S55151

TASK FORCE ON
HEALTH PLANNING REFORM

REPORT OF PROCEEDINGS had of the above-entitled matter before the Task Force on Health Planning Reform at the Thompson Center, 100 West Randolph, Chicago, Illinois, on the 15th day of August, A.D. 2008, at the hour of 10:07 o'clock a.m.

MEMBERS PRESENT:
SENATOR SUSAN GARRETT, Co-Chair;
REPRESENTATIVE LISA DUGAN, Co-Chair;
SENATOR PAMELA ALTHOFF, Member;
MR. GARY BARNETT, Member;
SENATOR BILL BRADY, Member;
MR. PAUL GAYNOR, Member;
REPRESENTATIVE BRENT HASSERT, Member
REPRESENTATIVE RENEE KOSEL, Member;
REPRESENTATIVE LOUIS LANG, Member;
MS. CLAUDIA LENNHOFF, Member;
SISTER SHEILA LYNE, Member;
MR. WILLIAM McNARY; Member;
MS. HEATHER O'DONNELL, Member;

MR. KENNETH ROBBINS, Member; and
MS. MARGIE SCHAPS, Member.

EX-OFFICIO MEMBERS PRESENT:

MR. DAVID CARVALHO, and

MR. JEFFREY MARK.

ALSO PRESENT:
MR. GREG COX,
MS. MELISSA BLACK,
MR. KURT DeWEESE, and
MR. MIKE JONES.

CO-CHAIR DUGAN: We're going to call the task force to order, if we can.

Has everybody got their name tag? Okay. So we're not going to introduce. You can see our names.

We need approval of the July 14th meeting minutes.

MEMBER LYNE: Second.

CO-CHAIR DUGAN: We have a motion and second.

THE REPORTER: Who made the motion?

CO-CHAIR DUGAN: Lou made the motion.

Claudia did you second it?

MEMBER LENNHOFF: Sister Sheila.

CO-CHAIR DUGAN; Sister Sheila. Thank you.

All in favor, aye.

(The ayes were thereupon heard.)

CO-CHAIR DUGAN: Opposed, same sign.

(No response.)

CO-CHAIR DUGAN: Can we check, is there anybody on the phone just so we know who might be joining us?

MEMBER KOSEL: Renee Kosel.

CO-CHAIR DUGAN: Thank you, Renee.
MS. GOODSON: Leigh Goodson with Representative Tom Cross' office.
CO-CHAIR DUGAN: What was the name?
MS. GOODSON: Leigh Goodson, s-o-n.
CO-CHAIR DUGAN: Okay. Thank you.
MS. HACK: Susanne Hack representing Barnes Jewish Hospital.
CO-CHAIR DUGAN: Anybody else on the phone?
(No response.)
CO-CHAIR DUGAN: Okay. Springfield? Hi, Kurt.
MR. DeWEESE: Kurt DeWeese, speaker staff.
MS. BLACK: Melissa Black, Senate president staff.
MR. JONES: Mike Jones, Department of Health Care and Family Services.
MEMBER BARNETT: Gary Barnett, Sara Bush Lincoln Health System.
CO-CHAIR DUGAN: Okay. Thank you. Did you want to say something first?
CO-CHAIR GARRETT: Yeah.

CO-CHAIR DUGAN: Okay.

CO-CHAIR GARRETT: Several of the members have approached both Representative Dugan and myself stating that, you know, we should be winding down and coming up -- you know, discussing different options for a draft proposal.

So Representative Dugan and I have talked, and what we would like to recommend today is to go forward with a facilitator, and there are various ways in which we can do this as far as having discussions right here as a task force, first; and then secondly, if we have a facilitator, he or she would be working with us independently, and then most likely there would be a draft report which we could all then rediscuss and weigh in on.

So we can do this at the end of the meeting. I have many times recommended a facilitator who is associated with Deloitte Consulting. He has worked with hospitals. He has never done any lobbying for the Illinois Hospital Association. He is a premier, I would say, one of the best when it comes to knowledge of health care in the State of Illinois, which is why I think he would be a good facilitator. I am certainly open to others.

If anybody else has recommendations, I personally don't believe we should go with a facilitator that's recommended either through academia or through the Department of Public Health; but if anybody has a suggestion, if we could flush it out as soon as possible.

In the meantime I have the resume of the person who I am recommending. His name is Michael Engelhart. The resume is being copied right now, so we will get that to you, and maybe before we leave, we will have that discussion.

So I wasn't sure even if this was a possibility. I just received the resume last night. So when you take a look at it, you'll see, you know, exactly what I said, that this person has a lot of health care knowledge, and I think that is critical to making sure that we get a facilitator who understands the background.

So having said that --

MEMBER KOSEL: Can you please email it to those of us that are on the phone and in Springfield?

CO-CHAIR GARRETT: Yes. If somebody could give me your email addresses, it's on my

computer.

MEMBER KOSEL: Okay.

CO-CHAIR GARRETT: And I'm trying to think if there's anything else.

Yeah, based on the testimony last month, we heard about, was it, Edwards Hospital that came forward -- or the municipalities that are in that particular region who came and testified, and that allowed me to take a better look at how the rules are written through the Health Facilities Planning Board.

So I have asked that Claire Burman, who is in the audience, at some point maybe between the Board members, the past and the present Board members, give us an opportunity -- if you could testify, that would be great -- if we could add that to the agenda, if the other members agree.

Is that okay? I think having the knowledge of what the person who coordinates -- I think rule coordinator is the official title.

So with that, shall we move forward?

MEMBER BRADY: While we're on topic, do you want to wait until the end to talk about the facilitator?

CO-CHAIR GARRETT: Well, I'm waiting for the copies of the resume.

MEMBER BRADY: Just a question.

CO-CHAIR GARRETT: Okay.

MEMBER BRADY: Under the Purchasing Act, what requirements do we have? Is there a threshold? Is there a -- can anyone speak to that?

CO-CHAIR GARRETT: I think we talked about it before, but if Dave Carvalho wants to again.

MR. CARVALHO: I didn't come prepared to speak on this topic; but off the top of my head, I believe there is either a $20,000 or $25,000 cap, depending on the nature of the services, if we were to do a sole source. If you wanted more than that, you'd need to go through a RFP process, which would take many more months than you'd have, so.

MEMBER BRADY: Okay. That's what I --

MR. CARVALHO: I just don't know what the limit is.

MEMBER BRADY: I guess, what I would recommend is that -- I don't think there's any way

we should go over that.

CO-CHAIR GARRETT: I didn't hear. Was it 19,000?

MR. CARVALHO: It is either 20,000 or 25,000 depending on the nature of the services. I just don't recall.

MEMBER BRADY: I would suggest that we appoint maybe four members of this Commission between now and our next meeting to interview and select on a fee-for-service basis not to exceed $5,000.

CO-CHAIR GARRETT: Okay.

MEMBER BRADY: And delegate that responsibility to someone because we're running out of time, and I think we need to move forward.

CO-CHAIR GARRETT: Well, you know, I just -- I think that's fine. If you guys want to do that, that's fine. I don't know if $5,000 is -- I have what this person would do. It's somewhat involved, you know, spending time talking either face-to-face or on the phone with all the members of the task force, facilitating group discussions.

MEMBER BRADY: What threshold do you

think would be required?

CO-CHAIR GARRETT: I don't know. I think it has to be under the $20- or $25,000, but I don't think that we can -- I don't know any good facilitator that would do this for $5,000.

MEMBER GAYNOR: Did they give an estimate?

CO-CHAIR GARRETT: The last time I talked to Michael Engelhart is when we were looking for instead of a facilitator, somebody to do just the report, and they came up with a higher figure than the $20- to $25,000.

I had a conversation with him, and he said that, you know, they would do something. It wouldn't be as comprehensive for that, but they would be able to do it.

So here is the --

MEMBER BRADY: What did you say?

MEMBER GAYNOR: Well, I was waving to Ken Robbins. I was trying to be nice.

CO-CHAIR GARRETT: So Senator Brady, that is what he can do, and I am sorry, my printer didn't work, so I just made one copy. We can make copies.

My worry is, and I have expressed this to some others --

MEMBER BRADY: Okay. Why don't we --

CO-CHAIR GARRETT: -- I don't have a dog in this fight, but I want you to know --

MEMBER BRADY: Why don't we put a committee together of four or five of us, five of us --

CO-CHAIR GARRETT: Okay.

MEMBER BRADY: -- and let them make a selection and a recommendation to us.

CO-CHAIR GARRETT: Okay.

MEMBER BRADY: So that they could be prepared for the next meeting. By that, I think it would be nice even to get the ball rolling prior to the next meeting.

CO-CHAIR DUGAN: I agree. I think we need the facilitator by the next meeting.

MEMBER BRADY: I think we need the facilitator before that.

CO-CHAIR GARRETT: I think we need the facilitator now, which is why I worry if you start to go out and put a committee, a subcommittee together --

MEMBER BRADY: Susan, I don't think it's -- I think we ought to give everyone who might have an interest or have someone interested a week to submit it to this committee with a name, and they can make a decision.

CO-CHAIR GARRETT: I'm fine with that.

MR. CARVALHO: I have a question.

CO-CHAIR DUGAN: Yes.

MR. CARVALHO: Just a process thing, contracting to support the committee is something the Department of Public Health does. So if you want to delegate to a committee a recommendation to us, it doesn't need to wait until your next meeting if you're comfortable delegating to a committee. We can go out to contract as soon as your committee recommends it, and that will speed things along.

MEMBER LANG: So I saw your list of things you want the facilitator to do; and if that's what the committee wants, that's fine with me. But my view of a facilitator is someone who would just focus us issue by issue and let us do the work.

What I see on that piece of paper is the

facilitator doing all the work. I'm not sure in my mind that we need to bring someone in here to lay out all of the things we've already done here. What we need is somebody to focus us issue by issue. Should we have a Health Facilities Planning Board? If so, what should they do? How would their meetings look?

What we need is a facilitator to take us through these issues one by one, not the facilitator to decide; but a facilitator to take all of our disparate opinions and write them down so we can fight about them later. We just need somebody sitting out there who can get us focused.

CO-CHAIR GARRETT: I agree, and, you know, this person didn't have -- he facilitates -- he sent me a list at 11:00 o'clock last night, because this was sort of a last-minute request, of ways in which you can facilitate.

You're right, and I thought we could talk about that. I talked about it with Representative Dugan on how to make this happen.

CO-CHAIR DUGAN: Yeah.

CO-CHAIR GARRETT: Should we do it all collectively in this room? Should we go someplace

else, a retreat? You know, all that needs to be decided and discussed.

I'm just giving you a preliminary, you know, here's something that you can look at. You can decide not to go with that person, not to go with that type of program, but that doesn't mean that person can't do exactly what you just said.

MEMBER LANG: I just think it would save a lot of time -- and if someone thinks I'm wrong, just tell me, if the co-chairs --

MEMBER KOSEL: Is that Lou Lang speaking?

CO-CHAIR GARRETT: Yes.

MEMBER LANG: If the co-chairs would just simply sit with someone, lay out all of the issues, not pro and con, just lay out all the issues and have that person come before us and take us through the issues one by one.

CO-CHAIR DUGAN: Did we print off the framework thing that we --

CO-CHAIR GARRETT: I asked -- I got home late last night. Melissa Black has done that, and I --

CO-CHAIR DUGAN: Can we get a copy?

Melissa, can you somehow get that to us up here? I mean, I've got it on my computer, but I don't have a printer.

MR. CARVALHO: Can I give you some more food for thought?

CO-CHAIR GARRETT: Yes.

MR. CARVALHO; As we told you we would do a couple of months ago, one of the things that we have done is asked the folks who have been supporting this effort, Laura McAlpine and others on her staff, to compile a summary of all the testimony you have received and categorize it by the sections of the statute that have given you your charge. So that will be raw material that you or your facilitator or whoever --

CO-CHAIR DUGAN: Right, and when is that going to be ready, Dave?

MR. CARVALHO: All right. It has been kept going on an up-to-date basis. So whenever you are ready for it, it will be ready for you.

CO-CHAIR DUGAN: Okay. And we have a framework. You know, we have the framework of the legislation as to what we've done, and this was done after we met.

So if we can get that to us up here so we can get this passed out to everybody, so you guys can see the -- what we kind of said was the framework. This is what the legislation said we had to do and that type of thing, so at least we're looking at what it is now we're supposed to do by the time we get done, and then we can take it from there.

MEMBER SCHAPS: I want to support what Senator Lang said. I think that a good facilitator can just take all of the -- particularly what Laura McAlpine and her staff put together and present us with those issues and walk us through and facilitate a discussion of getting to a conclusion on each one of those issues.

I would actually throw their name into the pot as a consultant since they've been here at every meeting and put together this analysis, and I know they do that kind of work.

CO-CHAIR DUGAN: And probably so, maybe if everybody kind of thinks about it, and in between our lunchtime -- because we've got people who are scheduled to speak, just in case they have something else they have planned that they were

going do.

Why don't we -- if everybody can kind of think about it as we go forward, we'll let the people that are supposed to testify, testify; and then we will discuss -- because before we leave here today, if it takes us a little bit longer to discuss this idea, then we can certainly do that.

All right. So let's start with the testimony. The Health Facilities Planning Board current members, Susana Lopatka is the Acting Chair, James Burden, and Courtney Avery.

Those are the three I have on the list. Is there somebody else?

Okay. Come on up.

MS. LOPATKA: I have a soft voice. Can people hear me in Springfield?

CO-CHAIR DUGAN: Kurt, can you hear? I can't hear Kurt.

MR. DeWEESE: Yes, we can.

CO-CHAIR DUGAN: Okay.

MS. LOPATKA: Okay. Please do let me know because I do have a soft voice. I have to be very aware of this at Board meetings as well. So if you start to hear me fading, alert me.

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 state-wide 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 freestanding emergency centers. Rules for LTACHs, long-term acute 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 the backdrop 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 14 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 PhD program. The Board itself has been without a fifth member most of the more than 2-1/2 years that I have served as the Acting Chair. Yet we all soldier on because we strongly believe in the continued need for this Board.

I felt the need to say this, Co-Chairs and members of the task force, because I have been able to attend all but two meetings of the task force, and comments made periodically would lead one to believe that we're back in the spring of 2004, and we are not, and as I said, I think we are part of the solution and not part of any problem.

The few remaining minutes I have left I did want to speak specifically to some of my impressions as Acting Board Chair. I really wanted to leave much to the two members of the Board in terms of theirs, so I'm going to focus on things pretty much from my perspective as the acting Board Chair.

I was able to see Dr. Poshard's -- his comments before this group at the teleconference, and I want to build on some of his remarks and then expand to my own experiences and impressions.

I agree wholeheartedly with Dr. Poshard that cost containment and avoidance of duplication are certainly very critical to this Board, but I also strongly support the issue of access. He addressed it from the rural health perspective and

the importance of the community hospital, particularly in rural areas as a keystone of community.

My experience is urban, both in New York and in Chicago, and I view it in terms of continued access for the most disadvantaged medically. I know from experience that once a resource is lost, it's never regained for a community.

I just want to note that our Board has been particularly sensitive to this issue, and two recent examples I can give you were the saving of the old St. Francis Hospital in Blue Island -- they did trojan work themselves to be able to meet all the deadlines, but that is the largest employer in that community, and it's a solid working-class community, and I think we have done something for them to be able to preserve that particular institution.

Also in East Louis, we were not able to save a comprehensive hospital because the census inpatient was moribund. You can't operate a hospital at 20 percent inpatient census, but we were able to preserve for the community a comprehensive emergency department and with the

stipulation that it would be in place for a number of years and they would have to come back to the Board if they wanted to change it. So those are two examples I think of the Board looking at access, and access is definitely mentioned in the Act.

I also wanted to add one that I don't believe Dr. Poshard addressed, and this is minimum quality of care standards. Applicants are vetted for ethical, financial, some for clinical standards, particularly cardiac services and ESRDs, and there's a requirement to maintain services and also for patients to be preserved over a period of time if facilities change hands. I think this is something that could be very much enhanced, but in itself it's a safety net, and I'll come back to this issue in just a couple of minutes.

Then the final reason that I think the Board needs to exist is long-term planning. Dr. Poshard did address that, but the reality is, given the small size of the Board and the few staff who support the Board, I think that a planning aspect is not something that's feasible at the present

time.

I want to go on to the time component. This is my first experience on a public board. I have been president, vice president, or a member of the board of directors of a number of professional organizations, cultural organizations, and religious organizations over the years, but this is a unique experience for me, and I have found it very challenging, but I have also found it very rewarding.

It is an unpaid part-time job, and Dr. Poshard mentioned that two out of four weeks the Board took over his life; but we now have six-week cycles, so I would say two out of six weeks the Board takes over my life.

I would say I'm putting double the time into this that I did when I was an active Board member, and I am retired. So I think that, you know, I choose to devote the time that is required. If I had a full-time professional career, I would find it very difficult to put the kind of time in that I think is necessary to do due diligence to this position.

As far as the size of the Board, I would

like to see it increased to at least seven, possibly nine members. I have not had a five-member Board. I have had a four-member Board, and on two brief occasions, I have had a three-member Board.

I went back and looked up and nine-and-a-half of 31 meetings have had just a quorum of three present, and all but two of those occurred during my tenure.

I am very concerned, especially when we're voting on very major, complex, and controversial projects that even though a quorum of three is legal, I don't think it's optimal, and I have said this actually on the record. I would not want to come before the Board knowing that one no vote is going to shoot down my application.

It puts a tremendous burden I feel on me, and I think maybe the other Board members may feel that way and express it, when I'm reading an application, and I have issues with it and I know that it's going to be a three-person, you know, panel who are going to have to hear that particular application.

As far as the composition of the Board, I

think members need a strong health care interface. I don't think all of them need to be licensed health care professionals. I think minimally we need at least one physician. We need an RN. I don't believe there was an RN on the Board just prior to us. I think we need someone with a hospital administration background.

I have used every skill that I have ever developed in my career. I have used clinical skills, administrative skills, and financial skills, and I've probably developed a few more; and I think even someone who has a wonderful finance or administrative background, if they don't have any interface with the health care system, I don't see how they can do justice to serving on this particular Board.

I feel very strongly that members on the Board should also be reflected geographically. Besides great leadership skills, I think one of the things Dr. Poshard brought to the Board was his knowledge of rural health. It's a totally different creature than urban health is, and I think that he is sorely missed, particularly because of that expertise that he brought.

I think we also need someone who knows suburban and exurban, and we need the state geographically represented because what's true in northern Illinois may not be true in central or southern Illinois.

I would like to see greater diversity ethnically and racially. I'm assuming that the Board will be increased in size. We have had one Latino and one African-American member, and currently, we have just one African-American member.

I am not in favor of categorical representation. I think one of the things that I'm very proud of on our current Board is that we are truly independent. None of us are beholden to my knowledge to any professional group or, you know, any industry segment.

As far as ex-parte is considered, I thought it was draconian when I first came on the Board. I guess I've learned to live with it. There has been a change in the Open Meetings Act which now allows a little bit more flexibility and two Board members can actually get together and discuss certain issues.

I have been very, very conservative in using this. I just feel that given the circumstances that preceded us, the more transparent that we can be, the better it is.

I've used this only once, and it was regarding a legal issue to do with an application that I was having trouble understanding, this was prior to a Board meeting, and I felt that if I was, other Board members probably were to, and each Board member was individually contacted, but legal counsel was present. I mean, I went to that extreme because I feel very strongly about this. So I guess my comment would be that right now ex-parte is kind of -- I think I'm comfortable where it is. It has relaxed just a little bit.

I wanted to also address critical staff who support the Board. I'm almost finished. I know I've only got 10 minutes. But I think the three positions that are critical to the functioning of the Board and the functioning of staff actually are the executive secretary, the chief counsel, and the chief of review.

I feel very strongly that these should be strictly merit comp professionals appointed by the

director of the Department and not subject to gubernatorial appointment.

I bring this up because in the last year, all three of these people were at the end of their appointments, and we were cliff-hanging in each case as to whether each of them would be reappointed. Now, eventually they all were. This was just another added stress on top of the very, very tightly staffed Board to begin with.

I just feel that what they bring -- and I have to tell you, all three of them are superb. I mean, I have worked at three university medical centers that are in the top 10, 15 during my career, and I would say the people that I have been exposed to in my Board experience among the staff rank right up there in the quality of anyone that I have ever worked with.

So the final thing that I wanted to mention was unintended consequences, and I want to note, I don't know whether all of the members of the task force are aware, that when applicants come before us and they're not satisfied with the results that they receive from the Board, that there is a very detailed legal process they may engage in.

What I have perceived in the last year to year and a half is that frequently people are now going to the legislature to get relief rather than using the process that's in place. I want to give you an example of several statutes that I think have really complicated the functioning of the Board.

The first of these -- and it's one that we just had to deal with the other day, so it's very fresh in my mind -- is the ability of responses to come in to the state agency reports until 48 hours before the Board meeting. Now, this is a new statute that went into effect, I believe, January 1st of this year.

It has created some degree of confusion and chaos at every single Board meeting. We've had now three major projects, where substantive information or what appeared to be substantive information came in after the state agency reports were published.

They have to, by the statute, be published 14 days before the Board meeting, and then we had to spend time at the Board meeting to decide if it's substantive or not; and if it is, obviously,

the staff need to vet this information. We can't read the volumes of information on the spot and then go ahead and hear a very complex application.

I think it was meant to create a situation where if there was a factual error, it could be corrected. Well, factual errors have always been able to be corrected, and, you know, we have had -- I have to tell you, we've had a replacement hospital which had to wait another meeting. We've had change of ownership ESRDs which had to wait another meeting. Then we've had another major capital equipment project which has now had to wait another meeting and smaller items in between. One of the complaints about the Board is that it takes -- the process takes too long. Well, this has just complicated it.

