that complicates things except in one area- hospital infrastructure.

- With the aging of the population, and given that the "fast track" for building a hospital is 4 years, we really need to look to the future and see what facilities will be needed.
- There has been a lot of comment about charity care. I organized a medical mission in Asia for many years, and I think there is an application here for that. I don't understand why it isn't harder for ASTCs to get approved. There should be a charity care requirement for an ASTC to get approved.

Michael Gonzalez- I was appointed to the Board in 2001 as one of 15 members, and was then reappointed in 2003 as one of 9 members. I was the consumer appointee and my expertise is in construction.

- I relied on my colleagues and their questions to learn. Was I influenced by their questions and hearing the answers? Yes.
- I left the board in 2004 due to legislation that was enacted that labeled me a business owner and I was not able to be on the board. I was then not tainted by what came next. There were times that the board did plan to do an intent to deny, and…

Senator Garrett (interjects) - What we want are your recommendations.

Gonzalez-

- I do believe the number of board member should be increased so people can rely on conscientious co-members.
- Charity care at inner city hospitals is not even on the same field as with other hospitals. There should be some way to normalize the cost structure so that there is parity amongst hospitals and the burden they share.
- Public participation during board meetings throw the board off. There is not room for public participation at the board meeting.

Joyce Washington- It was a pleasure to be on the board. I was appointed by 3 different governors.

- The vision that Fred talked about is very important. There should be a clear vision of what we want to do and where we want to go. We struggled with that on the board.
- We did have a higher number of board members and, because of that, there was a lot of collaboration on where we should go, there was a big committee structure, lots of meetings, etc. There were lots of people from a lot of different backgrounds. That is extremely important. The board is too small to enjoy some of those things right now.
- Board members with expertise is really important. I am a nurse and have worked in health facilities. But we valued the information from board members from different areas of healthcare, as well as public comments, which are important. Varied expertise and public comments allowed us to make a more educated vote.
- Regarding retreats, trainings, and in-service: We used to do tours of Illinois to see what different healthcare facilities looked like. It really did help to go out and see it to better understand it.

Michael Copelin- I was the Chief of Project Review for the state for 25 years. I am a consultant now.

- I recommend that you increase the number of board members so that the board can have some ownership in the development of the rules. The committee structure was essential to the ownership of rules.
- There are some minor and major things that need to be fixed.
- Fines needs to be brought back under control.

- The focus on the board has shifted from when I was staff. When I was staff, it was our responsibility to work with the applicants to make the best application possible to set before the board. Now ex parte has eliminated that ability because once the LOI is filed, staff cannot talk to applicants and vice versa. As a consultant working on the applicant side, if there is a problem, I don't have the ability to talk to the staff to discuss how we could make this a better project that the board would like more.
- Staff did a lot more talking with the board members in open meetings.
- Staff were in charge of different areas of rules to concentrate on.

Question from Rep. Dugan- When did that change?

- Copelin- Basically when ex parte came out and they reduced the number of board members.

Question from Margie Schaps- When did you retire?

- Copelin- I retired in 2003. Ex parte came about in 2002, so I was there for a year with ex parte.
- Garrett- Can we get clarification on when ex parte came in?
- Passeri- The board had ex parte in the organizational rules before it was in the statute. It meant that there could be no discussion on applications, and if there were discussions, it had to be put into the public record that is put in the project file. In 2002, the statute was amended and ex parte language was put into it.
- Garrett- Who drove that request to add ex parte to the statute?
- Passeri- I don't know. My last year was in 2000.
- DeWeese- When the board was restructured given the problems that had developed, the Speaker was insistent that that IHFPB function more like the a Commerce Commission in order to prevent collaborations that were happening.

Question from Rep. Dugan- I heard there used to be subcommittees on the Board, and it was a good thing. Would you recommend that the subcommittee process be reinstated?

- Benjamin- It was very beneficial. It was a good outlet for public comments to be heard.
- Passeri- Committees were very good. Now the board just reacts to applications that come before it, but they aren't able to do any development.