A second, and I know Representative Lou Lang is here, but I have to tell you, sir, that removal of the long-term care facilities from the purview of the Board for change of ownership or discontinuation of services has stressed me no end because I believe this was a safety net. I don't know what the rationale was, but I know you sponsored the bill, and it passed.

I think this has removed a safety net for the public. I could actually sign off. If people were in compliance with all of our rules and regulations, and they were in good standing and fiscally sound, I was able to sign off on changes of ownership.

I don't know why this was removed, but I think it was a safety net because part of the change of ownership was people stating that they would not change the services for a period of time, that they would continue to provide the same services; and I truly hope that this doesn't happen, but I'm afraid now there is no regulation at all at this end of the long-term care industry, that there is either going to be a major financial scandal or there's going to be some incredibly bad patient incident.

What's interesting to me is at the front end, the Board still is responsible for who gets into the system, so, you know, it's good for us to be able to monitor the competition; but at the other end of it, we don't have any responsibilities anymore. I felt I would be -- as a nurse and somebody who has a social conscience,

I felt I would be remiss not bringing this up this morning.

I think another thing that's happened is -- we had a facility who deals with the developmentally disabled which is religiously affiliated come before us recently for some major building renovations, and there were issues with their square footage, and they got a deferral, not an intent to deny.

They were very upset about this, and they went out and -- it happens to be my state senator, and they had a statute passed which is now in effect which removes them from the purview of the Board.

See, this is another example of -- and I'm probably -- maybe I'm naive about this, maybe this has gone on for the whole 30 years that the Board has existed, but I give you these as examples of things that make the life of the Board much more difficult.

Then the final thing that I wanted to bring up is the major -- you know, the change in the bed-need projections. When that statute passed, everything else came to a halt while the staff and

the Board dealt with getting this through the process, and actually major, major effort and very minor product at the other end.

We had been told internally numerous times by statisticians that bed migration or migration out of planning areas was already built into the formula; and after stressing the staff and the Board to get this done in the shortest period of time possible, it turns out, and these are 10-year out projections, I believe there are only two community areas in the state that have very, very modest changes in the projections over what they had been previously.

So anyway, I think I want to stop here. I thank you for your attention. After everyone else has a chance to present, I'm sure there will be many questions, and I will be delighted to answer them.

CO-CHAIR GARRETT: Do we want to have everybody --

MS. LOPATKA: Or I don't know how you want to do it, if you want to have other people testify and then go back.

CO-CHAIR DUGAN: I'd say let's let

them all talk, and then we'll ask questions.

MR. BURDEN: I'm next?

CO-CHAIR DUGAN: Yes.

MS. LOPATKA: Yes, you are.

MR. BURDEN: No. 1, I'm very impressed with our Madame Chair's presentation. I'm reasonably new on the Board -- if you want to know my background, I'm perfectly willing to give it -- about nine months. I endorse and didn't hear this statement of hers until this morning, but it's very complete and really summarizes my sentiments pretty much exactly.

I thought it would be redundant for me to bring more material. I didn't intend to do such. I'm here to answer any questions or whatever is requested.

CO-CHAIR DUGAN: Thank you.

MS. AVERY: Good morning.

CO-CHAIR GARRETT: You have a prepared testimony, though; is that right?

MR. BURDEN: No, I don't.

MS. LOPATKA: I gave him a copy of mine.

CO-CHAIR GARRETT: Okay.

MR. BURDEN: It's a copy of Ms. Lopatka's presentation.

MS. LOPATKA: Only my first remarks, I'll be glad to give them to whoever is recording --

CO-CHAIR DUGAN: We'd like to have a copy.

MS. LOPATKA: -- the rest are just some bullet points, a bit more informally.

CO-CHAIR DUGAN: Okay. We'd like a copy of --

MS. LOPATKA: I do have my first statement.

CO-CHAIR DUGAN: Okay.

MS. AVERY: Good morning. Again, I thank you for the opportunity to come before you. I've been on the Board for about four or five years now. I must say I am also impressed and did not know of Chairman Lopatka's statements until we were here, and most of mine are redundant.

So what I would like to do is just focus on some of the things that she did not focus on or enhance on, and I'll just take a couple of minutes to do that.

I think that the Planning Board operates in a very effective manner. I think that we get a lot done with very little resources from staff -- communication with staff. Again, as Chairman Lopatka has stated, it's the first Board that I ever served on that was this kind of animal, and it's been a learning experience, but it has also been a pleasure.

The current Board member and Chair I have learned a great deal from. I have learned a great deal from all of the past Board members and the members that I work with now.

But I would like to say that the ex-parte was something different for me, and I thought that it was kind of a hinderance for staff and the CON applicant not to be able to communicate.

So if I was to make recommendations, these would be the ones that I would focus on: that we do give the authority for applicants and staff to communicate with the applicants as they present a CON. I think it would cut out a lot of the questions and things that we would have as the Board members once we get to the meeting.

Also because I come from a mental health

facility and I'm an administrator, I always focus on dollars and how we operate. I don't know how the Planning Board staff does this, but I would like to recommend that we allocate general revenue funds in addition to the collected fees and fines for the operations and functions of the state agency board with the fiscal oversight possibly being provided by the executive secretary, the Planning Board Chair, the deputy director of the Office of Policy Planning and Statistics or those designated by the Department of Public Health.

You heard over and over again from Chairman Lopatka about our size and how we had to twice cancel meetings because we did not have a quorum. I think that the size should be increased into at least eight to nine people, maybe 11. I think 11 is a bit much for a Board meeting and would be kind of dragging on on a lot of issues that would come up. So I would recommend a smaller size, but increased numbers.

Again, I concur with senator -- I want to call her senator, maybe that's your future --

MS. LOPATKA: Too old, too old.

MS. AVERY: -- Chairman Lopatka's

assessment of the Board being diverse. I have to stress that it has been a distress to me that the Board does not reflect the racial demographics or the geographic demographics for the State of Illinois.

I would also concur and advocate that the executive secretary position becomes a term appointment and be consistent with the Board members.

We've gone back and forth between us as far as compensation for the chair position and the Board members positions. One of the things that I don't understand why this hasn't happened, but would advocate that the Planning Board chair position become a contractual salary position.

The chairperson does a lot of work. I would not be able to do it. I am a full-time employee for a mental health center and spend a significant amount of time on Board-related work. Fortunately, I have a flexible schedule that allows me to do so; but if I was Board chair, that would not be able to occur.

In addition to the reimbursement of travel expenses, I would like to recommend that a stipend

is provided for the Board voting members, again, that the Board maintains the independence that we have been afforded now, and that -- this is something that I would really like to stress -- we are supported with specialized educational retreats.

Sometimes when agencies, health care facilities come before us, we don't have a complete understanding outside of the state agency report of exactly what happens or what that looks like or what the facility actually does.

I'm always hesitant to step into some kind of health care facility without knowing if they are going to come before us, would I bump into someone that I have had an encounter with at a Board meeting, and so on and so forth; but if we could have those kind of retreats that do adhere to the Open Meetings Act, I think that would educate us more also.

I would really, really stress because of the reasons that were stated that we do eliminate the sunset. This has --

MS. LOPATKA: I'm sorry, eliminate the what?

MS. AVERY: The sunset.

MS. LOPATKA: Okay.

MS. AVERY: Because we have lost someone, and it was very hard I'm sure for him to make the decision. I said to him, Is there anything that we could do to keep you, because of his experience, because of his expertise. I think that we would have been able to keep him had there been some kind of safety and guarantee that he would not be faced with another layoff.

Again, I would like to stress that the Planning Board becomes adequately staffed. We have seen some challenges. I don't know how they pull it off with the mailings, getting information to us, answering any questions we may have with what they have now. It's almost like a skeleton crew.

Lastly, I know the Office of the Attorney General has been working diligently to put in place some policies for charity care. I would like to stress that the Board -- not the Board, the task force really focus and support the Office of the Attorney General on any kind of charity care policies and procedures and rules that may

come before you.

Thank you.

CO-CHAIR DUGAN: Thank you.

Okay. Do we want to start?

Okay. Representative Lang.

MEMBER LANG: Thank you, Madame Chairman.

Good morning to all of you. I have several questions. I'll try to keep them as brief as possible. I definitely thank you all for being here.

Chairman Lopatka, during your comments, I thought I heard you say this, and I want to make sure I heard it right. You said that with the size of the Board that you have, planning is not feasible at this time. Did you say that, or did I misunderstand?

MS. LOPATKA: I did. In terms of a very detailed kind of planning, we can't have subcommittees. Four people cannot have subcommittees. I mean, each of us would be a subcommittee. That was really where I was coming from.

MEMBER LANG: I also gathered from

your comments that you think the Board should be larger, and I think I heard you say, or maybe I'm reading between the lines, that you think Board members ought to be full-time and paid.

MS. LOPATKA: No. Sir, I probably err on the other side of this. I have thought long and hard about this. This is public service for me. I'm in the fortunate position of having a comfortable retirement. Other people who are serving in my place may not be in that position.

I think accepting a stipend really interferes with our independence. I mean, that is my particular view, but as I say, I come from a particular economic perspective looking at that, which might not be everyone else's.

MEMBER LANG: All right. So you would suggest a larger Board, and then if you had more Board members and had more ability to plan, how would the planning process look? What are you not doing today that you ought to be doing?

MS. LOPATKA: Well, I think one of the things, for instance, is that we have four major components right now. We have hospitals, we have long-term care facilities, we have ESRDs, and we

have ASTCs.

If we had a larger Board, I think one or more Board members could make themselves some degree of expert on one of those four categories, we can't be all things to all people, and that's just not really feasible given the size of the Board that we have now.

The other thing I'm thinking of in terms of planning, and I have discussed this the one time that I had a formal meeting with the director of the Department, I would like to see the Board work much more closely with aspects of the Department that interface with us.

Now, this has happened to a great extent, but it's because of Mr. Mark taking the initiative and going to licensure and going to some of the other boards that impact on the work of our Board, but it's been a personality-driven thing rather than a policy-driven thing. So these are just two examples.

I think that in the long-term, you know, as we speak, the delivery of health care is changing. I mean, someone in my condo building just came home from the hospital after 36 hours -- 36 hours

after having a hip replacement. I mean, this is just -- it's speeding up to an incredible extent.

I really would like the Board to try to be in a position where it could look ahead and be a little bit mentally proactive about some of the changes that are coming because this is obviously going to impact on many things, like the number of beds needed.

Pediatrics, for instance, unless you have a chronic condition now, the little bed need that's projected to the future that exists is primarily pediatric because kids don't go in the hospital for acute pediatric services anymore. Maybe a little bit at flu season, but kids who are in the hospital are because they are being treated for chronic conditions like cancer or something of that type.

So the way health care is delivered is changing as we're sitting here speaking. So those are some of the kinds of things that I was thinking of.

MEMBER LANG: Do you think we would be well-served to have a separate Board that's simply in charge of planning, leave a Board such as the

one we have today in place to deal with the CON process, however that might be changed or not changed, and have a separate process for planning?

MS. LOPATKA: I think that that could be feasible, but I think there needs to be some type of formal link then with our Board.

MEMBER LANG: Sure. Because as you have decided whether to approve --

MS. LOPATKA: Maybe the person who is -- or actually the executive secretary, I believe is also in charge of health planning and policy. Am I correct, Mr. Mark, or not?

MR. MARK: No.

MS. LOPATKA: I'm sorry.

MR. MARK: Mr. Carvalho is.

MS. LOPATKA: Mr. Carvalho is. Okay.

MEMBER LANG: Right. But when it's somebody who is part of the administration, no matter how good Mr. Carvalho is at his job, then we lose the independence we're looking for; is that correct?

MS. LOPATKA: That's true.

MEMBER LANG: Okay. Speaking of staff, we have heard more than one witness talk

about the fact that the staff does their job well, but that the Board in the past has been too reliant on staff recommendations; and so a report on one particular case could be 10,000 pages long, and Board members are not reading 10,000 pages of a report. This is what witnesses have said, not me.

So I'm wondering if you have a comment as to whether you believe the Board members are fully deliberative and whether they take staff recommendations, but then put their own judgment upon them.

MS. LOPATKA: Sir, I have never ever -- you can ask each of my colleagues sitting here -- heard a staff recommendation for any application that has come before the Board on the four years that I have served on it. That is not the purpose of the staff. They are there to answer our questions and to provide guidance, particularly on interpretation of the rules.

So I don't know where this comment came from. I'll have to tell you that I have -- well, when one says one reads 10,000 pages of comment and 3,000 pages of it is a boilerplate letter, you

know, that's identical, I do. I read -- I take the time, and there are two or three applications that I have probably spent more than a day on, more than a day. I mean, this is me. I can't speak for what other people do.

One of the things that I didn't get a chance to say, but there were three dictums that I brought forward, you know, from things that Dr. Poshard did. The first one was to vote the way you see it, but be able to defend your vote.

I will sit here before you and tell you there is not a vote that I have made since I have been on the Board, particularly on controversial issues with controversial or complex applications, that I do not feel that I could not defend in a court of law.

The second thing he said to us was pay particular attention to hearing testimony, and I remember him saying at an early meeting that he was particularly pleased when he saw that an applicant had had a hearing because he felt that that brought the greater community into the process, and even though it's not sworn testimony, you know, if there is any concern out there, it

will be expressed at that time.

I have paid particular attention to hearing testimony, and I do take the time to read it. Let me tell you, not every application is 10,000 pages. I mean, most of them we're talking maybe 100, 120, and a lot of that is boilerplate in terms of what -- the lines that have to be filled out, you know, for applications.

You might want to ask the other members sitting with me, but that's my answer, you know, in terms of how I approach the process.

MEMBER LANG: Well, in the interest of time, let me just move on. I have a couple of, I guess you'd call them, procedural questions, and then I'll be finished, Madame Chair.

The first is relative to the hearing process. We have heard that Board members are not required and generally do not attend the public hearings.

Do you think something should be changed in that area so that the Board members are listening to the public testimony on these cases before the Board votes?

MS. LOPATKA: I have a concern about

that, and I'll express it this way. Our actual Board meeting has been disrupted seriously twice in relatively recent times. The first time by a group of ministers from the west side, and this was after we had voted on -- the final vote on the Bethany Hospital application to discontinue some services. They did not understand the process. We are the end of a process. We are not the beginning of a process.

Then the second time we were disrupted was about a year ago when we voted to extend a permit for the Lincoln -- I think it's the Lincoln, what is it, Lincoln Estates, which is a program for the mentally disabled to live in cottage-type homes.

The Department of Human Services hadn't funded it, and so it hadn't been able to open, and it was complete, and some incredibly physically and mentally challenged people disrupted the meeting, and they would have for the whole day if our ex-officio member from DHS had not intervened.

I bring this up because the rank-and-file public don't necessarily understand the process of this Board.

Now, if we were to go to a hearing, and the

hearing officer would announce, well, so and so Board member is here, I have the perception that people would come up and start to try to lobby us. That's what my major concern is about attending hearings.

I have attended a hearing. I mean, first of all, I didn't think we were supposed to attend hearings, and so I never did. Then I inquired, I think, of our legal counsel, Is it okay for a Board member to attend a meeting?

Yes, it is.

And the one that I attended was Children's Memorial Hospital, which was a superb hearing, and they asked for it. The reason they asked for it was because, you know, you fill in the lines on the applications, but they've got to put every single point on the record that they thought was important to their application. There basically was no opposition.

Now, I'm trying to be a fly on the wall at this, and, of course, it got around the room immediately that the Acting Chair was sitting there.

Then I read the testimony afterwards, and I

have to tell you, I was more focused reading the testimony than I was looking at -- hearing the testimony and being distracted by everything else that's going on in the room. So this is my perception.

I know I've heard expressed here, you know, as part of task force meetings that people don't bother with the hearing testimony. I'm here to tell you that I do. I can't speak for my other Board members. I don't know if they want to comment on this or not.

MEMBER LANG: I would love to hear their comments.

MR. BURDEN: Attending meetings, like Madame Chair presented, I believe also would resent -- or I would resent to some degree, and would represent lobbying would probably occur. To some degree, it has occurred. I mean, there is an attempt to influence our attitude by posturing, et cetera.

To me, it wouldn't seem to be sensible. I recommend that you consider it, and certainly we would go along with it, assuming this Board stays in place, but I don't think it represents a

significant improvement in any situation.

I have read the documents. I read them diligently. I certainly see the letters coming, and there's no question about the attitudes of competing medical institutions who don't necessarily adhere to what a particular institution is attempting to do, obviously. It's a matter of market share.

So as a practicing physician, I'm retired now, I recognize that. As the hospital administrator, it's probably pretty important. It wouldn't -- either way I don't think a lot is going to be accomplished by us attending, other than the fact as mentioned earlier, about the amount of time that Madame chair puts in is amazing. I'm very impressed that she does put in the time she does. I can't imagine anybody being as diligent as she is regarding everything that has been presented.

I'm open minded to it. I don't think it represents a significant step forward at all.

MEMBER LANG: Ms. Avery, do you agree with that on the public hearings?

MS. AVERY: I agree with that on a

public hearing. I think that it would not enhance the process. I do spend a lot of time reading the public comments. I spend a lot of time reading the transcripts from the hearings, and I don't see in any way how my presence or any other Board member would enhance that process.

MEMBER LANG: I just have one more question, Madame Chair.

Chairman Lopatka, you said that because of this 48-hour rule, that there have been times where you've had to make important business wait for the next meeting.

Do you not have the capability of rather than adjourning a meeting until the next meeting date that's scheduled, recessing it for 48 hours and coming back and taking care of business?

MS. LOPATKA: Representative Lang, it is very difficult, I mean, even though two of us on the Board are retired, to find, first of all, a date that suits everybody to be able to meet; and second of all, to find a place to meet. You just cannot find a place to meet within a matter of two or three days. I think logistically it would be very difficult.

I'll give you an example. We had to cancel our regular Board meeting in August, late August of '07 because of illness of a Board member, and it took us a lot of effort to schedule a makeup meeting, and that makeup meeting was several weeks later, and then I was ill, and so it didn't happen again.

So I think that, theoretically, it might work. I think the reality is it would be very, very difficult.

The other thing is when we don't hear something, it's because it needs major vetting. It's detailed financial information. The other day we were handed a very detailed document by the applicant themselves which quoted case law and Supreme Court cases. Now, that's not something that you can look at and respond to in 48 hours.

MEMBER LANG: But those weren't the things you were talking about before. You were simply saying that sometimes information comes in at the last minute --

MS. LOPATKA: Well, this was information at the last minute.

MEMBER LANG: Let me finish.

MS. LOPATKA: I'm sorry.

MEMBER LANG: And you left the impression that sometimes it's even fairly insignificant information and --

MS. LOPATKA: Oh, what it basically --

MEMBER LANG: Can I finish, please?

MS. LOPATKA: I'm sorry. Okay. Go ahead.

MEMBER LANG: -- and because of that, you have to let some needy hospital or somebody who is really ready to roll wait a month or two months until your next meeting.

I'm simply saying that if your Board was larger and it was easier to get a quorum, then that really shouldn't be a problem after that. Because if it is, it's not a question of the law, it's a question of the availability of Board members, which is an entirely separate issue.

MS. LOPATKA: I think you misunderstood me.

The majority of this late-breaking information has not been substantive. We do have to discuss, do we think it's substantive or not. We have to accept it for part of the record, and

in most instances, we have been able to go forward with the application.

There have been several, though -- one was a replacement hospital, one is major, major capital equipment, and then the third one that I think I cited which was -- and actually in two of these three cases, the applicant themselves brought this information in unwittingly, not realizing what it was going to do.

I don't think that staff -- and I don't know whether staff want to respond to this. I don't think that 48 hours is adequate for staff to be able to vet some of the types of information we have gotten.

So it varies. It varies from the minimal -- I gave you the maximum cases, and this is since January of this year. So there have been three major situations where we had to defer for a month because it was seriously substantive materials that needed to be analyzed by the staff.

MEMBER LANG: But then that has nothing to do with the 48-hour rule. If there was no 48-hour rule, they could bring it in five minutes before the meeting, and then you're saying

that's okay?

MS. LOPATKA: No, I'm not, and I think we're not talking the same language as to the 48-hour rule.

MEMBER LANG: All right. Please explain it to me.

MS. LOPATKA: It used to be that once the SAR was published, that was beyond the period of public comment; and now people may respond to the SAR up to 48 hours before the Board meeting.

When information comes in like this -- and 48 hours before the Board meeting, I'll tell you our Board meetings are usually Tuesdays and Wednesdays, and staff in Springfield are going to get something at 5:00 o'clock on a Friday afternoon, and then it's the weekend, and then they're traveling to Chicago. I mean, that's the reality of what happens sometimes.

So I don't know whether the staff want to jump in here or not on this. I'm not sure when we're talking 48 hours, I think we're talking two different understandings.

MEMBER LANG: All right. I will end with this, Madame Chairman.

MS. LOPATKA: Okay.

MEMBER LANG: I would just simply suggest that in the workings of your Board when you see a problem with a statute, that you let us know.

MS. LOPATKA: Well, I took this opportunity --

MEMBER LANG: I have never received a letter.

MS. LOPATKA: I took this opportunity this morning to put that on the record.

MEMBER LANG: Right, but if there was no task force, we never would have heard that you have an issue with the 48-hour rule. We never would have heard you had an issue with my bill. We never would have heard these things.

It seems to me that if your Board is concerned about public policy, which I'm sure it is, I'm sure everyone on the Board is a diligent member trying to do their best, you ought to let us know.

MS. LOPATKA: Okay.

MEMBER LANG: You ought to send us a letter quarterly and tell us what you're seeing

that requires state action rather than have us do guesswork as to what you need.

MS. LOPATKA: If that would be your pleasure, as long as I'm on the Board, I would be glad to seek that avenue.