Question from Ken Robbins- Several of you have backgrounds in healthcare delivery, and I am not sure any of you would be eligible to sit on a board now due to conflicts of interest. I sometimes wonder if we sometimes went overboard on that. Gonzalez said that he often learned a lot from his fellow board members. We have done away with categorical membership. I wonder from you all if you think having that type of expertise on the board is important, and did it introduce any bias that you came from a particular part of the healthcare field?

- Naglevoort- If you know what critical elements to focus on in an application, it makes it more manageable. As a healthcare administrator, I would state my conflict of interest and then vote yes. There was only one time I did not vote because I did not support a project.
- Benjamin- It is almost impossible to have an informed discussion without expertise. The flip side of that is that because I was a member of a particular healthcare field, stress always came in terms of deciding on projects.
- Washington- I can't imagine doing the job we did without having all that expertise, including the public. I don't think the information was biased. But it is hard to legislate morality. It is extremely important to have diverse expertise.

Senator Garrett- Let's move on to Pat Sweitzer.

Pat Sweitzer- I was the caretaker of the Planning Board, the Executive Secretary, between Ray Passeri and Mr. Mark.

- The number of members of this board needs to be increased significantly.
- And the restrictions against healthcare related individuals should be lifted too.
- None of the issues attached to this board in the past were related to the healthcare affiliated members of the board. The issues that arose in the former board came about from the consumer members of the board.
- Bring planning activities back into equilibrium with the application review activities of the board. Now they are doing regulation in a vacuum, and that is why you have criteria that are out of date and irrelevant.
- Planning can't happen with this size of the board or staff.
- For many years there was adequate staff, but the very first time the board was close to sunset, many of the staff were let go or reassigned. Dr. Lumpkin was then the IDPH director, and he really thought the IHFPB was going to go away so he didn't re-staff it after that. The board is always only 1-2 years away from sunset, and appropriations aren't made for adequate staff. And what people would want to come work for a program that may only last for a year?

Question from Sister Sheila Lyne- When did you finish your term?

- Sweitzer- I left the board in March 2003. And Jeff Mark started July 1, 2003.
- Sister Sheila- But you were an employee?
- Sweitzer- Yes.

Ray Passeri- Most of what I want to address has already been addressed.

- I want to reiterate that this was called a "Planning Act" for a purpose, and there should be a connection between the planning and regulatory aspects of the CON process.
- The board needs a vision and needs to be more responsive to the changes in healthcare, especially in areas of rapid population growth.
- In such areas, it would make sense to have a batch process or comparative review. First come, first served is not the most efficient way to do things. The Board should find a project that best meets the criteria and the community need, and that would be easier to do with comparative review.
- Often times the applications don't show how they will benefit the community- address the community need benefit.
- Regarding board size and committee structure – I agree with other comments.
- In the past there was always quite a bit of discussion regarding competition and justifying projects. In order to compete, you need competition. But what the CON approval guarantees is consumer choice, not competition, because facilities don't always compete on a 1:1 basis.

Question from Rep. Lang (for Sweitzer)- It has been suggested by more than one person that the way that staff interacts with the board has changed and evolved over time, and the current staff is more proactive/aggressive. At the time you were the executive secretary, your office and staff had a different interaction with the board.

- Sweitzer- I am not privy to how the board and staff interact now. When I was executive secretary, the board members could talk to each other. There was freer communication. Honestly, from my perspective, who will the board talk to but staff? If board members can't talk to each other, and they can't talk to the applicants, they will talk to staff.

Question from Rep. Lang- There is commentary from time to time that the current staff and current executive secretary is heavy handed with the issues that the board faces. The Board follows staff lead, so Mr. Mark is in essence running the board. When you were executive secretary, you were more of a conduit for information, not a pusher/prodder. Is that true?

- Sweitzer- I did service under Ann Taylor and Mr. Benjamin, and at that time, the board and the chair were more the activists. Staff did not speak at board meetings, staff only provided the SAR and answered Board questions, but we did take a different role.
- Benjamin- You can't imagine the stress with processing applications where hospitals are waiting to get things done. Now you only have 3 people to review an application. I think that is why you see a more vocal staff.
- Passeri- When I was executive secretary, there was a clear separation between board and staff with regards to the review of applications. Board members might ask staff about the status of staff review. There was no questioning of rules from Board to staff. During my tenure, there was more board action through committee structure. Staff did the research and would work with the board on proposed rules.
- Copelin- We have active staff now because there are fewer Board members to ask questions. In my time, the toughest questioners on the board were the provider members. Staff did not have to be involved because the board members were asking tough questions.