MEMBER LANG: Thank you. I'm sure the legislators would appreciate it. Thank you.

CO-CHAIR DUGAN: Thank you.

MEMBER GAYNOR: Thank you all for appearing today. We appreciate your testimony and the time that you commit to this public service.

Ms. Avery, you had alluded to the fact that you think that charity care -- there should be some criteria in the CON process regarding charity care, and I just wanted to know whether you thought specifically about that and have any suggestions about what type of criteria there should be and how that would be implemented.

Then I would also be interested in the opinion of Dr. Burden and, Madame Chair, your opinion on that issue as well.

MS. AVERY: In reviewing applications, we always look closely at charity care to see what the hospital is actually doing. I think it was

maybe last year when the Attorney General's Office had come out with the report that showed that we were really, really below the national standard in terms of charity care and what we give as an incentive for such, that hospitals are not -- or health care facilities, I should say, are not even coming close to the national standard.

So when I support that and say that, I know that there are a lot of people who are uninsured. I grew up on the south side of Chicago. I lived close to Roseland Hospital for a number of years before relocating to more affluent areas and have been able to see the differences in the health care.

So what I would like to see is that health care facilities are held accountable in some kind of way. I can't come up with a solution right now as to how that should be reflected in the CON process. Especially when we see millions and millions of dollars that's being spent in other areas that are not -- that are as affluent and have the dollars to do so and have the resources to rebuild hospitals.

But we have a Roseland Hospital -- and I

don't mean to single out Roseland, but that's what I know. We have a Roseland Hospital that's really struggling. I have looked at the ER when I'm in that area that's been boarded up forever and know that there's something that has to be done.

I have seen people that are in the waiting rooms, the emergency rooms that are waiting for hours and hours because they are probably uninsured. I'm not sure why it is or if they're short staffed. But I just think that we should come to some kind of conclusion that our charity care is below the national level and that we should come up to par with it.

MEMBER GAYNOR: I would be interested in the other opinions.

MR. BURDEN: Well, we recently received data regarding the 222 hospitals in the State of Illinois, and it's extensive. I don't have it right here. I could retrieve it. But overall, charity care across the state was around 1.9 percent, I think, for hospitals.

But I felt, and this is personal, I don't know how the other Board members felt, that the ASTCs that have mushroomed in my career practicing

in the city for 40 years, where there are now some 125 or so, oftentimes unless we request a new applicant to apply for Medicaid, they haven't done such.

That bothers me because the hospitals are competing with this service, and this service is skimming, taking the cream, the paying patient and not allowing or at least referring to the hospital the charity care.

The hospital bears -- this is me as a practitioner. I saw this happen in my lifetime. I'm not referring to data, but personal experience, where a freestanding surgical center in the community which didn't have a relationship with the hospital in that planning area, I'm sorry, you got Medicaid, go to Hospital X or go to County. That to me is something that demands attention.

That's it. I don't really agree totally that the hospitals -- as long as we discriminate carefully between so-called uncollected or debt that patients have had -- acquired and not taken care of, and move this to the category of charity care, which I'm aware has happened in some

institutions, that to me -- obviously, that's your assignment to look into that. I don't think that should occur.

I'm more impressed by freestanding surgical centers which have to be -- I can't say the word mandated, but they've got to be encouraged to get a license or get an application from us to apply for Medicare -- Medicaid, excuse me.

MEMBER GAYNOR: Madame Chair?

MS. LOPATKA: Well, just building on the ASTC issue, this Board has approved ASTCs, but we look very carefully at whether the type of service to be provided is available in the catchment area as defined by the applicant and also if there is excess capacity in that area as well.

Frequently, we have turned them down because there has been excess capacity and there has been availability of the service, or if the service isn't being provided, the type of multi-specialty ASTCs which do exist could actually develop that service.

A couple of examples that we -- one example that we did approve was I think it was in Mt.

Vernon, and it was a retinal procedure, and we gave it an intent to deny the first time; but when the gentleman came back the second time with the application, he had documentation from the local hospitals that they did not intend to purchase the expensive equipment to provide this and clients were having to go over 100 miles to St. Louis to have this service.

So that's an example of when -- and we have approved others, but I think we have been very diligent about examining the circumstances around the requests for ASTCs.

Of course, now they're coming before us, and they're promising the sun and the moon, but the reality is you don't get into ASTCs by knocking on the front door. You get in by referral from a physician, and if the physician is not taking Medicaid patients or Medicare patients to begin with, you know, the question is, well, how do those category of patients end up getting served?

As far as the charity issue generally is concerned, I feel very strongly that there needs to be much more charity care than at least it appears from the statistics. That we have -- I

think one of the suggestions I think I heard at a prior task force meeting was possibly some of the wealthier hospitals developing a type of financial pool that would aid hospitals that are struggling.

Sister Sheila just came -- with Mercy just came before the Board the other day for some very needed improvements, I think, to get up to life-code standards in some cases.

That's a hospital that has a large Medicaid population. It's a not-for-profit. It's a safety net hospital. They could certainly use a lot of help in increasing their charity care from possibly some institutions that are a little bit more able to provide that because there are incredibly large tax incentives to not-for-profits to be not-for-profit.

MR. BURDEN: I'd like to make one more comment. I agree with everything that Madame Chair said.

Initially I was a pediatric urologist and served for a short time as the head of urology at Children's Memorial Hospital. So I was well-aware of that institution and Sister Sheila's institution of assuming Medicaid patients without

any question.

Of course, in the beginning, reimbursement rates -- I have been retired eight years. I worked for 40. This was a long time ago. Medicaid reimbursements were by today's standards very, very significant; but nonetheless, patients were received and treated there regardless of their financial background, and I don't think that every -- as Madame Chair alluded to, institutions in the affluent communities look at it the same way. That to me is hard to search out, but it appears to be such.

CO-CHAIR DUGAN: Anybody else down on that end of the table? Okay.

CO-CHAIR GARRETT: Go ahead.

MEMBER ALTHOFF: Thank you again, too, from all of us. We really do appreciate the time and effort that you put into this position.

I don't know if you're aware, I believe so, but there was a Republican task force that did some analysis of the Illinois Health Facilities Planning Board prior to that time, and we came up with several recommendations.

One of them being, is that the burden of

proof should really be on the Board itself as you look at these applications and decisions as to why you would reject them as opposed to approving them, so that it would be assumed by most of the health care facilities that they would be approved unless the Board found some outstanding reasons as to why they shouldn't be approved and then would provide that to them in writing.

Any comments on that suggestion or problems that you would see with that?

MS. LOPATKA: So what you're saying -- and I remember reading the report, I have read it -- that basically there is an automatic approval unless there is some rationale for not approving?

MEMBER ALTHOFF: Correct.

MS. LOPATKA: I don't know. I have to tell you that when I vote, I put my rationale on the record already. I'm not sure that -- that seems to be almost an extreme to me to make an assumption.

I mean, the reality is, if you look at the percentage of applications that do get approved, it's very high.

MEMBER ALTHOFF: I understand that,

but there always seems to be the concern with those applications that get an intent to deny or are denied and then coming back again.

I'm just wondering if you switched the onus, and the Board said no, the intent to deny because of this and here's our written report as to why we came up with those, if that's not a more efficient way to operate as opposed to what we're going through now.

MS. LOPATKA: Well, I'm not sure, but when an intent to deny is received, I do believe that the applicants receive information as to specifically what the issues were, and then they have six months to submit additional information and come back.

MEMBER ALTHOFF: Again, and I don't want to belabor the point either, but what I'm looking at is a more efficient operation. What I've heard today from all of you is again the concern that you don't always have the support staff, not your fault, not the Department's fault, but that there aren't enough people to do always the work that you need done.

So I'm trying to kind of shift the onus a

little bit, and we didn't have -- if you assume that there is an approval, perhaps that would be easier. I don't know.

MS. LOPATKA: I think the part of the staff that supports the Board meeting in particular has functioned very, very well. It's not that we've ever come to a Board meeting and something that we needed has not been there. Where I see we have struggled is with the rules.

Now, when the Act was changed in 2004, the mandate was to completely revise the rules, and it was within a year or something. That is laughable, given that we have had, you know, a recurring history of staff working, staff being laid off because their contracts aren't renewed. You know, there are budgetary problems in the state as you are more aware of than I am probably.

So I think it's been things like the rules that have struggled, you know, and people have been heroic.

CO-CHAIR DUGAN: We're going to be discussing -- we're going to be talking to that.

MS. LOPATKA: Yeah. The actual work to support the Board, I don't know how they do it;

and Ms. Avery mentioned this a little bit, but by some miracle, they -- it's like the loaves and the fishes. I mean, the work that we need done gets done, and it's there for us at every Board meeting. The only other issue that complicates it is this new statute that allows for information to come in at the last minute.

MEMBER ALTHOFF: You know, concerned with time, just think about that a little bit more, and if you could respond to me thereafter, that would be wonderful.

MS. LOPATKA: Okay.

MEMBER ALTHOFF: Two real quick questions. With regard to your statement again and what Representative Lang was saying about a planning perspective on the Board and your concerns with additional responsibilities, would you still have those same concerns if you knew that the Board was going to be increased in size to the seven, the nine number that's been kind of thrown about? Would your position on that change?

MS. LOPATKA: I think that that's -- that a more formal planning process would certainly be more feasible with a larger Board. I

do.

MEMBER ALTHOFF: Okay. And then just, you know, last question. I've been listening a little bit and everybody has commented with regard to charity care, that as you look at the applications that come before you, you do look at that, and that is something that you consider.

Can I just ask from a purely procedural perspective how that came into being? Because my understanding is that's somewhat of a subjective criteria, that there's nothing in the statute or in the Act that would say that you would, you know, utilize that as a criteria to grant or not grant approval.

MS. LOPATKA: Well, one of the things that's been very helpful -- well, certainly, if -- I truly don't recall an application that was denied on the basis of payor mix, particularly regarding hospitals, and I don't recall that we made that decision on any other type of facility either; but it is a question that frequently gets asked, and it gets looked at.

I think one of the things that's been very helpful to us is that for the last year, two

years, for a particular application, whether it's an ASTC or it's a hospital wanting to do whatever, we have actually had a copy of the most recent survey appended to the end of the application.

We've also had a map detailing exactly where the location is in regard to whatever they're asking for and other facilities.

I think that perusing that application, you know, perusing that hospital -- I would say hospital survey because it will look at, you know, somebody wants to modernize six ORs, and so then we can see, well, what was the OR utilization?

So I think it's been more because we've had some very discrete data to support the work of the Board that we have focused in on some of these kinds of things.

MEMBER ALTHOFF: I was more concerned about your comments with regard to the surgical centers as opposed to the hospitals, with charity care, and again access by individuals to those surgical centers.

MS. LOPATKA: Well, if people own other surgical centers, and we've had examples where people have owned multiple surgical centers,

and then they're coming before us, and they're saying, well, we will provide -- we will get Medicare-certified, Medicaid-certified. That's not my criteria for whether I'm going to approve it or not.

My criteria are, is this service already available in the community that they plan to serve, and is there excess capacity currently.

MEMBER ALTHOFF: Again, I don't want to belabor it because I think charity care is extraordinarily important as well.

MS. LOPATKA: Okay.

MEMBER ALTHOFF: That is not my intent to indicate it's not. I'm absolutely supportive of that. However my concern is, is that that question is asked, and it's taken into consideration or you're discussing that when you look at these applications.

MS. LOPATKA: Well, it's part of the overall profile of a particular applicant, and I think that we would be derelict if we didn't look at it.

MEMBER ALTHOFF: Thank you.

MS. LOPATKA: Okay.

MR. CARVALHO: Senator Garrett, I can read the provisions of the statute that this Board has generally referred to in this connection if you'd like.

The purpose of the statute -- the purpose provision of the statute says that, among other things, to improve the financial ability of the public to obtain necessary health services and to guarantee the availability of quality health care to the general public.

So the Board has historically looked at the view that building a facility doesn't guarantee access unless you also ask about what the admissions policies of the facilities are.

If they simply build them, but then do not make them available to the Medicaid and Medicare or the uninsured population, then the statutory purposes about guaranteeing the availability of care to the general public are not met, as well as the provision relating to the financial ability of the public to obtain necessary health services.

Then finally in another part, it also talks about identifying unmet needs, and one of the unmet needs that the Board has looked at are the

needs of the uninsured and their access to health care.

So all of those in the stated purpose in the statute is what the Board has historically relied on in asking those questions about charity care.

CO-CHAIR DUGAN: Senator Brady.

MEMBER BRADY: I'm confused here. I think I've heard us go back and forth like a ping-pong table on this charity care.

First, you guys indicated that maybe you dictate -- at least I heard you in your testimony say you took that subconsciously or consciously into consideration on an application.

Then when Senator Althoff asked, it seemed like you were backing away from that, and then Mr. Carvalho interjected that he believes it should be part of your --

MS. LOPATKA: Personally, I don't believe I have ever made a decision based solely on charity care.

MEMBER BRADY: I didn't say that.

MS. LOPATKA: Okay. But I look at it because it's part of --

MEMBER BRADY: You make decisions

based on a whole bunch of things. Is charity care a part of that? Not solely, but is it part of it?

MS. LOPATKA: I certainly note the charity care or lack thereof.

MEMBER BRADY: So does it weigh in your decision?

MS. LOPATKA: But it has never -- it has never -- no, not because I --

MEMBER BRADY: Charity care doesn't weigh in your decision.

How about you two?

MS. AVERY: No, it does not.

MR. BURDEN: It does in mine, and I made the statement, and I specifically referred to freestanding surgical centers.

Recently, an example, we had a change of ownership of a freestanding center where the prior owner was refused because of Medicare regs and Medicaid regs closed the facility down. It's been purchased by a new group. We specifically -- I think I asked the question, are you -- and they agreed -- are you going to make an application for Medicare or Medicaid in order to get licensure, and, of course, they are.

That was -- at no time have I heard on my short tenure on the Board where charity care has become such an issue that there's been an intent to deny it. I believe that's what Madame chair is trying to say.

I personally look at charity care as a practicing physician for 40 years. I recognize the insult that comes because I'm uninsured, and I'm sensitive to that.

Does that make me an obstacle to an application, no. I think in every case that I have brought it to their attention, they have met it. All we have to do is ask the question, and they usually exceed because they want to go forward with their application. So it doesn't become an obstacle to a point of intent to deny in my case.

MEMBER BRADY: It seems to be at least part of my -- and I don't know about the rest of the task force, the problem with a lot of this is you're making subjective decisions that -- you're almost making decisions that we in the legislature should make.

You're taking a statute, interpreting it,

and making decisions frankly that I think is our job. Whether we think there ought to be a charity care requirement or not should be our job. It shouldn't be yours.

I guess what we're hearing is some of you are taking that into consideration. That's good to know. As we make our recommendations, it's important to know how you're weighing in on this.

Has the staff report ever indicated to you charity care?

MS. AVERY: What do you mean indicated?

MR. BURDEN: Yeah.

MEMBER BRADY: Put in there whether or not -- let's say, staff will say, for instance, five positives and one negative or something like that.

MR. BURDEN: No.

MS. AVERY: No.

MS. LOPATKA: What is in there is there are tables. There are tables for utilization based on whatever number of whatever they have, and then there is usually a table that breaks down payor mix by whatever, self-pay,

third-party pay, Medicaid, Medicare, uncompensated, whatever. That's a standard.

MEMBER BRADY: When a staff report comes out to you, and I should know this, but I forgot it clearly, but does it say five positives and seven negatives or whatever the ratio, is that strickly subject to JCAR issues, the rules that have been put in place by JCAR, or is it also some other things that have not been approved by JCAR?

MS. LOPATKA: I think the process is very dispassionate and deliberately. I mean, basically, the staff when they vet these applications, and I'll just use an example, that a standard should be X number of dollars per square foot, and maybe it's three dollars over that.

Well, all the staff are looking at, okay, we're under this section. It should be X number of dollars per square foot, but it's Y. Well, Y is a tiny bit more, and so therefore, it's not in compliance. This is where the discretion of the Board comes in.

If somebody is 2 percent over on square footage, technically, they're not in compliance, but they get up before us, and they give us a very

plausible explanation of why they're 2 percent over. So it really is meaningless.

Now, if somebody comes in and they're 50 percent over, we're going to give them a hard time. Because if we let that slide by, well, okay, then the next guy comes along and he's 60 percent over, and there's standards for all these things.

MEMBER BRADY: My question --

MS. LOPATKA: And so that's basically what the staff do. They just say this is strictly in compliance, this is not, and then the discretion comes to us.

CO-CHAIR DUGAN: I think Senator Brady has a specific question.

MS. LOPATKA: Okay.

MEMBER BRADY: My question is, though, those issues that they tell you whether it's compliant, it's positive or negative, are those simply issues that have already been derived by JCAR to be issues that should be discussed?

MR. MARK: If I may, Senator, I think I can answer that more precisely.

The answer is yes. All of the staff's

findings are based on the rules as approved by JCAR.

CO-CHAIR GARRETT: And as submitted by the rules coming out of the Health Facilities Planning Board.

MR. MARK: Absolutely.

CO-CHAIR GARRETT: It starts there.

MR. MARK: So they do not make findings independent of the rules.

MEMBER BRADY: So there's no criteria that's weighed that hasn't been approved by JCAR?

MR. MARK: That's correct.

MEMBER BRADY: So we look at these rules. I guess I'm wondering -- and first of all, let me also thank you for your service to the State of Illinois and what you do uncompensated, and we do appreciate that.

But when you're sitting there with an application, and you're looking at an application that's got seven negatives and 12 positives, or whatever it may be, how do we rate that subjectively? I mean, in terms of, do you always vote against something that's got more negatives than positives?

MR. BURDEN: No.
MS. AVERY: No.
MS. LOPATKA: No, that's got nothing to do with it. First of all, it depends --
MEMBER BRADY: It has nothing to do with it?
MS. LOPATKA: Well, it depends on what the negatives are. Some of them are extremely minor. Some of them are very major.
MS. AVERY: Right.
MS. LOPATKA: And so that goes into the process, too.
MEMBER BRADY: So you subjectively weigh the measure of --
MR. BURDEN: Severity.
MEMBER BRADY: -- severity of each of these things and come to your own conclusions.
So you might rule in favor of something that might have two positives and 12 negatives?
MS. AVERY: I can't ever say that I've taken a tally of how many positives and how many negatives.
MS. LOPATKA: I never have either.
MS. AVERY: We've had instances where

there may have been excess capacity, but the applicant was able to say and justify the reason why there should be some kind of service in that area, whether it was limited for -- I think we had an application where there was an applicant that was only going to provide services to men of Hispanic descent.

Of course, there was capacity in the area, but since this was such a specialized application and it was warranted and we knew that it was needed, I think it had to do with prostate cancer, and we knew that it was needed and in that community, and that they needed some kind of specialized services to get those men into that center, we agreed on it. We voted positive for that.

But I can't say there's ever been a time when I've tallied and said, oh, there were six negatives, but four positives.

MEMBER BRADY: Has another Board member ever influenced your decision?

MS. AVERY: No.

MR. BURDEN: No.

MS. AVERY: No. We don't even talk to

each other until we get to the Board meeting.

MEMBER BRADY: Is that good?

MS. AVERY: And that's to say hello. In some instances; in some, no.

MS. LOPATKA: Senator, I err on the side of transparency. As I said earlier in my comment, there is only -- even since the ex-parte has been relaxed and there has been a revision to the Open Meetings Act, I have only afforded myself that once, and it was with counsel present. It was a technical legal issue that I was struggling with in trying to review an application, and I figured if I was struggling with it, then probably my fellow Board members were, and it turned out that that was the case.

Then they were contacted by the counsel with me there individually, and they all actually were having the same issue that I was. I just didn't think it was particularly helpful for us to be scrambling around at the Board meeting, going, well, what -- you know, I mean, and so everyone understood this particular legal issue before we went into the Board meeting.

So, you know, that's the one example where

there's been any kind of tangential discussion about anything that's come before the Board since I've been on it, period, because Glen Poshard wouldn't even let us have meals together.

MEMBER BRADY: I know earlier you indicated several pieces of legislative interference you wished hadn't occurred.

MS. LOPATKA: Well, let's just put it this way, I'm sure they were well-intentioned, but it's true --

MEMBER BRADY: No, you were clear.

MS. LOPATKA: I was clear. Okay.

MEMBER BRADY: You believe, though, that there may be instances where the legislature should further define your decisions and give you greater criteria and parameters? Is it possible that we've left this too subjective?

MS. LOPATKA: I don't perceive it as subjective at all. If you go through and you look at the actual rules, which are very boring and very detailed, there is nothing subjective or emotional about them. They're pretty cut and dry.

I mean, basically, you know, the reason the Board exists is -- if you wanted to just punch in

numbers to a computer, you'd come out with a result. I mean, we're there to actually weigh the factors, the nuance things that make the difference.

You know, the simplest one is something like square footage. Square footage can be -- okay, so you're off 2 percent, no big deal, or it can be they want double what is the state standard. Well, when you start making exceptions, then you might as well throw your standards out the window.

One of the things I've striven for on the Board is consistency, and I try to be consistent in how I look at applications, and I have encouraged the other Board members to do that.

MEMBER BRADY: Do you feel that Illinois has done a good job of balancing the health care needs through facilities at this point in time?

MS. LOPATKA: I think if you're talking about the Board process, I don't think it's perfect, but I think it's better than no process.

MEMBER BRADY: Let me get to -- if this thing has worked so well, I just -- this

Crain's article really boggles my mind. When Crain's did a report, they showed that Cook County, Chicago, had four times the beds as some surrounding counties.

I don't know how this works when you've got such a disparity in terms of facilities per capita.

MS. LOPATKA: Well, I think when one looks at facilities per capita, I think the standard is that there should not -- it should not be greater than 1.5 times, and so there's an upper limit which is a standard, but there is not a lower limit that's a standard.

I have to tell you in the City of Chicago, and I heard someone having a discussion about this last week, one of the reasons we have traditionally had so many hospitals is, this goes back into the late 19th, early 20th century, where African-Americans did not have access, so they had to develop their own hospitals. People of the Jewish faith did not have access, and they had to develop their own hospitals. All the Protestant denominations developed their own hospitals, and the Catholics did.

So, I mean, that's the genesis of why we have excess capacity in Chicago still for hospital beds and why many hospitals have closed. I used to be in walking distance of seven hospitals. I'm now in walking distance of three from where I live. So I can only address that from Chicago's aspect.

Dr. Burden.

MR. BURDEN: Can I ask -- excuse me, Madame Chair. No. 1, I have never been overwhelmingly impressed with the data that Crain's presents from my historical reading of that document.

MEMBER BRADY: I have given them a great deal of notoriety.

MR. BURDEN: Personally, I have taken care of several members of that, and I'll leave it at that.

MEMBER BRADY: You're disputing this, that they've miscounted the beds and the population?

MR. BURDEN: Well, that sounds pretty simple, Senator.

MEMBER BRADY: Yeah.

MR. BURDEN: I can't imagine that -- and I endorse wholeheartedly what happened as a member of the Catholic hospital community, hospitals were built against the authority of the then Cardinal, this goes back 35 years ago, and all of those institutions on the north side of Chicago that I knew very well have basically closed or changed substantially.

They're becoming apartment buildings or they're changed. They are no longer, and the ones that remain struggle. The whole pattern of too many beds per patient in the city has changed drastically. If that data were extrapolated back to 1980, it would be far worse. If that data that you report, which I haven't seen, is accurate. Now, that's what I say based on personal experience.

New hospital construction in the south side of Chicago effectively hasn't happened. Michael Reese is closing. Thank God Mercy is still in place. We heard mentioned Roseland Hospital, St. Bernard's. They're all in significant difficulties, and we know that County Hospital has its own problems. I interned there. I know full

well what goes on down there.

So we do have in that category, if you took that subjective group, the south side of the city, and applied patient population and bed capacity, that data wouldn't stand for two seconds. That's my opinion. Now, I could be challenged if someone comes forth, but I don't believe that.

The University of Chicago has their own problems, and it's a major teaching hospital.

CO-CHAIR DUGAN: Are you done, Senator?

MEMBER BRADY: Two questions and then I'll finish.

CO-CHAIR DUGAN: Okay.

MEMBER BRADY: Chairman, you earlier indicated a ratio of, what, 1.5?

MS. LOPATKA: Maybe Mr. Mark could address this. We were talking about the bed-to-population ratio and that it's not supposed to exceed 1.5.

MR. MARK: Right. We have eight criterion approved by JCAR that goes to an indicator of maldistribution of a proposed project, and in that criterion, it has a ratio of

beds to population that is a maximum, and that is the one reference in our rules to rate bed need to population ratio.

MEMBER BRADY: Therefore, if you're below the maximum, does that mean that something should be approved?

MR. MARK: No, it does not. That's not the way the rule is written. This is a test of a maldistribution, as an indicator if that number is exceeded. That's the way the rule is written and as it was approved by JCAR.

MEMBER BRADY: And also you made a comment that you thought that the governor shouldn't appoint nor the Senate should confirm you, that you should be appointed by the director.

MS. LOPATKA: Not us, I was not talking about us. I was talking about the three key personnel who support the Board: the executive secretary, the chief counsel, and the chief of the review section.

MEMBER BRADY: What do you think the difference is between the governor appointing them and the director appointing them?

MS. LOPATKA: I personally feel

strongly these should be career status positions, that the people who fill them should be outside of politics.

MEMBER BRADY: You don't think the director is inside politics?

MS. LOPATKA: Well, of course, it is, but, I mean, I have to explain, Senator Brady. I'm a retiree of the State of Illinois, and I went out with the big buyout at the end of '02. But one of the things -- and I don't know whether this is legislative or it's part of the executive branch.

One of the things that's disturbed me greatly was that, and this was a prior administration that did this, so it's not anything that I hold the current administration accountable for, there was like 14 steps above union, you know, which were like from just above union positions up to, I would say, middle management positions, and they were, at least in my experience, they were filled by people based on merit, not based on politics.

Someone got the bright idea 10-plus years ago or more to compress these into two categories:

public service administrator and senior public service administrator.

What it did -- the senior public administrator was gubernatorial appointment. Well, it took people at the division chief level, which should not have anything to do with politics, the deputy director of a department or the director is a different story because of policy issues, and it put them into gubernatorial appointment. That's where, for instance, the chief of the review section ended up. Okay.

Well, people were very thrilled and being a gubernatorial appointment sounds very impressive. Well, what happened is, we changed administrations after 26 years, and the perception was, if you're gubernatorial appointment, obviously, you're political.

In my section of family health of the Department of Human Services, everyone of our people who were senior public service administrators, when that appointment was over, they were cut, and that was tragic because they were outstanding people. Most of them were licensed health care professionals, several were

doctor prepared, one had a national reputation. So that's part of why I said that because Don Jones' position should never have been --

CO-CHAIR DUGAN: Okay. We've already --

MS. LOPATKA: Okay. So that's what I said, not our positions.

CO-CHAIR DUGAN: Senator Brady, did you get your question answered?

MEMBER BRADY: Not really.

MS. LOPATKA: Okay. That's what it was about.

CO-CHAIR DUGAN: I didn't think so either.

MS. LOPATKA: Okay. Sorry about that.

CO-CHAIR DUGAN: You know --

MEMBER BRADY: I don't think I'm going to.

CO-CHAIR GARRETT: Can I ask a couple of questions?

MEMBER BRADY: Sure. Go ahead.

MEMBER HASSERT: Quickly, I just wanted to -- I want to understand how to make the process better because I serve in an area that's a

fast-growing area, and I won't mention the existing hospital that's been in front of you, but it's very confusing down to the constituent base down there when we talk about Chicago having an over population of beds, and you can walk to a hospital within -- seven hospitals that you could walk to.

We have a very hard time out in our area trying to get the hospitals in a quick manner in a quick form. In the planning aspect of where we go with trying to site a hospital, my understanding is they've only sited one hospital in the last 20-some years; is that correct?

MS. LOPATKA: I'm sorry, sir, we've only what in the last --

MEMBER HASSERT: Sited a hospital, a new hospital in the last 20 years.

MS. LOPATKA: That may be correct. There has been one hospital approved in the time that I have been on the Board.

MEMBER HASSERT: And that would be Adventist in Bolingbrook?

MS. LOPATKA: That's correct.

MEMBER HASSERT: Okay. Now, that took

20 years to get there. I'm concerned, my aspect, since there has been a lot of talk, and it's kind of hard to explain to people where you're in one of the fastest-growing areas in the nation, that you can't eventually plan for access to health care by planning it.

So how would you suggest that your Board or a different Board could address these issues in a more positive manner versus reactionary manner?

In other words, how do you address this issue where, you know, if you are not from that area, and you don't understand it? I've heard comments made that, you know, that the economy has slowed down, and we don't need to look at future health care issues because the economy is slow. You're not really -- in Will County, you're not really -- you're slowing down now, so don't worry about a new hospital.

I guess my point is how do we plan because we know there's always a bump in the economy?

MS. LOPATKA: Representative, I think you're getting very close to approaching an application which we cannot go near because --

MEMBER HASSERT: Well, I realize that,

but I'm asking about planning. I don't think that's approaching any application.

MS. LOPATKA: All I can tell you is that I abide very much by the statistics and the information which is part of the application, and I base my decision on that. That's a generic comment, but I don't think I can go any farther beyond that.

MEMBER HASSERT: Well, do you think siting a hospital, one hospital in the last 20 years is adequate to address the needs of people within areas that are growing?

MS. LOPATKA: I can't address what's happened up to 20 years ago. I can only address what's happened since I have been on the Board.

To the present time, any decisions the Board has chosen to make, I think we have documented very well what our decision making is, and beyond that I don't think I can comment any further.

MEMBER HASSERT: That's fine.

CO-CHAIR DUGAN: Ken.

MEMBER ROBBINS: An observation more than a question, I think it is important that there be standards for deciding when and where new

health care services are being provided, and the Board I think tries very hard to follow those standards.

But I do get concerned when I hear comparisons made to why are there more hospital beds in Chicago per capita than somewhere else, and I think it represents the danger that trends fall into occasionally of simply doing the math and dividing one thing by another without thinking through why something might be.

For example, we have numerous academic medical centers in Chicago, at least five, that are referral centers, where people from all over Illinois, and especially from the suburbs go to get very sophisticated treatment.

So I think it is not just a question of whether the number of beds in a particular location are related to the overall population, but I'm sure the Board does an analysis of why those beds are there and what is the population that they serve, and I suspect it is greater than the population of the City of Chicago.

MEMBER BRADY: Do you do that?

MR. BURDEN: Yes.

MEMBER BRADY: Do you have that analysis?

MR. BURDEN: Yes, I said yes. I don't know who you're directing it to, but I --

MS. LOPATKA: We do know the catchment areas for the various institutions which come before us for whatever type of request that they're making, yes.

MEMBER ROBBINS: And I assume they exceed the geographic boundaries of any particular city.

MS. LOPATKA: Absolutely.

MR. BURDEN: Absolutely.

MS. LOPATKA: Yes.

CO-CHAIR DUGAN: That's it. Okay.

CO-CHAIR GARRETT: Can I ask a couple questions?

Just looking at your function as a -- your role as a Board member, what is your relationship with staff? I mean, do you talk back and forth? Do you meet? Do you get input?

MS. LOPATKA: Senator, my perception is that the staff exists to support the Board, and the staff is represented by Mr. Mark, and I'm the

representative of --

CO-CHAIR GARRETT: Just tell me what your relationship is.

MS. LOPATKA: I think it's a very, very fine professional relationship.

CO-CHAIR GARRETT: So can you pick up the phone --

MS. LOPATKA: Absolutely. If I have questions or concerns, I will pick up the phone to Mr. Urso, to Mr. Mark, to Mr. Jones when he was with us. We now have someone in --

CO-CHAIR GARRETT: What kind of questions do you ask?

MS. LOPATKA: Well, if I have clarifying questions, you know, about -- if I'm looking at an application, or something comes to my attention and I think it would make a great in-service for the Board.

I also have duties that go beyond what goes on --

CO-CHAIR GARRETT: Let me --

MS. LOPATKA: So this is why I get contacted because there are certain things -- there are certain things, like certain changes of

ownership and certain renewal of permits and also exemptions where if it's a first-time request and every single criterion is positive, then the Board Chair has the authority to sign off on that, and that saves people waiting and having to go for a pro forma Board visit. So I'll get calls that they're sending me X number of whatever, and so that's another reason --

CO-CHAIR GARRETT: Okay.

MS. LOPATKA: -- why they would contact me.

CO-CHAIR GARRETT: So when you get that, do you -- is there any acknowledgment --

MS. AVERY: I have to get back to court. They're calling me.

CO-CHAIR GARRETT: Is there any acknowledgement to the other Board members that you are signing off on that, or is that something that, you know --

MS. LOPATKA: They're aware that I have the ability to do this.

CO-CHAIR GARRETT: I know, but when you do it, is that made --

MS. LOPATKA: They're not aware of it

at the time.

CO-CHAIR GARRETT: Why wouldn't that be shared at least through a memo that you -- because you have that authority, but it actually happened, with your colleagues?

MS. LOPATKA: I don't know.

CO-CHAIR GARRETT: You don't need to look at -- I'm just curious. Why don't you tell me?

MS. LOPATKA: Well, I don't honestly know what -- would you like to know that I have approved a renewal request for X, Y and Z facility, and that everything was in compliance with it?

I have three options. I can approve it, I can refer it to the Board, or I can deny it; and if in doubt, I refer it to the Board.

CO-CHAIR GARRETT: Okay.

MS. LOPATKA: And anything to do with hospitals, I have always referred to the Board.

CO-CHAIR GARRETT: But as part of the CON process, my concern is when that happens, it's a one-way street. It's between you and somebody else on staff and your colleagues, and then --

MS. LOPATKA: Ma'am, but the rules allow the Chair to do that.

CO-CHAIR GARRETT: I know. We're going to talk about the rules. I'm just wondering, I'm just learning about what your role is.

MS. LOPATKA: Okay.

CO-CHAIR GARRETT: So your role is because the Chair has that authority, you can do these things. Okay. That's the way the rules are written, but it's a little disturbing to me that that doesn't get communicated.

Does it get communicated in any kind of minutes or is it anywhere that if we wanted to pull that up and find out what kind of services were approved without the --

MS. LOPATKA: It's part of the official record of the applicant. I believe it's probably available in some manner, shape, or form on the website --

CO-CHAIR GARRETT: Is that on the website?

MS. LOPATKA: -- and a formal letter goes --

MR. MARK: I don't believe so, but quite frankly, no one has ever asked this question before. If anyone wants a log of those, we can make it available.

MS. LOPATKA: I mean, this is the public record of what the Chair does.

CO-CHAIR GARRETT: Okay. Let that be. I definitely have a concern on that.

MS. LOPATKA: Okay.

CO-CHAIR GARRETT: That's not made public, it's not on the website, and your colleagues don't know. I appreciate the fact that you have the authority to do that. You're an excellent Acting Chair, but we've had problems with other Acting Chairs, and my belief is and my assumption is that this rule has been in place for quite some time.

MS. LOPATKA: I believe Dr. Poshard also had the ability to do this, although I think it's been enhanced.

CO-CHAIR GARRETT: That's okay.

MS. LOPATKA: We have already revised the rules to give the Chair additional ability to do this.

CO-CHAIR GARRETT: Okay. It's okay to have that ability. It's not okay, in my mind at least, to communicate it outside of your office.

So your role -- what?

CO-CHAIR DUGAN: We're beeping all over the place.

CO-CHAIR GARRETT: So your role was -- so let me talk to each of you on that.

If you have a question about an application, Doctor, are you comfortable picking up the phone? You can't call your colleagues really. So you then call staff?

MR. BURDEN: I do.

CO-CHAIR GARRETT: And so that's a -- tell me how that works.

MR. BURDEN: That's it. I pick up the phone, and I call Jeff --

CO-CHAIR GARRETT: Okay.

MR. BURDEN: -- or whoever, that I need some clarification on.

CO-CHAIR GARRETT: So you get a lot of --

MR. BURDEN: I don't do it -- we don't do it very often to be quite honest.

CO-CHAIR GARRETT: But you wouldn't necessarily do it -- you would do it prior to a Board meeting?

MR. BURDEN: I could do it prior to a Board meeting, yes.

CO-CHAIR GARRETT: Do you ever do it during the Board meeting where you have --

MR. BURDEN: Yes, yes.

CO-CHAIR GARRETT: Do you ever challenge applications?

MR. BURDEN: Do I?

CO-CHAIR GARRETT: Yes.

MR. BURDEN: I have, not many.

CO-CHAIR GARRETT: Do you ever challenge applications?

MS. LOPATKA: What do you mean by challenge?

CO-CHAIR GARRETT: Do you say, you know, this doesn't make sense, or how did staff come up with the pluses and the minuses, and, you know, be proactive, I guess to really sort of challenge the process?

MS. LOPATKA: Are you talking at a Board meeting or before a Board meeting?

CO-CHAIR GARRETT: Well, tell me, either one. I would be interested to hear either.

MS. LOPATKA: Well, I'll give you a couple of examples. We just lost our chief of review who used to double check everything before they went out, and I found a couple of errors on some of the state agency reports.

CO-CHAIR GARRETT: It's not the technical things --

MS. LOPATKA: Well, that's the kind of example, and so I called up Mr. Mark, and I said, you know, a part of the table was missing which actually tremendously affected an application, and that was noted and corrected, and I'm sure the person who goofed heard about it, and we had the correction at the Board meeting. So that's another example of why I was contacted.

CO-CHAIR GARRETT: What I was saying is, if there's controversial proposals, and the perception may be that it's a rubber-stamp Board and not necessarily you, but let's say in the past.

So to the best of your knowledge, has anybody ever challenged sort of the status quo of

how the information comes to you, and how the pluses and minuses come about, and, in fact, is this the recommendation -- is this really where we should be going? I'm just wondering if -- I've never been to one of your Board meetings, so I'm just asking.

MS. LOPATKA: Well, I would encourage --

CO-CHAIR GARRETT: I know. Just tell me the answer, yes or no.

MS. LOPATKA: I don't really -- I can't think of a single situation where other than something minor as I just explained to you has come up that I thought there was some major issue with how an application was prepared. I just can't --

CO-CHAIR GARRETT: I'm just trying to get a feel for what goes on.

MS. LOPATKA: I understand.

CO-CHAIR GARRETT: Do you guys want to add to that?

MS. AVERY: well, I would say that I have asked questions prior to a Board meeting, but they have been very limited. I can count on one

hand the number of times I've had to call Jeff, and I do ask questions at the Board meeting.

If something stands out in the state agency report, I always refer back to the rules, or I look it up for myself and have an answer then.

CO-CHAIR GARRETT: Okay.

And then, Courtney, you talked about having a retreat, sort of to maybe talk long-term, you know, plans on how the Health Facilities Planning Board would respond to different things, whatever.

Have you ever brought that up to either of your colleagues or to staff?

MS. AVERY: In a way, we joked about going to Hawaii or somewhere, basically, just to hear about -- like the dialysis centers, how do they operate? We don't really get that information from them until they are in front of a Board meeting. We don't have the opportunity to actually learn the inner works of it, to learn how shifts are, to learn how they staff, to learn what are the credentials.

We've had times where people have come and present to us on different topics, but it's such a limited time that we're cramming so much

information in probably 45 minutes to an hour.

CO-CHAIR GARRETT: So back to wanting to have this retreat-type setting, so it seems like a good idea. I'm just wondering if -- you say you haven't really asked anybody that?

MS. AVERY: Just said it informally, very informally.

MS. LOPATKA: I think what we've tried to do, Senator, and I can give you several examples, is we have tried to have on the second day of the Board meeting usually in the afternoon, it's a lighter schedule, we've had an in-service on critical access hospitals. We've had one on safety net hospitals. We've had one on ASTCs. We had one --

CO-CHAIR GARRETT: So let me -- when I think of a retreat -- I think of that as more training. When I think of a retreat, I think of, you know, getting away from your environment and saying, Hey, maybe we should talk about why we're not doing long-term planning.

MS. AVERY: And that's exactly what I'm describing because on the second day of a Board meeting, I can tell you I'm just burned out

and listening to the information, but not really taking it in, and then later looking at something and saying, Wow, I should have asked that question.

MS. LOPATKA: This is the first time the word "retreat" has come up that I've heard, and I think it's a great idea, if we can figure out a way to do it. Thank you very much for that.

CO-CHAIR GARRETT: And then I have two other questions. One is, the consultants -- so you don't -- it's a limited staff, a limited sort of resource that you feel that you have, but yet there are many consultants that staff hires to do a lot of the work.

MS. LOPATKA: I don't believe there are many consultants. The only -- we've had one full-time and two very, very part-time people working on the rules revision for the time that I have been on the Board, and I believe --

CO-CHAIR GARRETT: These are the consultants who evaluate the applications.

MS. LOPATKA: Consultants, to my knowledge, have no input into the review of the actual applications. I believe that is a correct

statement. Is that a correct statement, staff has --

CO-CHAIR GARRETT: Dave.

MR. CARVALHO: Senator Garrett, you continue to confuse people by using the word "consultants."

Chairman Lopatka, she is referring to personal service contract employees. She calls them consultants. They're the people you know as personal service contracts.

MS. LOPATKA: Do we have personal service contract, I mean, people who are contractual versus full employment status with the state? Do we have them working ordinarily on the review process?

MR. MARK: Yes, we do.

MS. LOPATKA: We do. Okay.

CO-CHAIR GARRETT: So you didn't know that?

MS. LOPATKA: I knew that we had people working on the rules, and I think we've had possibly one contractual person working financially.

CO-CHAIR GARRETT: So how do you think

the application process is reviewed?

MS. AVERY: We knew that there were reviewers, but the people that we see that are at the meetings, Mike and George -- I'm sure there's other staff that we don't interface with.

CO-CHAIR GARRETT: Who are Mike and George?

MS. LOPATKA: Mike Constantino is the person who has --

CO-CHAIR GARRETT: Okay.

MS. LOPATKA: -- replaced Mr. Jones.

CO-CHAIR GARRETT: All right.

MS. LOPATKA: Okay.

CO-CHAIR GARRETT: I think that's it.

CO-CHAIR DUGAN: Okay. I just have a couple, and I'm going to keep it very -- the rules I think is where we're going to get some of the answers, but I just want to make sure that I understood it.

You said that you get the pluses and the minuses and whatever, but technically we don't know how -- we don't know -- the rules decide what gets pluses and minuses, and we may or may not even take it into account as we're deciding if

we're going to review?

I mean, it doesn't really make a difference. I shouldn't say you don't take it into account, but it really doesn't make a difference if you -- the Board feels they are minor infractions, even though there might be 18 negatives, we still --

MS. LOPATKA: I think 18 negatives would never fly. I mean, I'm not even sure there's 18 --

CO-CHAIR DUGAN: Well, that's what I was trying to clarify. Do you or do you not take into account the pluses and the minuses?

MS. AVERY: Are you speaking compliance and noncompliance on different sections of the rules?

CO-CHAIR DUGAN: The pluses and minuses that are given to you guys when you then make a decision on the Board, pluses and minuses.

MS. AVERY: But that's to say that this section is in compliance. This section is not in compliance.

CO-CHAIR DUGAN: I'm asking you. You need to tell me.

MS. AVERY: Plus and minus to me is

compliant and noncompliant.

CO-CHAIR DUGAN: Okay. That's the only thing you get a report on as far as pluses and minuses. Compliance --

MR. BURDEN: That's right.