Question from Rep. Lang- There has been a suggestion we change the board to make it larger, which everyone thinks is a good idea, and that we ensure we have experts in different areas- like construction, hospital equipment, etc. Do you opinions about that?

- Panel (consensus)- Yes, they support that.
- Lang- Can you give us recommendations on what the categories should be?
- Naglevoort- Construction, Finance. Some expertise areas can overlap.
- Washington- The providers that were outlined before would be good to reinstate as those worked well.
- Passeri- Part of the rationale for having a categorical membership was that you didn't want all Board members to be from the same healthcare perspective. We didn't want one particular segment of healthcare to have undue influence.
- Robbins- In the 30+ years I have been with IHA, the complaints I got from my constituents was that the provider members of the board were the hardest questioners.
- Gonzalez- I was representing my expertise and the common person on the board, and maybe my ethnicity.

Question from Senator Garrett (to Passeri)- Do you consult with the IHFPB?

- Passeri- I do have a contract, and I work on rules revision.
- Garret- How long has your contract been in place? You live in Florida, right?
- Passeri- I think all of last year was maybe no more than 10-15 hours per month.

Question from Senator Garrett (to Sweitzer)- Do you consult with the IHFPB?

- Sweitzer- No, no. I represent applicants before the board as a consultant.

Question from Senator Brady- I am really challenged by the reasons that ex parte is in place to prevent corruption. Transparency is important. Unless you appoint ethical people, you will have corruption. But it does seem that the present board is handcuffed by ex parte to make the best decisions. Is that fair?

- Benjamin- Crippled is the word I used. I would untie some of the ex parte provisions. I think some of it went too far. Where do you go now to ask a question? There has to be some way to facilitate the sharing of expertise and ask questions of each other.
- Brady- Transparency is one thing. Even with ex parte, you can still have someone on the sly with the governor. I think board members should not be appointed by the governor. Maybe the legislature can give the governor a short list of people to choose from. Can we limit corruption by eliminating one person (the governor) appointing people to the Board?
- Gonzalez- I thought the appointment process was a fine process.
- Brady- Power corrupts. This board has power. How do we check this power without handcuffing you?
- Washington- A lot of other boards have power.
- Brady- Should we remove the governor's power to appoint Board members?
- Benjamin- I think the starting point is for the Board to understand their role. Let's get guidelines from elected officials. You (elected officials) have pet projects in your districts- how do you gain broad based support for your pet projects without being unethical?
- Naglevoort- To avoid corruption, things can't go back to the way they were done before. There need to be term limits and staggered terms for board members. Have transcripts. You can pull out from a transcript when someone is self-serving. Someone should review the activities of the Board to look for corruption.
- Brady- Who watches for the "out of character" in a transcript?
- Naglevoort- Appoint 2-3 people to act as watchdogs.
- Copelin- I see three Senators on this Task Force. You can vote on board member confirmation. It is your responsibility.
- Naglevoort- You can solicit opinions from well respected healthcare organizations about potential appointees.
- Gonzalez- What about consumers? Reading 5,000 pages for a meeting is strenuous.
- Garrett- Maybe instead of appointing individuals, there could be a representative from a group like Citizens Action to represent consumers on the board.