MS. AVERY: Compliance and noncompliance.

CO-CHAIR DUGAN: All right. So I only have one question because I've had this question ever since the beginning.

As we look at access to health care, because I think this is still confusing to me, access to health care means what to the Board? Does it mean there's a hospital 10 miles away? What's the guideline to tell me that there's health care accessibility or access to people in a particular area? What is actually used?

MS. AVERY: As far as the criteria to determine that?

CO-CHAIR DUGAN: Correct. Is it 20 miles? 10 miles? 5 miles? Is it 10 minutes to get there? 30 minutes to get there? An hour to get there? What's the criteria?

MS. LOPATKA: There are multiple tests

of need, and one of them is the number of X type of facilities within whatever the catchment area -- I mean, it varies with the type of facilities we're talking about.

CO-CHAIR DUGAN: Okay. So I just want to get down to the point of --

MS. LOPATKA: Okay.

CO-CHAIR DUGAN: -- if you know, that, okay, there's a need for beds, but we're --

MS. LOPATKA: Absolutely, I mean, it's been calculated by the state statisticians. So there are data that show that there's X number of beds currently. There are Y number needed. Occupancy rates tell us what percentage --

CO-CHAIR DUGAN: Okay. Okay. Okay. I'm not saying that somebody doesn't say that 20 miles away there's a hospital that's got enough beds open that somebody could use them.

My concern is, is what criteria is used? If a hospital happens to be 10 miles away in my district, okay, I can get there pretty quick. But a hospital that is 10 miles in another type of area could take you 45 minutes to get to, and I know that because I've been in some of these

areas. So then you've got a different access to health care. It's not really access to health care. I don't care how many beds you've got there if it takes you 45 minutes to get to them.

MS. LOPATKA: The travel standard that has been in use by the Board since I've been a Board member is MapQuest.

CO-CHAIR DUGAN: Okay.

MS. LOPATKA: And there has been a recent adjustment of that for metropolitan areas that has given a higher --

MR. MARK: May I just for clarification, Representative?

CO-CHAIR DUGAN: Yes.

MR. MARK: The Board does not use a mile parameter.

CO-CHAIR DUGAN: What do you use?

MS. AVERY: Travel time.

MR. MARK: We use a time parameter.

CO-CHAIR DUGAN: Okay. That's what I thought. So that's what I'm trying to clarify. What do you use as the time factor?

MR. MARK: Well, it depends on the service, and it varies, I believe, from 20 minutes

to 45 minutes depending upon the service.

CO-CHAIR DUGAN: But I guess my question is, and I know this may sound stupid, but again, driving 20 minutes in my district and driving 20 minutes in an area that you have to sit for 20 minutes before you can even get a car to go ahead is two different things.

How do we take that into account when we're deciding if a place needs a hospital?

MR. MARK: We just redefined that time factor by our rules through JCAR.

CO-CHAIR DUGAN: Okay. So we get back to rules. That's what I thought.

MR. MARK: We did adjust it.

CO-CHAIR DUGAN: Okay.

MR. MARK: We did adjust it.

CO-CHAIR DUGAN: That's why I said we're going to get into rules, and maybe that will help us better understand because I'm not sure. We come up with the rules. When we say "we," it means the Department and the Board comes up with the rules?

MR. MARK: These are the Board's rules. The Board will propose a rule, and then

they go through the normal JCAR process.

CO-CHAIR GARRETT: Why can't they answer that question?

CO-CHAIR DUGAN: Okay.

MS. AVERY: That was my answer. I just didn't get a chance to say it.

CO-CHAIR DUGAN: Okay. So you decide how you're going to take this time frame in. You, as a Board member said, well, this is the way we should use our time accountability standards.

MS. AVERY: I don't use it personally. I use it according to the statute and what the rule is.

CO-CHAIR DUGAN: Exactly. So the rule -- but that's because of the job. Are the rules made up by the Board making the recommendations or the Board making the recommendations that came to you from staff?

CO-CHAIR GARRETT: Right.

MS. AVERY: From staff and public input once they reach JCAR.

CO-CHAIR GARRETT: So staff for the most part generates the ideas for the rule changes?

MS. AVERY: Yeah, we have staff that look exclusively at rules.

CO-CHAIR DUGAN: I certainly also, as the rest of the task force I know, thank you.

MS. LOPATKA: The Board votes on the recommendations that come before us.

MS. AVERY: Yes, we do.

CO-CHAIR DUGAN: And then we're going to grab some lunch.

CO-CHAIR GARRETT: And then Claire Burman will come up.

CO-CHAIR DUGAN: You might want to eat your sandwich now, Claire.

MEMBER McNARY: I'll be very brief. My name is William McNary, and I'm with Citizen Action of Illinois.

Let me also commend and thank you for your service. I also apologize for not being here to hear most of your testimony, but I did hear Chairwoman Lopatka express that there was public disruption at a meeting.

I want to take another tack as far as public participation is concerned. I'm looking at some of the laws that are supposed to be fair and

intended to be fair, such as no ex-parte communication with Board members once a building is getting underway.

Some on the other side may see this as a hurdle to public participation. I guess I want to hear briefly what your thought is about a structural change that would allow more public participation, such as loosening the ex-parte communication.

MS. LOPATKA: Well, are you talking about public participation at an actual Board meeting?

MEMBER McNARY: That's correct.

MS. LOPATKA: Okay. Well, as I said earlier, there is a process that starts with a letter of intent, goes through potentially a hearing process, as well as filing all kinds of information and ends up at the Board meeting.

The Board meeting is the legal meeting. I mean, it is sworn testimony. I would make it akin to going into a court of law and then sitting in the audience and wanting to get up and make comments while the trial is going on.

I mean, basically, this is a process, and by

the time it gets to us, it is between the Board and the applicant, and it's an open meeting. So people are welcome to come. We've many, many times -- we've had hundreds. We had almost thousands of applicants when East St. Louis was before us.

These people were very courteous and very attentive, and there have been really just a couple of occasions where people have been really disruptive. I think that the ministers --

CO-CHAIR GARRETT: You've already -- we're just trying to move on.

MS. LOPATKA: Okay. But, basically, I don't see -- I don't think it is -- personally, I don't think it's appropriate by the time it gets to the end of the process, which is us voting on an application, to have somebody get up and speak from the audience at that point because they've had numerous opportunities along the way.

The biggest one of all is if there is a hearing because certain types of applications trigger contacting the newspapers and publishing; and trust me, when it's controversial, there is a hearing, and sometimes we've had more than one

hearing. Okay.

MEMBER McNARY: Yeah. Okay. Is that pretty much --

MS. AVERY: I guess I wanted to understand exactly what you are asking. Were you asking would it be more feasible to allow public comment at the Board meeting?

MEMBER McNARY: Yeah. I just think that if the laws are structured -- suppose I, as a person in the district, finds out about this, and I don't find out about it until this process is near the end and this is my first and maybe only opportunity to appear. I mean, but I can't based upon what you're saying because I missed the other areas in the process to do so.

MS. AVERY: But there's still an opportunity to submit written comment. So even if I found out after the actual hearing, I can still submit a written comment.

MEMBER McNARY: That you would take into consideration --

MS. AVERY: Oh, yes.

MR. BURDEN: Yes.

MEMBER McNARY: -- before you would

vote?

MS. AVERY: We read those.

MS. LOPATKA: Any comment that comes in either by email if it's signed or by any kind of paper communications if it's signed is part of the record, and that entire record -- and some of them are like this; many of them are more like this -- comes before us, and I do. I do my due diligence. I think it's only fair to do that. (Indicating.)

MS. AVERY: And the notice is published in the major papers in that area.

MEMBER McNARY: Right. I would just think that, again -- and, again, let me appreciate the work that you do, and I'm sure that all three of you do it with much integrity.

I just think that as someone who represents a public organization that any chance to appear publicly and express, you know, your public belief in the hearing process should be something that should be encouraged.

It's a thin line -- there's a way between not having any public appearances at all at these meetings and maybe having a disruption. There's

something in the middle that I want to strive for, and I just wanted to bring that to your attention.

Again, I appreciate your service.

CO-CHAIR GARRETT: Thank you very, very much. You guys did a great job. We learned a lot, and we're going to move into our lunchtime now.

MS. LOPATKA: We're tired. We had a very, very challenging two-day Board meeting this week.

CO-CHAIR GARRETT: You did a great job.

CO-CHAIR DUGAN: Thank you.

CO-CHAIR GARRETT: So what we will do is start to eat, and then at 12:25, we'll start.

(Whereupon, a recess was had from 12:14-12:24, after which the hearing was resumed as follows:)

CO-CHAIR GARRETT: Everybody, we're trying to move along as quickly as possible. I appreciate that very much.

Maybe we can just open up. Thank you very much, Claire, on such short notice for allowing us to ask you questions. If you can just take a few

minutes and testify as to what your -- Dave, are you testifying?

MR. CARVALHO: I'm going to introduce Claire, yes. Senator Garrett on Wednesday asked us how the rule process worked and who the rule person was.

I indicated that the rule process is a large process that involves Jeffrey Mark, the members of the Board, to a minor extent me, several staff people, but that Claire is the main point person, and so Claire is here to testify. I felt it was a little weird to have staff in Claire's position testify, but that was the request, and so Claire is here.

You also asked for Claire's personal services contract. She is one of our several personal services contract employees, and then you asked for the current one. So we've given you five years of Claire's contracts, and then you asked for her resume. At that point, I felt I should give you my resume, too, because at this point, I'm not quite sure what we're doing.

But in any event, Claire is our rules person that hired on a personal services contract, just

as Tammy Shawgo, two of our ALJs, and a number of other people who serve the process on personal services contracts.

Her contract is for all intents and purposes a 1,950-hour contract which basically means full-time. She did suffer a gap there as it took a couple months for her contract that expired in April to be renewed. So it was renewed, and now she's back in the saddle.

She prepared some materials, I don't know if we've had a chance to have them copied, that lay out the rule-making process. That's my fault. Claire emailed them to me, and I didn't email them to Elissa to have them copied.

So you can work off of those, and we will get the copies to the committee when you're done.

MS. BURMAN: All right.

CO-CHAIR GARRETT: And let me just clarify something, I did request that information. I felt it was totally justified. The rule-making process regarding how hospital applications are evaluated, I think, is critical to the process.

MR. CARVALHO. I wouldn't disagree with you that the rule-making process isn't a very

important and valid topic.

Claire is an employee of the Department. I typically appear before the Senate all the time. Denise Gains appears before the Senate all the time. Claire's boss is Jeffrey Mark, and I'm Jeffrey Mark's boss.

You're kind of drilling down into the agency, and when you ask for people's resumes in particular, I think there's some offense taken on their part that you're suggesting they're not qualified for their job.

CO-CHAIR GARRETT: I'm sorry. Well, let me --

MR. CARVALHO: That's why I'm sitting next to her to provide solidarity.

CO-CHAIR GARRETT: I was curious how Claire became the person who has the most influence when it comes to the final output of the rules, what her background is, where else she worked I think is very relevant to this process.

MR. CARVALHO: You can absolutely pursue that, but the point I was making is, there are people who are accustomed to coming and being questioned in this way, and then there's people

who that's not typically part of their job.

As a supervisor, I don't like leaving my employees hanging out there by themselves, so that's why I'm sitting here.

CO-CHAIR DUGAN: We'll be easy on her.

MR. URSO: Claire, speak up, too, please.

MS. BURMAN: All right. I'm happy to do that. I did bring my resume. We can certainly have a copy of that made while I'm talking, and let me start out with the process since that is the main point of interest.

The way that we started this process -- and I was hired in December of 2004. That's when my first contract went into effect. I spent a good time reading the current rules, all of them, all of the documents for the agency.

So I was wide open in my mind about all of these because I have done reviews. That's how I started out in health care as a career. I have worked on the hospital side where I submitted large complex applications before the Board. I have also been a hospital administrator over major clinical departments, and I have done some

consulting off and on.

CO-CHAIR GARRETT: You were a consultant from 1994 -- 1996 to 2004.

MS. BURMAN: Yes, that was rather sporadic.

CO-CHAIR GARRETT: Okay.

MS. BURMAN: And that was my big push, to find something that was more solid and steady, meaning a full-time position, hopefully, in health care.

This job I could never have imagined opening up, never in my wildest dreams. It just happened to open up, and several people let me know about it. I was approached, I interviewed, and I was offered the position.

One of the things they were looking for was someone who was able to write. I have done a lot of writing. In every position I've had, I've done tons of writing, and the feedback I've gotten from everyone that I've worked under has been that they have been satisfied with that skill.

So then my knowledge of the process that the Board uses, the different rules, many of which were the same rules I used to review applications

under when I first started. I could hardly believe they were still there in place. So the need for the revisions was very apparent. I never questioned that at all. To do all of them at one time, it's just very monumental. There are a lot of rules.

The first thing that we did, we organized it so that we would conduct open meetings to review the existing rules. We took specific groups of rules that made sense to group together, and we reviewed them with all interested parties.

We had a lot of outreach. IHA was kind enough to alert their membership about our open meetings. We contacted other agencies as were needed depending on the rules, and I do have a record of all of the open meetings, and I would be happy to supply a copy of that for you.

CO-CHAIR DUGAN: Are these Board meetings?

MS. BURMAN: No. These are open meetings to discuss the rules and what's wrong with them, how can we make them better.

CO-CHAIR DUGAN: I guess who called the meeting? Who called these meetings?

MS. BURMAN: The staff, IHFPB staff.

CO-CHAIR DUGAN: Called the public, and was the Board there?

MS. BURMAN: It's an open meeting, not a public hearing. It's an open meeting.

CO-CHAIR DUGAN: And was the Board there?

MS. BURMAN: Many times Board members did come, but the purpose of these initial open meetings was to find out what the industry thought needed changing. We had to update some areas, some things were redundant, and there was an opportunity for them to give their initial thoughts on what needed to be done. That's the first thing that we did.

Then we sat down and as a group we reviewed them, and we did summaries of all of these open meetings so we could pinpoint the key issues that were brought up, so we could follow that in the rule making, and then the drafts were prepared.

The first group of rules that we worked on were all of the administrative rules, which are now called Part 1130. That is a consolidation of the four parts. It used to be 1130, 1140, 1180,

and 1190. We consolidated them all.

We removed a lot of the redundancy. There was an awful lot of that. We updated the language, and we tried to rethink the process so that it would be hopefully more streamlined and make more sense.

CO-CHAIR GARRETT: So when you say -- I'd like to interrupt you, if I could.

MS. BURMAN: Sure.

CO-CHAIR GARRETT: So it was -- and maybe Jeff can help with this, it was posted. I mean, these are open meetings. Where were these meetings posted?

MS. BURMAN: Depending on the rules, we did phone calls, we did emails, we alerted agencies of whatever the particular industry was. Like I said, most of the rules that we have apply to hospital care, and IHA did a monumental task of opening up their resources to help notify all their membership. We also had these meetings posted regularly on our website, the first page.

We felt that was very important because we cannot sit in our little box offices and make things up. That's not why we're here. That's not

why I'm here. You know, I wanted to take on the job because it sounded interesting, and I really liked the idea of making them better, making them make more sense.

Are they going to be perfect, no. One big problem with trying to make them perfect is the time factor. We were already behind the clock when I got hired, and it is a long process because we do follow the requirements that JCAR has put forth.

After the draft is prepared, our work group, you know, we have a little group of people, it has been referenced before, it's very small, but we review them to see if we have left things out or can improve on things that have been written up, and then it goes to the steering committee, which is largely legal staff.

CO-CHAIR GARRETT: Who is on that steering committee?

MS. BURMAN: That would be Marilyn Thomas, she is our chief of staff right now, acting chief of staff; and Frank Urso, legal counsel to the Board; and then another attorney came regularly, the one that's leaving now, Kyle

Kingsley; Jeffrey Mark; and myself; and when available, the chairperson would come, too, to review the draft.

As needed, we would make further revisions depending on how the discussion went in that meeting.

Then when that was all prepared and ready to go to the Board, it was reviewed by the Board. Sometimes we did a preliminary review before it was deemed all done. We would do a preliminary review with the Board just to get a consensus on how they felt about the direction we were taking with different rules. We've done that a number of times depending on the set of rules.

Then when it's all prepared, we send the rules to the rules coordinator for the Department, the IDPH rules coordinator, and she walks the draft over to the Secretary of State's office so it can be published in the Illinois Register.

The day that it's published in the Illinois Register is first notice, and first notice marks the beginning of the public comment period which is 45 days. So anyone who has anything to say can send a written comment via email, via regular

mail; and then required by JCAR, we had to prepare responses to each point raised. It takes a long time because some of them are very involved and sometimes it crosses issues. In different instances, that has happened.

So a draft is prepared, and again it's reviewed by the steering committee to get their input and see if there's a better way to address the points that have been brought up.

When that's all taken care of, we put it in final draft form, and it's presented to the Board because the Board has to understand what is in that document and think it through and then say yes or no.

If they have revisions, the revisions are made, and then we do another draft, and then we do all of the required forms that JCAR has for second notice.

Second notice is the longest period within the review process because not only are you doing the responses to each rule -- or each comment, rather, you also have -- they have a lined number version of the draft rule that you submitted, each line is numbered; and if you have changes, you

have to put in a list, in Line 452 after the word "the Board," you insert, and then you put in quotes what you want inserted. That's just an example, but you do it by a line numbered version.

So you do that, and when all of the paper work for JCAR is done, then it goes back to -- it goes to JCAR, not to the Secretary of State. It goes to JCAR. In the meantime, I normally receive a long list of questions from the staff of JCAR.

CO-CHAIR GARRETT: Do you answer those yourself?

MS. BURMAN: I do. I do. Because they switched the reviewer at JCAR for us. The one we had left to go somewhere else, and we have a new person, and she's been very good, very good because she gives me the opportunity to help educate her.

She is new to the Planning Board, and as you may know, it's a big learning curve with, you know, explaining what the Board is and what we do and the reasons behind the things that we have in our rules. So part of her questions have been that, and part of them come really straight from Vicki Thomas.

CO-CHAIR GARRETT: Who is Vickie Thomas?

MS. BURMAN: She is the executive director for JCAR.

CO-CHAIR GARRETT: Of JCAR. Okay.

MS. BURMAN: Right. So that's second notice.

Then if everything is okay, then we're alerted by JCAR as to which meeting it will be reviewed by JCAR at. Generally a group of us go, and we're ready to answer questions, and I did prepare a summary sheet of the ones that have gone into effect since we started this process.

CO-CHAIR DUGAN: Claire, can I just ask you a question?

MS. BURMAN: Certainly.

CO-CHAIR DUGAN: Sort of like when you first hold this, what you called a meeting, it wasn't a hearing --

MS. BURMAN: An open meeting.

CO-CHAIR DUGAN: An opening meeting, and you said you got like the IHA and those people so that they know that -- so you can get their input.

MS. BURMAN: Yeah, so they can attend if they wish.

CO-CHAIR DUGAN: Okay. I just never heard the part of where do they get asked to look at what you guys finally came up with as to whether or not you took any of their recommendations.

MS. BURMAN: That's why the draft is put together and printed in the Illinois Register. Actually, they get a copy at the Board meeting when the Board looks at it and approves it.

CO-CHAIR DUGAN: So they could have given you a recommendation that then you decided not to take, and they're not going to know --

MS. BURMAN: Yes.

CO-CHAIR DUGAN: -- until it's already posted?

MS. BURMAN: Yes.

CO-CHAIR DUGAN: You don't go back to them and say, hey --

MS. BURMAN: Right. It's not a pasted together version of a wish list.

CO-CHAIR DUGAN: So we ask for their recommendations, and then if we don't take them,

we don't tell them before it's posted or before it's drafted?

MS. BURMAN: Right.

CO-CHAIR DUGAN: I guess I'm just saying if what we're trying to do, which is what we're trying to do as a task force, is get people's input as to what they think. Now, I'm not saying --

MS. BURMAN: Okay.

CO-CHAIR DUGAN: -- if they give you a bad recommendation. I guess I'm just -- good or bad, I'm just saying then to just -- then they kind of fall off the screen. I mean, you can still go forward.

MS. BURMAN: Really the important place for them to make their comments, other than right at the start if they weren't able to do that, is when the draft has been published and it's the formal public comment period because every point they bring up has to be addressed. We can't gloss over it. We have to supply an answer as to what's happening with their suggestion.

CO-CHAIR DUGAN: Okay.

MS. BURMAN: That's part of what JCAR

looks at.

MEMBER ALTHOFF: I was very well aware of all of those meetings going on, that interchange. Those individuals who were invited to attend those open meetings understood that they were making suggestions and not all of them would be taken, that they were just addressing some of those open issues. So I think that that was understood from the very beginning.

MS. BURMAN: Thank you.

CO-CHAIR DUGAN: Okay.

MS. BURMAN: The public comment is so significant, that's what drives this, because we are not experts in everything in health care. Most of us at the agency have worked on the other side. We have very well-rounded experiences in health care, and there is an understanding, but at the point where I come from as a coordinator is to make sure all of these required points are met on time. JCAR has, you know, their own set of rules. They have rules on rules this thick. (Indicating.)

CO-CHAIR GARRETT: Let me just ask a question.

You know, as a legislator, we have a rules committee, and there is a formal process, and everybody knows who they are, and it's published.

So when you say that this person came and that person came, is there sort of a rules hierarchy at the staff level? You said sometimes a Board member comes, sometimes not. I'm just wondering how that really works.

MS. BURMAN: At the open meetings, it was just a session for everyone to share their points of view, and there is no --

CO-CHAIR GARRETT: Do you vote to -- is there a vote to -- I mean, not at the Board level, but at this open meeting, how do you decide --

MS. BURMAN: Well, the open meeting is at the beginning.

CO-CHAIR GARRETT: I know.

MS. BURMAN: Once the draft is put together, we review it internally.

CO-CHAIR GARRETT: But let me go back to my first question.

MS. BURMAN: I'm sorry.

CO-CHAIR GARRETT: Is there a formal

group called the rules group or something, committee?

MS. BURMAN: No, I wish there were. There aren't enough people to have that.

CO-CHAIR DUGAN: Where do they come from?

CO-CHAIR GARRETT: Then how does this happen again? So you've got -- tell me.

MS. BURMAN: Okay.

CO-CHAIR GARRETT: If there's not enough people -- this is like the most important part.

MR. CARVALHO: If I could interject for a moment because I think you're making an analogy that may be misplaced.

Right now I have any number of statutes relating to rural health, for example, that are in my office because the Center for Rural Health is there. The director for rural health and I will sit down and draft a rule, and the first time the public will even see it unless there was a reason to ask anybody will be when it's published in the Illinois Register.

In this process a decision was made early on

not to do it that way, not to do it with staff just getting in a room, drafting everything, publishing it in the Illinois Register, and that's the first time anybody sees it.

In fact, this whole process was developed, admittedly ad hoc, to have all of these public meetings. When you get the copy, you will see there were hundreds of hours, and then to have all of these people come, and you'll see there were hundreds of people; and then in addition to having these opportunities for them to give input, the draft then goes before the Board, and the draft was available then.

In fact, any number of the people who sit back here will come up to the table and make their commentary on that before that process --

CO-CHAIR GARRETT: Okay.

MR. CARVALHO: -- which in the ordinary course of things would be the first time anybody saw it, the Illinois Register, even happened.

CO-CHAIR GARRETT: Okay. Let me just ask one question.

If I were on the Board and I got the public

input, and I hope I would get the public input and understand maybe where there were some flaws and we need to strengthen the rules, I would come to my Board Chair and say, I think we need to add language to a rule or revise it or change it or something like that.

It doesn't -- so this rule approach doesn't come from the Board to the staff. It comes -- or does it come from?

MR. CARVALHO: It started with the Board saying go do this. It started with the staff coming back and saying, here's a plan, and the Board saying go do that plan, and then her methodically going through boom, boom, boom.

Every Board meeting -- if you come to a Board meeting, from start to finish, you would see -- you know, it starts off with applications and the like; but then at the tail end as often as not would be a presentation by Claire about where we are in the rules. We've got this one done. Here's a draft of this other one.

CO-CHAIR GARRETT: Right.

MR. CARVALHO: This one is halfway through JCAR.

CO-CHAIR GARRETT: Do the Board members give you the ideas for rewriting rules and updating rules?

Because the last time we had a meeting, we had -- I know you can't comment on this --

MR. CARVALHO: Right.

CO-CHAIR GARRETT: -- but the hospital had testified, and the reason I wanted to talk to Claire, is that the rules were the problem. They're not updated, and I think there's some controversy about that.

If I were on that Board, I would say, Gee, guys, let's take a look at those. Is that how it works?

MR. CARVALHO: Claire can elaborate on it, but it works both ways. So, for example -- you know, one of the things everybody really, really, really needs to do before this task force is done is read through the rules and read every flavor of a state agency report because many of the questions and many of the comments would really be clarified if everybody did that.

CO-CHAIR GARRETT: Since we aren't having --

MR. CARVALHO: Okay.

CO-CHAIR GARRETT: -- can you just answer my question?

MR. CARVALHO: Sure. If you look at the rules, for example, a rule that would say for cardiac catheterization, X number is the number of procedures that a facility should do, that doesn't come from the Board, that doesn't come from the staff, that comes from the experts telling the staff who tell it to the Board.

For a rule that says, should we have 60 days for people to comment or 80 days, that's the sort of things the Board members would have a very definitive opinion on, and they would tell the staff.

CO-CHAIR GARRETT: Right.

MR. CARVALHO: So depending on the nature of the rule, you're going to get a come up or a come down, but the one thing that isn't happening is the staff just making this up on their own. We don't have the expertise.

On the stuff that's essentially arbitrary, the Board does it; and for the stuff that's very expert-driven, the public is providing the input.

CO-CHAIR GARRETT: Well, the public did provide the input on this application that's somewhat controversial that's been going on for a long time, and nothing changed.

MS. BURMAN: Well, it's in the process of being changed. The rules that apply to, I believe, the application you're talking about are under the existing rules. Oh, which ones?

MR. CARVALHO: You're talking about the bed-need calculation. The bed-need calculation, those rules have been adopted.

MS. BURMAN: Yeah, and that was driven by that separate Act.

MR. CARVALHO: Can I make sure we're all operating from the same premise? If you set out a process of rules and a statute that says what the criteria are, some applications are going to get denied. Every application is not going to get approved. Some applications are not going to meet those rules, are not going to meet that statute, and they are going to get denied.

Even if they apply five times, they're going to get denied. Because if the rules haven't changed and the statute hasn't changed, they're

going to get denied.

CO-CHAIR GARRETT: I think the rules have to be changed. It seems to me that it's sort of an ad hoc approach. Now, I don't know if it's always -- has it always been like this?

MR. CARVALHO: The rule revision ad hoc?

CO-CHAIR GARRETT: Well, when Claire is saying -- Claire does the writing, she gets the input, but there's no formal committee. It seems like --

MR. CARVALHO: That's what she was referring to about the members. At that point in the process where the staff takes it to the Board, if the Board were larger, they would probably have a rules committee of the Board.

CO-CHAIR GARRETT: Did you have a rules committee before when the Board was larger?

MR. CARVALHO: I have only served on a Board that was nine and five.

There are people here who are going to testify who served when the Board was 15 and 17.

CO-CHAIR GARRETT: Okay. When it was nine, was there a formal rules committee?

MR. CARVALHO: That Board wasn't in place long enough to really get to the rules process other than conceptualize. They were distracted and then gone.

CO-CHAIR GARRETT: Has there ever been?

MR. CARVALHO: That's what I'm saying. These folks will be able to testify. I wasn't here then.

MR. MARK: I think the former Board members will testify that there were rules committees at one time.

MR. CARVALHO: With four or five, the Board has been doing it as a whole. They've been doing it at their regular meetings. The rules have come to them beforehand. They have gone through. They've made comment. They've asked questions. It's all in the public records, open meetings, it's in the transcript. I think Senator Althoff actually has been there sometimes.

People in the public have been offered an opportunity to comment, too, which again ordinarily they wouldn't even see this until the Illinois Register. In this case, they had input

at the front, they saw the draft go to the Board, and then they also take their shots at the first and second comment period.

But the rule -- and, again, we're not talking about pending applications. The rules relating to bed need all went through this exact same thing, where there were meetings on bed need, there was a draft on bed need, it goes to the Board on bed need, it goes into the JCAR process and gets adopted by JCAR or approved by JCAR.

CO-CHAIR GARRETT: Lou, did you have a question?

MEMBER LANG: Yeah, a couple things.

First, I appreciate you being here. You have a good knowledge of how the rules are done within your agency.

I heard you talk about a steering committee. I assume that's the committee where you -- if there's going to be a rule change, you bring all these people in, and you have this conversation; is that right?

MS. BURMAN: Yes.

MEMBER LANG: Okay. And I heard you talk about inviting the Hospital Association and

all these other stake holders, and I heard Dave refer to "the public," and I think he's referring to those people as the public.

My question is, what about the public? The real public, not the stake holders, but the people that need the medical services, the people that may need a health facility built.

Who in the consumer end of this is invited to talk about these rules?

MS. BURMAN: Well, it depends on what rules we're talking about. For instance, when we're talking about dialysis, rules for end stage renal disease, which they now call the center for renal dialysis, a lot of times agencies, special interest agencies will bring in people that they know about that would have an interest in knowing about the rule making for this subject.

MEMBER LANG: Give me an example of an agency. Are we talking about a non-for-profit organization, or -- I'm trying to make sure that when you're having these meetings, it's not just the people that have a stake in how that rule affects their bottom line. We're talking about the consumers.

MR. MARK: For Claire's memory, for end-stage renal dialysis, the Illinois Chapter of the National Kidney Foundation sent representatives to several of our meetings.

MEMBER LANG: All right. So that's what I'm talking about.

So you purposely seek out people whose expertise or knowledge or opinion might be valuable to the rule-making process?

MS. BURMAN: The first time we had an open meeting about the long-term care existing rules, we contacted their three major agencies, or there were at the time. We contacted them, but in addition to that, we went to the inventory, state inventory, and we called or emailed all of the providers hoping that they would show an interest and show up.

MEMBER LANG: That answers my question.

MEMBER LYNE: Did they show up?

MS. BURMAN: No.

MR. CARVALHO: Actually, that is a problem sometimes, but there were several topics, when I saw that there was going to be

something that I thought the consumer groups would be interested in, I gave Jeff references to the Campaign for Better Health Care. Actually, you know, we don't have a lot of consumer health groups out there in this state, but the Campaign for Better Health Care.

When I discovered Claudia's organization existed through the adequate health care task force, I asked her organization.

Sorry, Heather, I didn't think of your organization at the time.

And then the Consumer Union were the ones, for example, relating to charity care or for those kinds of issues where I knew consumers might have an interest, too, we made a special effort to reach out to them. The ones about cardiac catheterization admittedly less so.

MEMBER LANG: Or perhaps someone like Citizen Action, my friend Mr. McNary here.

MR. CARVALHO: The fellow who used to work for you, he works for the state now.

MEMBER McNARY: Brent.

MR. CARVALHO: Yes, invited Brent to some of these meetings, too.

MEMBER LANG: All right. So just one additional area.

At JCAR, we -- I sit on JCAR fortunately or unfortunately, and we have had a problem over the last year that I have been sitting there with rules coming to us that are basically foisted on us. So somebody decides they're emergencies, and then they become instituted immediately.

What use, if any, do you make of emergency rules?

MS. BURMAN: We try to avoid going that route. We have considered -- we have had requests for making certain rules emergency rules; and after examining the issues at hand, we have not agreed to do that. We have talked to JCAR in advance about what they think, and -- well, JCAR staff, excuse me, and, you know, we have never opted to do emergency rules.

MEMBER LANG: Thank you.

MS. BURMAN: We just put everything else on hold and work expeditiously on whatever it is.

MEMBER LANG: That answers my question. Thank you.

CO-CHAIR GARRETT: Anybody else have any questions? No more?

Can I just ask you when you did consulting work, what kind of -- what kind of work did you do? Was it health care?

MS. BURMAN: Some was health care, yes. I helped with -- some of the consultants that I know when they got in a time bind, they'd pick up the phone and say, I have five things to do at the same time, can you help?

CO-CHAIR GARRETT: When you talked about how you were -- somebody reached out to tell you about this job, was that a Board member or a staff person?

MS. BURMAN: No, people in health care.

CO-CHAIR GARRETT: No, for this job.

MS. BURMAN: For this job, yes.

CO-CHAIR GARRETT: You said that somebody --

MS. BURMAN: Yeah, I know people professionally. I know a lot of people. It's a small circle, and when I was a planner at St. Joe's, which was awhile ago now, I stayed in touch

with other planners, other hospitals. I've known people through --

CO-CHAIR GARRETT: You don't remember who called you on the phone?

MS. BURMAN: I do. I didn't know if you wanted the name.

CO-CHAIR GARRETT: Well, I'm just curious. Was it anybody -- I mean, I don't know.

MS. BURMAN: No. Well, actually, it was Mr. Ralph Weber at Northwestern. He called to let me know that there was an opening and wanted to know if that was something I wanted to consider.

CO-CHAIR GARRETT: Okay. Any other questions?

CO-CHAIR DUGAN: I just have one more.

Just so I understand, so you talk to the agencies, they give you their ideas, and then the steering committee, which isn't made up of any of those people --

MS. BURMAN: No.

CO-CHAIR DUGAN: -- determine which suggestions they may or may not take.

Then you do the draft, and then people have

an opportunity, so the agent or the organizations then would have that opportunity to give you public comment because, let's just say, you didn't take one of those suggestions.

MS. BURMAN: Yes.

CO-CHAIR DUGAN: What happens from there? What, we just say, we didn't take it because we the steering committee don't think it's a good idea?

MS. BURMAN: It's in responses to public comment. We make a statement as to why we're not --

CO-CHAIR DUGAN: And then those all go to JCAR -- I'm assuming that JCAR knows about all of those.

MS. BURMAN: Yes. And everyone who submits public comment during the period receives a copy of all of this.

CO-CHAIR DUGAN: So like when JCAR looks at the rules that you're proposing, they know that certain organizations may not agree with that particular rule change; is that correct?

MS. BURMAN: Yes.

CO-CHAIR GARRETT: Wait, I'm confused.

You get your ideas for the rules through public comment only?

MS. BURMAN: No, no, no.

CO-CHAIR GARRETT: No.

MS. BURMAN: Remember the open meetings at the beginning.

CO-CHAIR GARRETT: Yeah.

MS. BURMAN: Yeah, that's where it starts because we are revising the existing.

CO-CHAIR GARRETT: Yeah.

MS. BURMAN: We are not starting from scratch in most cases.

CO-CHAIR GARRETT: So tell me how the public comment -- so you would look at --

MS. BURMAN: That's after the draft has been published --

CO-CHAIR GARRETT: Okay. The public comment --

MS. BURMAN: -- the formal public comment period, and that's -- We are required by JCAR rules to address each point that they raise good or bad, and say, yes, we agree, this is a great idea.

By the way, the public comment is excellent

for the most part. It's like receiving free brain power. It's very good.

Are all of them usable, no, no, for one reason or another, and that's specified in our response --

CO-CHAIR DUGAN: Okay.

MS. BURMAN: -- why it was not being used.

CO-CHAIR DUGAN: Okay. All right.

CO-CHAIR GARRETT: All right.

MEMBER McNARY: Just one more thing, Claire, there are thousands of public servants who are nameless and faceless and sometimes get overlooked by bureaucrats because we do not know what they do. I just want to thank you for the work that you're doing for the state. Thank you so very much.

As a matter of fact, I judge my success as I get older on how many meetings I stay out of. Thank you, David, for including Citizen Action as one of the groups that you sometimes include.

Thank you so much.

MS. BURMAN: Thank you for inviting me.

CO-CHAIR GARRETT: Can we have all of the former Board members that are here?

Thank you very much for coming to go through this grueling testimony. We're much nicer than we appear.

So in the interest of time, I think what we're going to do is just start off and ask you one question; and that is, knowing what you know now or, you know, when you were serving as a Board member, would you have recommended -- or if you did recommend any changes, what would they have been or what would they be? You as a Board member.

CO-CHAIR DUGAN: In the process.

CO-CHAIR GARRETT: Yeah, the process, how you went through it, how would you improve it?

And do we have somebody on the phone? Is that Mr. Passeri on the phone?

MR. PASSERI: Yes, I am. Can you hear me all right?

CO-CHAIR GARRETT: Yes. So as we, you know, please feel free to chime in as well.

MR. PASSERI: Thank you.

MR. BENJAMIN: Madame Chairs, my name

is Fred Benjamin. It was my privilege to serve as a Board member for eight years, and I served as the Chair for the final year of my tenure immediately up until the year 2003, to establish the context. So I've been Board-free for nearly five years now, and I'm in recovery.

I would like to just take a second to greet some friends. Ken Robbins and Sister Sheila, it's nice to see you, and Jeff Mark as well.

This Board has -- it tries really hard. It has a very hard job, as you know, and I think that the main issue that marks the Board right now is frankly a lack of trust with some of its constituencies by virtue of what has happened over the past several years.

A three-member Board is simply not feasible. A five-member Board is simply not feasible. There used to be a rules committee, a hospital committee, a long-term care committee. We used to attend all of those meetings. All of the notices of the meetings were published in the Illinois Register and in various newspapers. There was a website that can have all of the information available on it, but right now -- it's not a hard

matter, there's just too much stuff to do.

In my era, we would get from the staff a duplicator box filled with report materials. We would be charged with reading those materials and then have to make decisions based on the rules and our interpretations.

That goes to a comment that was made earlier. If you're just going to go by the specific rules, don't have a Board. There's no need to. If the criteria are specific, hire high quality staff and be done with it.

On the other hand, this Board has existed in limbo for six years now by virtue of the continuing sunset provisions that hang over it by virtue of the budgetary process that exists, and this Board has been crippled by that.

I mean, if you want to know the view from the outside world and outside of the industry per se, it has been crippled by all of this. That's not to say that this trust relationship has not been injured by the Board itself in many instances. I recognize that that is true.

I think past Board members probably would be in general agreement on that, but the work of the

Board, and more importantly, the issues that the Board is charged with -- and those issues are pretty simple. They are quality, cost, and access.

And we have to -- we need to have vision in Illinois of what we want our health care system to be, and the rules need to be deployed to achieve that vision.

As a corporate CEO of nearly 30 years standing right now, I would never think of operating my business without having a specific vision and a plan about how things are supposed to work. It has to be that way. it can't function otherwise.

I don't want to usurp all of the time, but I want to make one last point for you.

We have an existing health care system, whether you like it or not, that involves significant debt, significant relationships with various constituencies at this point; and if you have a system that I would characterize as deal processing, meaning that all kinds of applicants just come to the Board with the expectation that things are going to be approved, you will have way

too many beds, such as we have now.

This Board's job for the most part is to say no, just say no. We have too many this's, too many thats, and the Board is put in the position, frankly, of having to be the bad guy. There's nothing wrong with being the bad guy. It's our job to be the bad guy for the most part, but in an informed and enlightened way that reflects back to the vision that has been established and the charge that has been given to us.

And I'm going to stop right there.

CO-CHAIR DUGAN: Do you believe this state has a vision as far as health care?

MR. BENJAMIN: No.

CO-CHAIR DUGAN: I mean, a planning section and --

MR. BENJAMIN: No, I think it's -- it works hard on having a state health plan. The state health plan is an unwieldy document, and kudos to the Department of Public Health. It is hard to produce a health plan with 70 or 80 chapters as our state health plan has, and I have reviewed it. We have a plan, but I don't know that we have a vision.

I'm sorry, one last thing. I believe that the Board should have an activist role, not a passive role in processing applications. The Board in conjunction with the legislature should establish what its vision is because if you don't, you're going to have all these beds that are filled with Medicaid people because that -- and I'm not trying to say we shouldn't serve the Medicaid or Medicare or any other populations, but if you build it, they will come, and you will pay for it.

MR. NAGELVOORT: I should introduce myself first. I don't have a name tag. I was invited. My name is Clarence Nagelvoort. I served on the Board in 2002 and 2003. I've been managing hospitals for 20 years. I've been working in hospitals in Illinois all of my adult life.

Now, I viewed my role on the Board to use my experience to look at weak applications that had good projects and help get those approved, and also complete applications where I thought the projects were questionable, to bring up those questions into light.

My concern for the future of the Board is that I think the process could be simplified. I think it should be simplified. I think even elements such as the rules, it's going to take many years to get this done.

I think there's probably another process to occur where the staff has a strong influence making recommendations, a short period of public comment, and then try new rules and then see how they work.

I also thought that some of the comments I heard this morning should be answered directly.

Senator Althoff asked, should the Board be in a position different than now in that projects should automatically be approved unless challenged?

I think that complicates things, but it's entirely appropriate for one segment. The infrastructure of many hospitals is crumbling. If you visit hospitals and go to the boiler room and the energy -- and energy costs are soaring, and they're getting hit very hard here.

So if a hospital can come up with the money to renovate, to remodel, to modernize, I think

that's a case where it should be fast tracked and not a lot of inquiry because we all have that responsibility, and it's much worse than most people think.

I think the other part is aging of the population. There are not -- there are a few, but not good studies of what we're going to need 10 years from now. A fast track for planning and building a hospital, a very fast track would be three to four years. So if we're looking out even in the short term, 10 years, should there be a new hospital in Orland Park? You know, these are the things that are causing controversy. So that complicates the process.

The biggest place of controversy in the Board is someone that wants to build a new hospital. Now, I think, you know, those things can be separated, and the state have a stronger role in deciding what planning should be done, make recommendations, and then develop a process for people to apply to build a new hospital in that area. You could handle it that way.

I know there has been a lot of comment about charity care. I have some opinions about that.

My charity work for 15 years is I organize medical missions in Asia, South America, and Eastern Europe. Chicago area doctors volunteer. It's an all-volunteer organization. Hospitals donate secondary equipment that can be used there effectively, supplies and medications, and I think there's an application here.

I don't understand historically why it hasn't been more difficult for surgery centers to get established because they do compete with hospitals. Hospitals have empty ORs. The building is already there, and I think that the merit of these applications is questionable.

Absolutely there should be a charity requirement for a surgery center to get established. Whoever wants to present it, physician or physician group, have them bring in the local pastors who easily can identify who doesn't have money and needs free surgery, and they should set aside one day a month and do that.

MR. GONZALEZ: Are you done?

MR. NAGELVOORT: Yes.

MR. GONZALEZ: Good afternoon members of the task force. I appreciate being invited.

My name is Michael Gonzalez.

Actually, I was appointed the first time in 2001, and then was reappointed under the new administration in a different format. So when I first came on, I was one of 15 members, and then when I was reappointed in 2003, then I was one of nine. I think there were two others that were also reappointed.

A point on the number from 15 to 9 or just, in fact, 15, I did rely on my colleagues' expertise. I was a consumer appointee, and my own personal, let's say, expertise is in the construction arena, which is one of the elements required for the Board consideration.

But I did rely on my colleagues and the astute or relevant questions that they asked. If you ask was I influenced by that, yes. When I heard answers to what I considered rationale questions, they seemed to be answered correctly, and yes, I was influenced by considering those answers.

I left the Board in 2004 only because there was legislation that was enacted that rendered me as a business owner. I was then ineligible as of

February 1st of 2004, and that's the reason why I had resigned.