Continued Discussion about Facilitator for the Task Force

- Garrett- I am stepping away from this facilitator thing. I have given you an outline of the topics that we need addressed. If Senator Brady wants to put a subcommittee together, that's fine.
- Althoff- We need to decide if we have a subcommittee, and if that subcommittee should decide on whom to hire before the next meeting.
- Garrett- Yes, but I am out of it, because I am getting bad feelings about the person I put forward.
- Althoff- Are we comfortable with giving the subcommittee the authority to make the final decision about which facilitator IDPH should hire?
- Brady- We need someone to identify the issues that we as a Task Force need to discuss. The facilitator needs to outline what Task Force members agree on, what we do not agree on, and how can we get to a decision on the items we do not agree on.
- Kosel- I think Lou Lang gave a good description of what the facilitator should do.
- Garrett- There is a good list of issues put together that you don't have right now. Rep. Dugan can be on the subcommittee, but I can't do it. My worry with this subcommittee is that we need to put this final report together soon.
- **Five Subcommittee members: Lisa Dugan (Chair of subcommittee), Ken Robbins, Senator Bill Brady, Paul Gaynor, and Margie Schaps. Althoff seconds the motion. Motion Approved.**
- Carvalho- You need to comply with the Open Meetings Act for your subcommittee meeting.

- Lang-What do we want to spend?
- Gaynor- If we go over a certain amount, we need an RFP.
- Lang- Right, the legal maximum is $20,000 in order to avoid an RFP process, but do we want to propose a lower limit?
- Robbins- I think we can balance cost versus need.
- **Althoff motions, Schaps seconds the motion. Motion approved- the subcommittee can consider proposals up to the $20,000 limit.**
- Bassler- The subcommittee will take applications until 10 days from today. The deadline to submit an application is August 26. Applications should be submitted to Kathy Tipton at the Illinois Public Health Institute (Kathy.tipton@iphionline.org). During the 10 days, we will work with the subcommittee to schedule a date to review the applications after the 26th. We will email out the information on where to send the applications to Board members this afternoon.

David Carvalho- If you have any claims for reimbursement for the last fiscal year, the deadline is August 31, so you need to get them to us immediately.

Adjournment: Althoff moves, Brady seconds. Meeting adjourned at 2:09pm.

Minutes respectfully submitted by Mairita Smiltars.

Formal Remarks Before theTask Force on Health Planning Reform
August 15, 2008

Good morning Madam Chairs and members of the Task Force on Health Planning Reform. My name is Susana Lopatka and I am the Acting Chair of the Illinois Health Facilities Planning Board. Thank you for the opportunity to appear before you this morning.

As you seek ways to improve the future functioning of the Planning Board as it carries out its mission, I am here to let you know that the present Board and the staff who support it are part of the solution and not part of any perceived problem. This Board, which was established under the leadership of Dr. Glen Poshard in September 2004, is honest, hard working, professional and independent. None of us bring a personal agenda to our duties as Board members. Perhaps because of the circumstances which led to our appointments, I believe that this Board is more representative of the rank and file citizenry of Illinois than many other Boards, Commissions and Councils currently serving. We are all middle and upper middle class professionals with an interface with the health care system. The staff who support us are competent, professional and committed.

I want to take just a moment to list some of the accomplishments of the Board and staff which have occurred over the last four years:
-to date, no decision on applicants who have come before this Board has been reversed at any level in the legal system. Numerous decisions have been litigated. The Board won a major decision in the Court of Appeals this spring affirming the right of the Board to have broad discretion in the interpretation of its rules. This established new case law.
- a thorough revision of the rules of the Board is nearing completion. Numerous meetings and hearings have been held statewide over the past several years with significant input into this process by the various segments of the CON community. New rules are in effect for Free Standing Emergency Centers. Rules for LTACHs (long term acute care hospitals) will soon be in effect.
-the annual surveys of hospitals, ASTCs and long term care facilities have been revised and enhanced to provide additional data which will benefit many departments, programs and agencies in the health care planning process.

What has been achieved has been against a back drop of four potential sunsets of the Board, each of which resulted in at least one staff transfer, and periodic layoffs of contractual staff including the one full-time and two part-time rules staff, the two administrative law judges and staff who support the program in the review process and fiscally. Currently, we have just lost our Chief of Review and the fourteen years of experience he had with the Board. He had come within hours of his appointment expiring last January and was facing his sixth sunset. One of the administrative law judges is still on layoff pending renewal of her contract; the rules staff have just returned from up to three months of layoff. The counsel who deals with compliance issues is leaving today to begin a Ph.D program. The Board itself has been without a fifth member most of the more than two and a half years that I have served as Acting Chair. Yet we all soldier on because we strongly believe in the continued need for this Board.

Susana G. Lopatka, R.N., M.A.
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