The timing for me turned out to be reasonably good because then I was not involved or ever tainted or whatever by what happened subsequent to that. I did vote no on that controversial project.

On that regard, there were times where the Board decided to issue an initial intent to deny; and at a subsequent meeting, the applicant would provide additional information for our further consideration, and it wasn't every single time that when they got that initial intent to deny that they were then finally denied. They were able to come up with subsequent information.

CO-CHAIR GARRETT: If I could interrupt. What we're trying to do is just get your recommendation on this.

MR. GONZALEZ: Okay. I do believe that the number of Board members should be higher to reflect what I had just mentioned, my experience that I would rely on conscientious colleagues to ask questions and listen to those.

There was one thing that I brought up that

probably nobody else brought up, and that had to do with economic development, and the questions I was asking was on diversity and procurement. With the mega projects, so many that were -- especially in the urban areas, being in the industry, that it was important to have that at least asked about. It wasn't a criterion for me to say yes or no to a project, but I did include it in my line of questioning.

Charity care -- I note that the inner city -- the inner city are not -- the inner city hospitals like Mercy or where I go is Mt. Sinai or St. Anthony, they're just not on the same field. It's not even a question of a level-playing field. So I think there should be some way of normalizing or -- normalizing the cost structure so that there's parody in how it's applied by accountants. So that's one thing I'd really like to close with.

Oh, yes, on the public participation, I just felt when I was reading -- when I was reading the minutes or whatever, that the passion was not there. It was just what was on paper, and that helped me not be -- you know, I was in attendance at that meeting, and I think it threw off the

Board as they were considering this other thing, that Bethany interruption. I think it threw off the Board in their consideration of whatever the applicant was on the docket at that precise moment. So I don't feel that there's room for public participation in that fashion at a Board meeting.

That was my final point.

CO-CHAIR GARRETT: Okay. Joyce.

MS. WASHINGTON: Good afternoon. It is a pleasure to be here and to be invited. I know so many of you on the task force, so it's good to see all of you.

Just your specific question, you asked what kinds of things we would recommend. It was certainly a pleasure to be on this Board for -- I was appointed by three different governors, and so it was a pleasure to be there that long and kind of see the transition.

I think some of the things that people have already said -- as you can tell, we were all on the Board about the same amount of time, and so some of the things were really important to us. I think the vision that Fred talked about was so

very important.

I don't think we'd ever run an organization unless there was some clear vision about what we want to do and where we want to go, and all of you certainly belong to excellent organizations, so you know how important that is.

We kind of struggled with that, too, when we were on the Board; but we did have -- one of the things we really enjoyed is a higher number of Board members, which meant that there was a lot of collaboration about where we should go, and there were a lot of committee structures and lots of meetings.

In fact, when we had a three-day meeting, that first day was just on committees. We invited -- the committee structure would look something like this with lots of people from lots of different pasts, and that was we thought always important.

We talked about the public, and we always felt like that was extremely important that we hear from as many people as we could, and we'd do that in a number of different ways.

So the Board being too small to be able to

enjoy some of those kinds of things is really an issue and coming up with that planning process that all of us think is really important.

Then having Board members with expertise, we thought that was really important. I was a nurse, and then I've been in hospital administration for a long time in Illinois. I've built some ambulatory surgery centers.

But we had people who were specific to that particular -- actually whether it be hospitals, whether it be a physician, whether it be a nurse, whether it be -- and those people as well as the public which is very, very important.

Those people would be very, very important to us, and I think as somebody said, we got to talk to each other. This was a little bit before the ex-parte. So that limited discussion with, you know, Michael and some of the other folks. That we felt was a disadvantage because the discussion was just to understand it better and to be able to have a much more educated vote. So we thought that was really important.

Just my last thing would certainly be on retreats. I heard somebody say something about

retreats, training, in-service. We did tours of Illinois where you could really go -- you could really see what a non-bed hospital, you know, can look like, how they operated; and I would invite you all if you haven't been to one of their meetings or haven't been, that just being able to see it and understand it and be there, whether it's at a meeting -- or the rest of Illinois, we had the great privilege. It was better for us, and we got to see a lot of Illinois.

It's just, you know, when we stay in Chicago, it's a lot different than south of the Dan Ryan that they always used to tease me about.

Anyway, it's a pleasure, and certainly, I'll be willing to answer any questions that you have.

CO-CHAIR GARRETT: Do we have any questions, or you are?

MR. COPELIN: My name is Mike Copelin. I was the chief project reviewer for 25 years with the state, and then I'm a consultant in the health care field now. So I've been on both sides of the fence.

The couple of things that I would recommend that you take into consideration to change is, and

everybody says we need more Board members, but the reason you need them is so that the Board can have some ownership in the rules and the development of those rules. The committee meetings were essential in terms of doing that. We had members from all different parts of the community involved in that.

I think it also allows you to have a couple Board members whose sole responsibility is that particular section of the development, and they report back to the other Board members in a public meeting about what happened, and that makes it much -- gives them a much stronger ownership in the process.

The other thing -- you know, there are some things, there's some minor things that need to be fixed about this along with some major ones, but the fines and things that are going on with those right now are astronomical, and we need to bring those back under control.

I think the focus on the Board shifted -- has shifted a bit in that when I was staff, we felt it was our responsibility to try to make sure that the projects that got approved by the Board

were the best that they could be. So we worked with the applicants directly.

The ex-parte communication decision has effectively eliminated that as a possibility. I know now as a consultant, I don't have the ability to call up a staff member once it's a pending application or we file the letter of intent.

If there's a problem, I don't have the ability to talk to them and try to figure out how we could go about fixing it and making it a better project so the Board would be happier with the project. I think those are things that the ex-parte communication has caused a problem with.

I think the other thing is the ability of the staff as a whole to work with the Board. We did a lot of that at the committee meetings. They were open public meetings. People came to them, but as staff, we were able to talk to the Board members and find out what their concerns were and better develop the rules from that perspective.

We had specific -- it was assigned specific staff members to those rules also. Like my responsibility was under the Part 1110 rule. Somebody else's responsibility was the financial

rules. Each one of us had a different area that we concentrated on, and we were allowed to work with the Board members and try to develop them, and I think that's important.

CO-CHAIR DUGAN: When did that all change?

MR. COPELIN: Basically it changed when ex-parte came out, and when we reduced the number of Board members.

MEMBER LYNE: When did you terminate?

MR. COPELIN: I retired from the state in basically January of 2003.

MEMBER SCHAPS: And ex-parte was 2006?

MR. COPELIN: No, ex-parte came in, actually, about 2002, I believe. It came in like the last year that I was with the staff.

The concern there -- we have two interpretations of what ex-parte communication is. To me, ex-parte communication is by definition anything that's not on the record. If you put it on the record, it shouldn't be ex-parte communication anymore.

But the way that it was ruled to be determined was that it was anything that was not

held in the open public meeting. So that way, we were not allowed to have the discussions, and I think that's a difficult task for any staff or Board to deal with.

CO-CHAIR GARRETT: Could we just get clarification on when the ex-parte came in because we're getting --

MR. COPELIN: I'm thinking that the ex-parte --

CO-CHAIR GARRETT: Jeff, do you know?

MR. MARK: No, I don't.

MS. WASHINGTON: I think about 2002. I left in 2002.

MEMBER ALTHOFF: I think it was at the end of 2003.

MR. PASSERI: This is Ray Passeri. I'll be the historian going back to when the statute was first passed. The Board had in its organizational rules, before there was anything in the statute, prohibitions on ex-parte.

But that essentially meant that there could be no discussion regarding applications; and if there were, it would need to be put in writing and put into the project record so that the public

would be informed, and all that was part and parcel of what went into the project file.

CO-CHAIR GARRETT: Wait, who came up with --

MR. PASSERI: I believe --

CO-CHAIR GARRETT: Wait, I just want to understand.

So was that in 2002?

MR. PASSERI: In 2002, I believe, is when the statute was amended and put a specific phrase into language regarding ex-parte, and then it was subject to some interpretation, and then it was further refined after that, as I recall.

CO-CHAIR GARRETT: Then who drove that? Do you know who drove that request?

MR. PASSERI: I don't know. My last year as executive secretary was 2000, and a lot happened in the last eight years to the statute and revisions to it, but my recollection is there was some concern on the part of the provider community relative to how much conversation was going on with the Board; and even with staff, I think there were some criticisms that some people felt that certain providers might have gotten more

cooperation or had their applications strengthened by staff. Others were saying that there were meetings with Board members, et cetera.

MR. DeWEESE: Kurt DeWeese, I think I could answer that.

MR. PASSERI: -- to put something into the statute.

MR. DeWEESE: This is Kurt DeWeese. I think I can answer that to some extent.

When the Board was restructured, given the problems that had developed, the speaker was insistent that the Planning Board begin to function more like the Commerce Commission, and the standard then for ex-parte was really derived from the language and the limitations that were in the Commerce Commission Act.

Then as further problems developed with the Board, the language was changed with the last reorganization to tighten it up even more so that there wasn't the potential for the kinds of collaboration that caught the Board a few years ago.

CO-CHAIR DUGAN: I have just one other question just about committees. Okay. Because

I've heard there used to be subcommittees, and that always provided a very good -- you know, that was a good thing to have the subcommittees and have the people from the different things.

So would you recommend that, when we decide what we're going to do here -- you would need more Board members, we would understand that, but also then would you recommend that the subcommittee process kind of be put back into place? Was that beneficial to the Board?

MR. BENJAMIN: It was very beneficial.

MS. WASHINGTON: Absolutely.

MR. BENJAMIN: It provided an appropriate outlet that could be in the public view for the communication to take place.

CO-CHAIR DUGAN: Okay.

MR. PASSERI: This is Ray Passeri again. I can recall in the very early days almost everything went through the Board. There was a committee structure that was established by the Board. It was done in open meetings. The staff took direction from the Board. The Board had ownership of the rules and the process and the entire planning function. I think that's very,

very critical.

To put a Board into a position where all they need -- basically, all they are doing is reacting to applications that come there, trying to follow rules and regulations and not having been part of the development of those rules and regulations, I think places Board members at quite a disadvantage.

CO-CHAIR GARRETT: Thanks, Ray.

CO-CHAIR DUGAN: I think, Ken.

CO-CHAIR GARRETT: Ken, go ahead.

MEMBER ROBBINS: Several of you have professional backgrounds in health care delivery, and I'm not sure that any of you would be eligible to sit on the Board under the current arrangements that exist for potential conflicts of interest.

I've always thought that maybe we went overboard on that. Mr. Gonzalez pointed out that he was educated sometimes by informed questions that were being asked.

There are a variety of ways where you can get expertise on the Board. Some of them may no longer be appropriate in today's world of transparency. There was a time when somebody on

the Board had to be actively engaged in hospital administration, for example. That assured that at least one person on the Board understood the issues that were coming in to the hospital field, the same with long-term care or medicine or nursing.

We've done away with that, and the presumption I think was that a governor who made appointments to these boards could choose to find people with that expertise and populate the Board as needed, but that really hasn't happened either.

So I wondered whether there was a sense on the part of those who have experience and came from the field, whether you think having that kind of expertise on the Board is important; and secondly, whether you think it introduced any kind of bias into the process simply because you came from a particular part of the health care field.

MR. NAGELVOORT: I'd like to answer that first.

You heard earlier about the massive amounts of information that come to the Board members to review and that few people have time to read it.

If you know where to focus on the critical

elements, it makes it much simpler. I had three occasions where I had -- was in a position of managing a hospital, where a hospital within a mile-and-a-half had a project before the Board.

Now, in that situation, it's a clear conflict of interest. That was a problem historically at that time because you needed eight positive votes to carry a project. If some members did not attend, that put pressure.

How I handled that situation, if I thought it was a good project, I declared a conflict, supported the project, said why, and voted yes. There was only one time where I didn't participate because I didn't believe in the project because that is an issue that comes up.

If you had a simple majority, and -- you know, another alternative is, you heard this morning, the people represented themselves very well, maybe there's retired hospital administrators available, maybe there are people that have minimal conflicts or are more independent.

I mean, that's your decision, but is it -- does it have to be a barrier, I would say no,

because it's only in a position where you would have a conflict that you would oppose a project where you're a barrier to the process, and I think you could minimize that.

MR. BENJAMIN: Whether it's with Clarence's idea or not, it seems to me that it's almost impossible to have an informed discussion where, you know, sometimes -- sometimes the question that might be the dumb question is the one that nobody else understands. It's always that way for me. I can tell you it's good to have that expertise.

I will also say the flip side of that is that in my experience of being a Board member, that was always where the stress came in, and it was massive stress in terms of having to decide on these kinds of projects, and is there a secondary level of conflict that I don't even see or understand. Who is looking from the outside saying, Look, this person is looking at this from that perspective. Oh, my goodness. That was terrible, terrible, terrible.

But nevertheless, to have that level of expertise, whether with retired people or some

staff experts -- Ken and I talked about that at least five ago.

MS. WASHINGTON: I can't imagine doing the job we did without having that expertise, without having questions from all viewpoints, including the public. I know Mr. McNary was talking about the public hearing.

All of that was so important just to be able to hear it, hear what those questions were, and I don't think it was biased. I think integrity -- it's hard to legislate morality, as somebody was saying, but, you know, and that's not the place -- that's not the place to do it.

You need that expertise there. You need people asking the question, and you need people that kind of work with it, live, breathe, and live it, and they have the expertise when you don't.

So I just think that's extremely important, whether you're talking about the meetings, or whether you're talking about the committee meetings and coming up with the vision and the plan.

CO-CHAIR GARRETT: We're going to move on quickly to Pat Sweitzer.

MS. SWEITZER: I'll be very brief. I'm Pat Sweitzer. I was, I guess the best way to characterize it, the caretaker executive secretary of the Planning Board between Ray Passeri, who I don't want to forget either, and Mr. Mark.

I won't even go down my entire list of recommendations. I'll stick with the ones which I think are most important, and even though this is something that every other person has said, I think unanimity in and of itself is significant.

The number of members of this Board needs to be increased, and it needs to be increased significantly for all of the reasons you've heard. I won't go into that. And the restrictions against health care related individuals should be eliminated, again, for all of the reasons that you have heard.

But I will add one thing to that. I only know what I read in the papers; but to the extent there have been issues raised about past practices of the Board, none of those issues were related to the health care provider members of the Board. They were all related to consumer members of the Board, which is not to say consumer members are

bad. Please don't misunderstand me. All I'm saying is the health care providers managed apparently to conduct themselves in a professional and nonbiased way and caused no problems with conflicts of interest and stuff. I will move on from that.

My second recommendation, and, again, this is not the first time you have heard this today, is to bring planning activities and initiative back into equilibrium with the regulatory activities of the Planning Board.

If you look at the enacting legislation, the Health Facilities Planning Act, all of the regulations that the Board implements and develops are supposed to be based on the planning principles that they have already come up with. To do regulation in a vacuum is a situation where you have results like criteria and standards that are so out of date they have slid into irrelevance.

The Board needs to spend as much time on planning as it does on regulation; and, again, as has been pointed out, that can't happen with the size of the Board or the size of the staff. I

want to point out that when I make that comment, in no way am I being critical of staff.

There was a time, as you have heard, for many, many years when there was adequate staff to support the Board in these of types of planning activities. What happened was, the very first time the Board was close to sunset, because of employee, human resources rules within the Department of Public Health, all of the -- many of the -- not all of them, many of the staff who worked for the Planning Board were let go or reassigned.

At that time, the director of the Department of Public Health was Dr. Lumpkin, and he sincerely believed -- he said this to me himself -- that the Planning Board was going to go away. So he never restaffed after the sunset was extended.

But since that very first sunset, this Board and this staff have been in a position where it's always only one year or two years, and the appropriations aren't made for an adequate staffing level; and even if they were, I have -- you know, I have questions about whether it would be possible to get good staff who will want to

come -- leave a job they already have, and want to come to work for a program which on paper may only last for a year.

So I guess I've ranted and raved about that quite enough, but I did have --

CO-CHAIR GARRETT: We feel your pain.

MS. SWEITZER: Yes. I did have a few other comments, but they have been made by other people, and I'd rather give Ray the time, such time as we have left rather than go on.

MEMBER LYNE: May I ask, when did you finish with your term?

MS. SWEITZER: You know, we were -- I was trying to figure that out as we were sitting in the back today. I left the Board at the end of March in 2003, and I believe Mr. Mark came in August of 2003.

MR. MARK: July 1st, 2003.

MS. SWEITZER: Okay.

MEMBER LYNE: But you were the executive secretary?

MS. SWEITZER: Yes.

MEMBER LYNE: So you were an employee?

MS. SWEITZER: Correct.

MEMBER LYNE: Yes. Are you still an employee with --

MS. SWEITZER: Oh, no, no, no. I went back to my consulting practice.

MEMBER LYNE: Okay.

CO-CHAIR GARRETT: So Ray Passeri, you are on the phone, if you could give us some words of wisdom.

MR. PASSERI: I don't know about the words of wisdom, but thank you very much for asking me to make some comments.

Most of what I was going to address has already been stated by Mr. Benjamin and Ms. Washington and others as well, but I want to reiterate, this was called the Planning Act for a purpose. What has always been missing from Day One in my opinion is trying to make a connection between the planning aspects and the regulatory aspects of the process.

It seems to me that the Board needs to have not only a vision, but has to be more responsive to trying to meet growing needs and the changing environment in health care. This is particularly true with respect to what's been happening in

areas where you've got rapid population growth. Very often the Board is in a position of they have to react, and they're never prospective in terms of trying to establish what the policy should be.

To assist that, this is something that hasn't been mentioned, but I think it's very important; and that is, that in such areas, it would make some sense to have what is called a "batching process" or a "comparative review Process."

It seems to me that rather than have an application come in and be first in the door and be served -- first served, that with respect to new facilities or new services or substantial changes in bed capacity, that applications for those services are scheduled, developed, and they are submitted in a group, and the Board then does a comparative review and tries to find the project that best meets the criteria and also best meets community needs.

Too often I think applications that are submitted do not address how the project is going to improve health status. I mean, I think it's almost assumed that because an application comes

in the door, it means it's going to be a benefit for the community; and sometimes I feel it would be very important to have applicants try to address just what the result of a project will be in terms of meeting community needs.

With respect to that, I think you've heard the other comments in terms of Board size as well as the need for a committee structure to really get more involved in the planning and the development of regulations.

The other thing that I would emphasize is, in the past, there always was quite a bit of discussion regarding competition, and very often that was used as a means of justifying approval of projects. The idea that, well, in order to compete, you need to have a competitive environment.

I would caution that while competition is indeed important, I would prefer to say that what one might be looking for is a guaranteeing of choice because the health care delivery system really does not lend itself to a merely competitive model.

I think too often in the past the idea of

trying to approve projects based on the idea that it was going to be a competitive marketplace has not always proven to be the best choices that were made and the best outcomes relative to the health care consumer.

So that concludes my comments. I would be happy to answer any questions.

CO-CHAIR GARRETT: Thank you, Ray.

Are there any questions from the committee members? Lou.

MEMBER LANG: Thanks.

My comments, my questions are for Patricia, and thank you all for being here.

It's been suggested by more than one person that the way that staff interacts with the Board has changed and evolved over time, that the current staff is more proactive or more aggressive or any other way you want to put it, and at the time that you were the executive secretary, your office and staff had a different kind of interaction with the Board.

Would you care to comment on that?

MS. SwEITZER: Well, yes, I would, and I will say two things. First of all, I am not

privy to how the Board and the staff interact now, but I will say this. When I was executive secretary and when Ray was executive secretary, Board members could talk to one another. There was a much more freer flow of communication.

Because of this small Board and two Board members being an official meeting, et cetera, et cetera, and some ex-parte rules, quite honestly, from my perspective, I'm not sure who they're going to talk to but staff.

If they have issues where they don't understand perhaps some -- you know, again, I don't know what they talk to staff about, and I don't know what their issues are; but if they can't talk to each other, and they can't talk to the applicants, who are they going to talk to? They're going to talk to staff.

I mean, I hope I've answered your question.

MEMBER LANG: Well, you have in part. There has been some commentary from time to time that -- I hope no one will take offense, I'm just repeating what I've heard -- that current staff and the current executive secretary are a little heavy-handed in dealing with many of the issues

the Board faces, and that rather than the Board being a fully deliberative body, oftentimes they'll just simply follow staff's lead, the executive secretary's lead, in essence, he's running the Board.

When you were the executive secretary, I think you had a different approach to that. You were more of a conduit for information rather than a pusher, a prodder, a person that sent the Board off in different directions. Would that be true?

MS. SWEITZER: Yes. I served under two chairpersons when I was executive secretary, Pam Taylor and Mr. Benjamin. I think Mr. Benjamin will agree when I say that at that time, for whatever the reasons were, the Board and the Chair were the activists more than staff.

Staff didn't participate in the discussion at Board meetings. Staff provided the state agency reports, any other reports or information that the Board requested, and answered Board questions at the Board meeting. But other than -- no, we took a very different role.

MEMBER LANG: Mr. Benjamin or anyone else with a comment on this issue?

MR. BENJAMIN: I apologize, and I don't mean to be argumentative; but, again, you can't imagine the stress associated with having to process applications where hospitals and other providers are waiting to get things done when you have three people or even five people on the Board to get it done.

I think it's a product of that because I believe that the current staff are people of hard work and goodwill that really are committed to doing their job. I don't think there's any difference between today and yesteryear except that.

MEMBER LANG: Anyone else?

MR. PASSERI: If I could just make a comment to follow up in terms of what Fred said.

When I was executive secretary, there was a clear separation between the Board and staff with respect to the review of applications.

In other words, the only discussion -- there was very seldom discussion. If there ever were discussion, it would be perhaps a question by a Board member as to the status. So there wasn't any interaction in terms of a Board member trying

to ask staff on an application of a certain rule.

The agency developed the state agency reports. They were the director's reports. They went to the Board, and then the Board got application material along with the report and made its decision.

Now, with respect to the development of rules and policy, there was a lot of interaction through the committee structure, and it was at the direction of the Board that we as staff would then try to do the research and work in very close concert with the Board on coming up with proposed rules.

MEMBER LANG: Go ahead, sir.

MR. COPELIN: I do believe that part of the reason why you have a much more activist staff now is you have fewer people that are asking the questions; and the members that you have now -- unlike when we had Fred for long-term care, we had Clarence from the hospital side, I always found the toughest questioners on the Board were the provider members. They always asked really hard-core questions, and the applicants were sometimes hard-pressed to answer them.

In terms of the staff involvement, we didn't have to be involved. We answered questions -- when we were sitting in front of the Board, if they had a question of us regarding how we made a recommendation or how we made a finding, they're not recommendations, they were a finding as to how the project complies with Board rules, then we answered them. Other than that, it was between the Board and the applicant.

MEMBER LANG: One last question.

There has been a suggestion that if we change the Board and make it larger, which everybody seems to think is a good idea, that we ensure that there are people on the Board in different areas of expertise, so that we have somebody on who is -- one person who is an expert in construction, and one person on who is an expert in medical care or hospital equipment or whatever you can think of.

Do any of you, former Board members, have an opinion as to whether we should have some specificity in the law as to who should serve on the Board?

MR. BENJAMIN: Yes, no more needs to

be said, yes.

MS. WASHINGTON: Yes.

MEMBER LANG: All right. Do any of you have opinions as to what the categories ought to be? You don't have to give them to us now, but we sure would be interested in seeing that.

MR. NAGELVOORT: They can overlap. If you managed a hospital that's done a lot of renovation, construction, that overlaps with that area, also with finance.

So I think that as long as there's people that have done a lot of projects of this nature, the type that appear before the Board, that's the important consideration.

MS. WASHINGTON: Certainly, the providers that were spelled out before, and those seemed to work very well. There were ambulatory surgery centers and hospitals, you know, those divisions that were there before seemed to work well. There had to be a nurse on there, a physician on the provider side.

MEMBER LANG: Okay. I appreciate all your --

MR. PASSERI: I would add to that in

terms of the original Board and how the physicians were slotted. They represented specific parts of the provider community, whether it be hospitals, long-term care, surgery center, financing, you know, in terms of insurance or whatever.

But part of that rationale was that, let's say, you have a six-member provider group and a seven-member consumer group, whatever, there was a concern that you didn't want all six providers, say, to be a long-term care representative because this is a Board that has the authority to adopt its own rules. So you wanted that variation and mix amongst the members of the Board so that not one particular segment of the health care community has undue influence.

MS. WASHINGTON: I think you might disagree with this, but I think the attempt was that everybody be involved in associations, everybody be involved, not necessarily make the final decision, but certainly involved in who -- you know, who do you think is a good person, or how do you help, and so I think, again, that's a way to make sure there's a number of people involved in that.

MEMBER ROBBINS: Interestingly, over the 30-plus years I've been with the association, the complaints I would get from the members of the association about the provider representatives on the Board were very much like, I think Mike said. I got the complaints that they were the hardest questioners who peeled away the onion because they understood what was behind the application.

MS. WASHINGTON: Right.

MEMBER ROBBINS: So I think having that level of expertise serves the public interest, rather than serving its own interest.

MR. GONZALEZ: Speaking from the consumer point of view, I just felt I was representing not only my expertise, but the common person that might be, you know, somebody that would get the procedure at the hospital, and maybe my ethnicity also. So that's what I thought I brought to the Board.

CO-CHAIR GARRETT: Ray, I just have one question.

Are you still doing consulting for the Health Facilities Planning Board? What is your -- I mean, do you have a contract? Are you --

MR. PASSERI: I do have a contract.
CO-CHAIR GARRETT: I'm sorry?
MR. PASSERI: I do have a contract, and I assist in the rules development. I give my suggestions and review some of the things that staff work up, and they take it and go from there.
CO-CHAIR GARRETT: How long have you been doing that? How long has your contract been in place?
MR. PASSERI: I'd say --
CO-CHAIR GARRETT: I mean, you do this -- you live in Florida; right?
MR. PASSERI: Now, I do, the last two years, yes. I think all of last year in terms of the number of hours I did, it was maybe no more than 10 to 15 hours per month, so it's not a substantial involvement.
CO-CHAIR GARRETT: Then, Pat, do you have a contract, or do you do consulting work for the Health Facilities Planning Board?
MS. SWEITZER: No, no, no. I am a consultant right now.
CO-CHAIR GARRETT: Right. But you don't --

MS. SWEITZER: I represent applicants before the Health Facilities Planning Board.

CO-CHAIR GARRETT: Okay.

MS. SWEITZER: I don't.

CO-CHAIR GARRETT: Are there any other questions?

MEMBER BRADY: Yeah.

I understand that we've all been there when we talk about more members and committees, all that kind of stuff like you're saying. I'm really challenged by -- I think a lot of the reasons that they have this ex-parte and this small Board and all this other stuff was the fear of corruption, and maybe we threw the baby out with the bath water. It seems to me that transparency is important, but unless you appoint ethical people, you will have corruption regardless of all the laws we create.

But it seems to me that the present Board is somewhat handcuffed by its inability to freely discuss to make good decisions. You can argue with me if you think I'm misstating you, but it seems to me that you're saying that we just have completely tied the hands so much that the present

Board can't benefit from the same things you benefited from. Is that fair?

MR. BENJAMIN: Crippled is the word I used.

MS. WASHINGTON: That's fair.

MEMBER BRADY: What would you do specifically to remove the crippling?

MR. BENJAMIN: I would untie some of the ex-parte stuff.

MEMBER BRADY: Maybe I missed that, you would untie it?

MR. BENJAMIN: I would untie some of it. I think that some of that just went too far, that one Board member can't talk to another. I mean, the question is, where do you go to ask a question, to the Internet? Really truly, where else can you go except to talk to other Board members?

To have an ex-parte rule where you can't have a majority or some click within the Board that's secretly having lunch together and making decisions that establish, you know, a consensus that gets pushed through, I understand that is not appropriate.

But there has to be some way to facilitate the sharing of expertise and, again, to ask questions of each other.

MEMBER BRADY: Okay. But we still have an obligation to do what we can to make sure this Board isn't corrupted the way it was?

MR. BENJAMIN: Well, transparency, you said it yourself.

MEMBER BRADY: Transparency is one thing, but you can still have someone who is on the sly with the governor that appoints people who are corrupt.

One of the things that I have thought of is maybe the Board members should not be appointed by the governor. Maybe the legislature should give a short list of people that he can select from or she can select from, or members of a caucus should make appointments.

You know, having viewed this, do you think there's a way in which we can separate this by removing just one person's ability to make the appointments?

MR. GONZALEZ: I think earlier before this thing happened, I thought the process was

good in terms of how they selected appointees and the expertise because they had, let's say, the nursing person, or they had the doctor or whatever.

Then those were replaced over time, and I guess this is like a -- by the time I got on there, it was a 25-year thing, you know, a 25-year entity. So each time there was a new person, that kind of slid in. I slid in. I had no knowledge about what was going on and listened the first year, and, again, based on the expertise of the other folks, that's how I learned.

MS. WASHINGTON: Just because you've got a separation --

MEMBER BRADY: Power corrupts regardless of -- eventually, power does corrupt, and this Board has a tremendous amount of power. Unchecked power corrupts, correct.

How do we appropriately check this power without handcuffing --

MS. WASHINGTON: I would say so do a lot of other boards have power, and so you find a way. I mean, I just think you have to separate, though, how you form the Board and the workings of

the Board in how they need to find --

MEMBER BRADY: I guess I'm asking --

MS. WASHINGTON: -- and how they need to work.

MEMBER BRADY: We all kind of agree, and most of us think that professionals with experience, more Board members, and all of that; but how do we -- do you think that we ought to remove the governor's ability to have the sole authority?

MR. BENJAMIN: I'm not sure that's the starting point. I think the starting point is knowing what your expectations are of us and then discussing in the open how the decision-making process works.

All these questions that you've raised today, every one of them is a good question, some of them frankly still baffle me; and, again, the stress that's involved in trying to do this the right way is quite significant, and it's not clear.

When you're in the legislature and you talk to your colleagues about a project that is a pet project of theirs that affects their district, and

then you have somebody else that has a pet project in their district, how does one gain support of the broad group for an important -- for a project that's important to them as opposed to something that's important for -- the same issue has to be dealt with here.

Let's get some guidelines from you folks. You deal with this every day. This is a part-time gig.

MEMBER BRADY: Maybe there should be more statutory guidelines that --

MR. BENJAMIN: Just some discussion, rules and rules and rules, I don't need any more paper.

MR. PASSERI: The original Planning Act had term limits and staggered terms.

MR. BENJAMIN: Right.

MR. PASSERI: At that point, there were 13 members that were appointed, and that was done away with.

MEMBER BRADY: I think the more -- go ahead.

MR. NAGELVOORT: Yeah.

CO-CHAIR GARRETT: I think we have to

wind it down after this.

MR. NAGELVOORT: I'll be very brief. I think -- avoiding the one question about who should appoint the people. I think that --

MEMBER BRADY: Why do you want to avoid it?

MR. NAGELVOORT: Well, let me bring it all the way up to that level.

To avoid the corruption issue, and I don't agree that you can go back to the way things were done before, but clearly there are some simple things that you can do for all boards, term limits so that no kingdoms are created, also staggered terms so new people educate, you know, the members coming, so there's some transition.

But there are transcripts, and I go back and read the old transcripts. I read the transcripts for this hearing before I came, and you can pull out when somebody is self-serving or they're pushing their own agenda.

Someone should be reviewing the activities of the Board periodically to avoid corruption. I can point to specific examples, which I won't do because it would take a long time, where people

went out of character and started attacking a certain project or supporting a certain project. It's right there in the transcript.

MEMBER BRADY: Who does that? Who watches for the out of character?

MR. NAGELVOORT: I think you get two or three people -- you know, you appoint two or three people to review the activity of the Board periodically and submit a report. It's really clear-cut what's happening. I don't think that's anything difficult.

MR. COPELIN: I think to try to answer your first question about the governor, I see three senators on this Board. All of you get to vote to confirm any member of this Board. Sorry, guys, but it's your responsibility. Thank you.

CO-CHAIR GARRETT: On that note, are there any more questions?

MR. GONZALEZ: Well, all of us endured background checks when we were appointed because this was a Senate confirmation.

CO-CHAIR GARRETT: We hope to reform the appointment process. It's one of the goals that many of us have.

MEMBER BRADY: You never came back to why the governor shouldn't.

MR. NAGELVOORT: If I had the power to choose, I would say you would solicit input from well-respected organizations on who is knowledgeable and who is well-respected. Everybody knows everybody for the most part that have been in health care for a long time, and I think you would get good recommendations.

MEMBER BRADY: Thank you.

MR. BENJAMIN: Get the AG.

MR. GONZALES: That solves the problem of the provider group, but what about consumers? Consumers are just people that may have some expertise, some interest, some passion.

I mean, reading 5,000 pages for a meeting, I mean, not we read every single page, but that's the book that we would get. That's pretty strenuous.

MS. WASHINGTON: But there are consumer groups out there, too, that could help us with this.

CO-CHAIR GARRETT: Maybe instead of individuals, there could be a representative from,

let's say, Citizen Action.

MS. WASHINGTON: Right.

CO-CHAIR GARRETT: I'm just putting that out there, instead of individuals.

So I'm going to -- we have a 2:00 o'clock deadline, and we have one more topic.

MEMBER ALTHOFF: Thank you so much.

CO-CHAIR GARRETT: Thank you very much.

We talked earlier -- I'm going to wash my hands of this, and what you guys do -- I think we all are in agreement of getting a facilitator and having a process. We have given you an outline of, I think, the topics that we need to have addressed.

If Senator Brady wants to put a subcommittee together, I think that's a great idea, and I think you guys just need to move forward.

MEMBER ALTHOFF: I guess the question is, though, would this group agree to, A, the creation of a subcommittee, and then giving that subcommittee the authority to work with the Department and actually have somebody on board for the next meeting, or do you want to postpone that

for another month again?

MEMBER BRADY: That should be at the next meeting.

CO-CHAIR GARRETT: You know, I think the time is running out. I think we're kidding ourselves if we think we can interview people, and we can get somebody for $5,000 or whatever.

However, I'm going to recuse myself from this because I'm getting feelings that -- I did put somebody forward. I understand that there may be reservations. I can't do any more other than follow a recommendation.

MEMBER BRADY: Susan, I don't think you should feel there are any bad feelings whether you are on the subcommittee or not.

CO-CHAIR GARRETT: I just want to know --

MEMBER BRADY: You can do whatever you want, but I certainly didn't.

CO-CHAIR GARRETT: No, I think that's -- I think if the will of the committee wants to go in that direction.

MEMBER BRADY: I think we have to.

CO-CHAIR GARRETT: Okay. Then I think

that's a good thing.

MEMBER ALTHOFF: I guess the question I'm asking the whole committee is, is everybody comfortable with giving the authority to the subcommittee to go ahead and work with the Department of Public Health and hire somebody so we have that individual on board for the next meeting and to give them enough time to know what it's about?

CO-CHAIR GARRETT: I personally have a reservation about going through the Department. I mean, not that I have anything against the Department of Public Health. I think this has to be independent.

MEMBER ALTHOFF: No, no, no, but it's the Department that has to have the contract.

MEMBER GAYNOR: She's just saying they have to --

MEMBER ALTHOFF: That's all I'm saying.

CO-CHAIR GARRETT: Yeah.

MEMBER ALTHOFF: That's the logistics, and I'm saying this subcommittee, can we give them that authority? I have no problem with it. I'm

just asking for a consensus.

MEMBER O'DONNELL: I have a quick question. What are we asking this facilitator to do?

MEMBER BRADY: I think what we're asking him to do is to identify the issues that we have to discuss, help us identify those which we have a consensus about, and help us work through the issues we don't.

He forces -- I mean, the facilitators that I've been involved with, that's what they have done. We have a task, and they brought us to a conclusion. Here's what everyone agrees on. Can we work out what we don't agree on? How do we get to a majority on what we don't agree on?

MEMBER ALTHOFF: And help formulate, you know, do an outline for the report.

MEMBER O'DONNELL: Okay.

MEMBER KOSEL: I think actually we have a very good perception of what the facilitator should do, and I think we should use that as our guideline.

CO-CHAIR GARRETT: Renee, we do have that list. We just don't have it unfortunately,

but our staff put that together.

MEMBER ROBBINS: If there's going to be a subcommittee, it seems to me that one or both of the co-chairs certainly ought to be on it.

CO-CHAIR GARRETT: Lisa can do it. Personally, I just can't. I feel like I've done the -- here's my worry. We are in the middle of August. We have -- in September, we have another meeting, which is exactly a month away. Then we have October. This is not going to be an easy process at all.

My worry is that we're going to spend a month trying to find somebody, and then there may not even be agreement at that point in time on who that person is.

Then the process is --

MEMBER BRADY: why don't we do this? Lisa will chair, and I'll sit on it. Ken will sit on it. You'll sit on it?

MEMBER GAYNOR: I'll sit on it.

MEMBER BRADY: We need one more. One more.

MEMBER SCHAPS: I'll sit on it.

MEMBER BRADY: One more.

CO-CHAIR GARRETT: Okay.

MR. CARVALHO: I want to remind you that you have to comply with the Open Meetings Act.

MEMBER BRADY: We'll make sure it does.

MR. CARVALHO: You need to work with Elissa and see if you can get your Open Meeting Act notice, when you decide when you're going to --

MEMBER LANG: Do you want to give them authority to hire?

MEMBER ALTHOFF: Yes, we have to.

MEMBER LANG: Well, then we have to give them a maximum they can spend.

MR. DeWEESE: Excuse me, I thought that --

CO-CHAIR GARRETT: What's the maximum David said, 20 --

MR. DeWEESE: Excuse me, I thought that David said that the actual contracting had to be issued by the Department.

MEMBER SCHAPS: Right. It has to be under $20- or $25,000.

MEMBER LANG: Yes, but we may not want to make that our limit. So we better figure out what we want to spend and make a motion.

MEMBER GAYNOR: Maybe I didn't listen well enough, but if we go over a certain amount, then you have -- you have to get an RFP.

MEMBER LANG: Right, but if the maximum under the law is 20, we may not want to spend 20.

MEMBER GAYNOR: Yeah.

MEMBER LANG: We might want to say that the committee only has the power to spend 10.

MEMBER GAYNOR: Well, certainly, if we have the authority to spend 20, I wonder what the bid will be.

MEMBER BRADY: Well, we'll get multiple bids.

MEMBER LANG: All 20.

MEMBER ROBBINS: I'd like to think that we have good enough sense to try to balance the cost and the need.

MEMBER GAYNOR: Absolutely.

MEMBER ROBBINS: I think if you're going to have a committee, I would authorize it to

go up to the maximum amount.

MEMBER GAYNOR: I agree with that.

MEMBER SCHAPS: Right. I do, too.

MEMBER ALTHOFF: I'll make that motion.

CO-CHAIR GARRETT: Okay.

MEMBER GAYNOR: And then I just want the record to be clear who is on this committee. We did an I will, I will, but I want to spare the court reporter the nightmare of --

CO-CHAIR GARRETT: We have appointed Lisa to the Chair.

MEMBER LANG: Lisa is the Chair. She'll love that.

MEMBER GAYNOR: And then Ken Robbins, Senator Brady, Paul Gaynor --

MEMBER SCHAPS: And Margie Schaps.

CO-CHAIR GARRETT: It was both of you at one point.

MEMBER GAYNOR: How many is that?

CO-CHAIR GARRETT: And then I think we need a vote. How many, five, I think.

MEMBER ALTHOFF: That's fine.

CO-CHAIR GARRETT: I think we need a

vote -- five -- and I think we need a vote to approve that.

MEMBER LANG: So moved.

MEMBER ALTHOFF: Second.

CO-CHAIR GARRETT: All in favor, aye.

(The ayes were thereupon heard.)

CO-CHAIR GARRETT: Opposed say nay. No nays.

The motion has carried.

MEMBER BRADY: I guess we should just make a public statement that we should all try to find someone, submit anybody who wants to in the next seven days, and then we'll meet.

MEMBER GAYNOR: You know what might make sense, since we're all sitting here, is perhaps we should take out our calendars and find some time.

CO-CHAIR GARRETT: Let's adjourn the meeting, if we can, and you can give some suggested dates. That's a good idea.

MEMBER BRADY: Why don't we just suggest that we will take applications. On the record, the committee will take applications from people within the next seven days.

MS. BASSLER: And those applications should come to the institute staff? Lisa has that, or just directly to Lisa, but not circulated to everybody on the committee except by the staff. You know what I mean? We can't be responding to --

MEMBER KOSEL: Who should the applications be made to? Where would the applications be made to? I just heard you say that we'd like the applications within the next seven days. Where would somebody apply to? The Department of Public Health?

MS. BASSLER: No, they -- do you want us to facilitate that? So you can send those to Kathy, K-a-t-h-y, dot, Tipton, T-i-p-t-o-n, at iphionline, dot, org.

MEMBER GAYNOR: I have one further suggestion. I think perhaps 14 days might be more realistic to cast the net far enough because I just think we have, you know, a holiday intervening, and I don't know how much the word gets out, and then we can make sure.

MEMBER BRADY: The only thing is, I think we'd like this person to be able to do some

work before our next meeting.

MEMBER GAYNOR: Okay. If people think we can do that.

MR. CARVALHO: I can project with a high degree of certainty that you will not have a contract signed and someone working and have work product to bring to you by the next meeting, even if you decided today.

MEMBER BRADY: But that person may want to do research, and that next meeting may be a work session.

MR. CARVALHO: That person will probably at a minimum want to read every transcript of these meetings if they're going to facilitate your discussion or what you discuss. So that person is going to have to do a lot of work just to get up to speed.

MEMBER BRADY: 7 or 14?

MEMBER LANG: 10.

MEMBER BRADY: 10.

CO-CHAIR GARRETT: Okay. So then 10 days from today. Today is the 15th or 16th?

MEMBER ROBBINS: 15th.

CO-CHAIR GARRETT: Okay. So by the

26th of August, and then you will approve that and just let us know via email.

MS. BASSLER: During that 10 days, we will work with the members of the subcommittee to schedule a date to review those right after the 26th.

CO-CHAIR GARRETT: Okay. Great.

MR. CARVALHO: I've got a pocketbook issue, your pocketbook. So if I could have your attention for a minute.

If any of you wish to submit any claims for reimbursement for the last fiscal year, the deadline that you have to get them in is August 31st. So you have to get them to us immediately.

MS. BASSLER: Is the meeting adjourned? Senator, we need a motion to adjourn.

CO-CHAIR GARRETT: Is there a motion to adjourn?

MEMBER BRADY: Always.

MEMBER ALTHOFF: Motion to adjourn.

CO-CHAIR GARRETT: Senator Althoff, and seconded by Senator Brady.

The task force is adjourned for today. We will meet again September 15th.

(Which were all of the proceedings had in the above-entitled matter ending at 2:09 p.m.)

STATE OF ILLINOIS )
) SS.
COUNTY OF KANE )

I, Joanne E. Ely, Certified Shorthand Reporter No. 84-4169, Registered Professional Reporter, a Notary Public in and for the County of Kane, State of Illinois, do hereby certify that I reported in shorthand the proceedings had in the above-entitled matter and that the foregoing is a true, correct and complete transcript of my shorthand notes so taken as aforesaid.

IN TESTIMONY WHEREOF I have hereunto set my hand and affixed my notarial seal this _____ day of _____, A.D. 2008.

_____
Notary Public

My commission expires
May 16, 2012.